



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**DISTRICT PLANNING COMMITTEE  
27 OCTOBER 2022**

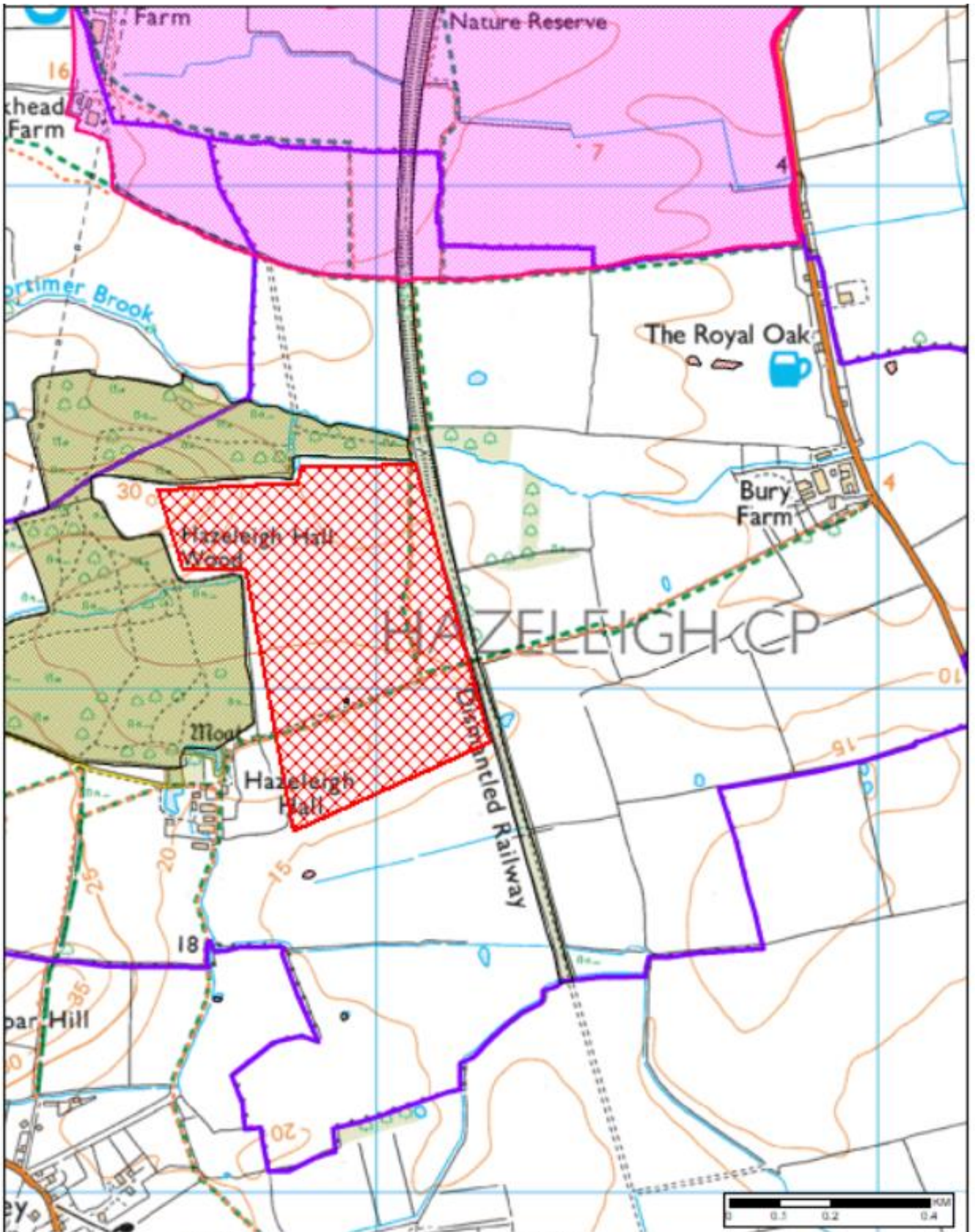
<b>Application Number</b>	<b>22/00934/VAR</b>
<b>Location</b>	Hall Farm Land at 583941 203977, Hazeleigh Hall Lane, Hazeleigh
<b>Proposal</b>	Variation of condition 4 on approved planning permission 22/00261/FUL (The construction and operation of a solar photovoltaic farm and associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping.)
<b>Applicant</b>	Mr James Hartley-Bond – Low Carbon Solar Park 1 Limited
<b>Agent</b>	Mr Jordan Martin – DWD Property and Planning
<b>Target Decision Date</b>	16.11.2022
<b>Case Officer</b>	Devan Hearnah
<b>Parish</b>	<b>HAZELEIGH</b>
<b>Reason for Referral to the Committee / Council</b>	Proposal is a 'development of strategic interest' as defined under the Scheme of Delegation


1. **RECOMMENDATION**

**APPROVE** subject to the conditions set out in section 8.

2. **SITE MAP**

Please see below.



 <p><b>Building CONTROL</b></p>	<p><b>Copyright</b></p> <p>For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</p> <p><a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a></p>	<p>Scale: 1:10,000</p>
	<p>Organisation: Maldon District Council</p>	<p>Department: Department</p>
	<p>Comments:</p>	<p>Date: 13/06/2022</p>
	<p>MSA Number: 100018588</p>	

### 3. SUMMARY

#### 3.1 **Proposal / brief overview, including any relevant background information**

##### Application site

- 3.1.1 The application site, an agricultural field, measures approximately 36 hectares. It lies approximately 370m to the south of the South Maldon Garden Suburb, 2.6km to the west of the settlement boundary of Woodham Mortimer and 1.1km from the settlement boundary of Purleigh to the south. Access to the site is taken from the southern side of Maldon Road, along a private track that also serves Woodham Mortimer Primary School, a commercial business and the surrounding farm / agricultural land.
- 3.1.2 The site lies within the countryside and is bound by an Ancient Woodland and Local Wildlife Site (LWS) Hazeleigh Hall Wood on its northern and western boundaries. To the east is Maldon Wycke, another LWS and beyond that is agricultural land and Farnbridge Road. To the south is additional open countryside / agricultural land. The southwest boundary of the site lies immediately to the east of Hazeleigh Hall where there are three Grade II Listed Buildings, Hazeleigh Hall, a granary and a threshing barn. Hazeleigh Hall and Church House Farm, also located to the southwest corner of the site, are the closest residential properties to the main area of the site.
- 3.1.3 There are two Public Rights Of Way (PROW) that cross the site, one that runs north to south (Footpath no.2), just south of the centre of the site, and the other runs east to west (Footpath no.3), along the eastern boundary.
- 3.1.4 The surrounding area predominantly consists of agricultural fields bounded by hedgerows and interspersed with woodland blocks. There is sporadic built form consisting mainly of residential dwellings and agricultural buildings.

##### Proposal

- 3.1.5 The application seeks a variation of condition 4 of approved permission 22/00261/FUL, which was approved by the Council on 8 August 2022 following the resolution to grant permission by the District Planning Committee. For completeness the previous Committee Report is provided as **APPENDIX 1** to this report. Condition 4 states:

*“Full details of the provision and subsequent retention of both hard and soft landscape works, including the boundary planting, on the site shall be submitted to and approved in writing by the Local Planning Authority prior to any works occurring above ground level at the application site. The details of the proposed landscaping shall include a vegetative screen. These details shall include:*

- 1) *Details of the proposed vegetative screen and soft boundary treatments (including schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities) shall demonstrate that the species of trees and shrubs shall be of a size, including a height of 2.5m, and density to provide the necessary screening of the site by the fifth year of the development. The agreed vegetative screen shall be retained from the fifth year until for the lifetime of the development at a minimum height of 2.5m. If by the fifth year of energy generation from the development hereby approved the vegetive screen is not of a height of 2.5m, the use of the hereby*

*approved development should cease for the purposes of energy generation and all the equipment and structures hereby approved shall be removed from the land and the site reinstated to its former condition.*

- 2) *Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.*
- 3) *Details of the aftercare and maintenance programme. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the first operation of any part of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.*
- 4) *Hard landscape works: Details of hard surfacing, with materials finishing and edgings. The hard landscape works shall be carried out as approved prior to the first use / occupation of any part of the development hereby approved and retained and maintained as such thereafter.*

**REASON**

*In the interest of the character and appearance of the site, surrounding countryside in accordance with Policies S1, D1, and D4 of the MDLDP and guidance contained within the NPPF.'*

- 3.1.6 Specifically, the proposal seeks to vary the condition to read as outlined below. The bold text shows the additional wording and strike through text shows the deletions.

*'Full details of the provision and subsequent retention of both hard and soft landscape works, including the boundary planting, on the site shall be submitted to and approved in writing by the Local Planning Authority prior to any works occurring above ground level at the application site. The details of the proposed landscaping shall include a vegetative screen. These details shall include:*

1. *Details of the proposed vegetative screen and soft boundary treatments (including schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers / densities) shall demonstrate that the species of trees and shrubs shall be **capable of growing** to a size, ~~including a height of 2.5m,~~ and density to provide the necessary screening of the site by the fifth year of the development. The agreed vegetative screen shall be retained ~~from the fifth year until~~ for the lifetime of the development ~~at a minimum height of 2.5m. If by the fifth year of energy generation from the development hereby approved the vegetative screen is not of a height of 2.5m,~~ **the use of the hereby approved development should cease for the purposes of energy generation and all the equipment and structures hereby approved shall be removed from the land and the site reinstated to its former condition. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with approved details.***
2. *Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.*

3. *Details of the aftercare and maintenance programme. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the first operation of any part of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.*
4. *Hard landscape works: Details of hard surfacing, with materials finishing and edgings. The hard landscape works shall be carried out as approved prior to the first use / occupation of any part of the development hereby approved and retained and maintained as such thereafter."*

3.1.7 The application has been supported by a 'Section 73 Report' (August 2022) which provides the Applicants justification for the variation of condition. The justification provided is as follows:

- the requirement to ensure that the screening is provided at a height of 2.5m by the fifth year of the development or the approved development should cease for energy generation and all equipment removed, is unreasonable because it is not possible to control the height of plants in a way that a building can be controlled.
- the condition has not been applied to other developments. The revised wording reflects the conditions used for the residential development located within the South Maldon Garden Suburb (OUT/MAL14/01103, 17/00396/FUL and FUL/MAL/18/00070), although worded differently.
- there are factors outside of the Applicant's control that could impact growth rate despite it being the Applicant's intention to use plants that will grow to the required height by the fifth year.
- the condition is not necessary or reasonable in all other respects and affects the ability to secure investment into the development because of the risk of potentially needing to remove it after five years.
- an assessment against the six tests for planning conditions has been provided which will be addressed below.

## **3.2 Conclusion**

3.2.1 Overall, it is considered that the evidence provided demonstrates that condition 4 imposed on planning application 22/00261/FUL does not meet the six tests as contained in the Planning Practice Guidance (PPG). However, the variation to the condition as proposed is considered to meet the six tests and therefore, it is recommended that the variation of condition is supported.

## **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

### **4.1 National Planning Policy Framework 2021 including paragraphs:**

- 7 Sustainable development
- 8 Three objectives of sustainable development

- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-58 Planning Conditions and Obligations
- 92 – 103 Promoting healthy and safe communities
- 104-113 Promoting sustainable transport
- 126-136 Achieving well-designed places
- 152 – 169 Meeting the challenge of climate change, flooding and coastal change
- 174-188 Conserving and enhancing the natural environment
- 189- 208 Conserving and enhancing the historic environment

#### **4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change and Environmental Impact of New Development
- D3 Conservation and Heritage Assets
- D4 Renewable and Low Carbon Energy Generation
- N1 Green Infrastructure Network
- N2 Natural Environment and Biodiversity
- I1 Infrastructure and Services
- T1 Sustainable Transport
- T2 Accessibility

#### **4.3 Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide Supplementary Planning Document (SPD) (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD (VPS)

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).

5.1.2 The principle of development for a solar farm and associated infrastructure, landscaping and access was approved under the terms of application 22/00261/FUL. Therefore, the material considerations when determining this application for the variation of Condition 4 is whether the condition is legally sound and if there is other justification submitted to warrant its variation.

## 5.2 Assessment – Use of Planning Conditions – the six tests

5.2.1 The PPG (use of planning conditions) states that conditions can enhance the quality of a development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The NPPF and PPG make it clear that planning conditions should satisfy the following six tests; (1) necessary, (2) relevant to planning, (3) relevant to the development, (4) enforceable, (5) precise and (6) reasonable in all other respects.

### 5.2.2 Necessary

5.2.2.1 The reason for the condition is to protect the character and appearance of the site and the surrounding countryside. Without a sufficient landscaping scheme then the visual impact of the development would likely be materially harmful to the character and appearance of the site and area. Therefore, without a landscaping condition it is likely that the development would have been refused and as such a landscaping scheme condition is necessary. However, the specific requirement to secure the planting at a height of 2.5m by the fifth year of the development is not considered necessary as the proposed revised wording would be sufficient in ensuring that there is a suitable level of screening that would protect the amenity of the area without the necessity to specify heights.

5.2.2.2 The requirement to remove the development if the planting was not maintained at the specified heights and densities was necessary to ensure that the condition could be made enforceable. However, it is noted that the development could be approved without this element of the condition. The enforceability of the revised wording is discussed further below.

### 5.2.3 Relevant to Planning

5.2.3.1 The existing and proposed condition is considered to be relevant to planning as it relates to landscaping and visual impacts which are material planning considerations. Furthermore, landscaping conditions are commonly used as part of planning decisions to secure the acceptability of a scheme.

### 5.2.4 Relevant to the development permitted

5.2.4.1 The condition as approved and proposed is relevant to the development permitted in that it seeks to protect the existing site and surrounding area from the visual impact of the built form to be introduced to the site. It is not considered that the revised wording would affect the relevance of the condition in relation to planning or the development permitted.

### 5.2.5 Enforceable

5.2.5.1 Circular 11/95: Use of conditions in planning permissions states that 'A condition should not be imposed if it cannot be enforced. It is often useful to consider what means are available to secure compliance with a proposed condition. There are two provisions which authorities may use to enforce conditions: an enforcement notice, under Section 172 of the Act, or a breach of condition notice under Section 187A.'

5.2.5.2 The originally worded condition was enforceable by way of the requirement to remove the development should the planting not be maintained to the specified heights. However, the revised wording even without the removal of the development element of the condition it is still considered enforceable as an Enforcement Notice could be issued to remedy the breach. The Council will also be able to agree the

species of trees and shrubs via a discharge of conditions application to ensure that the vegetation is capable of growing to a size and density to provide the necessary screening by the fifth year. For these reasons the revised wording is considered enforceable.

#### 5.2.6 Precise

5.2.6.1 The existing condition was considered precise as it clearly specified when the requirements of the condition should be carried out and what detail should be submitted for agreement with the Council. The proposed wording of the condition would also achieve this despite the different wording.

#### 5.2.7 Reasonable in all other respects

5.2.7.1 In relation to the existing condition there are factors outside of the Applicant's control which could impact their ability to grow the vegetation to the specified heights and density by the fifth year and consistently retain it at those heights. The Council's Arboricultural Consultant has provided examples which includes some parts of the hedge potentially being unable to reach the specified heights due to suppression and also that the management of the hedge at a consistent height of 2.5m would appear out of character in respect of the surrounding landscape. There are also other examples to consider such as fire damage that could occur outside of the Applicant's control. In considering these matters against the level of harm that would arise from the failure of the screening, it is not considered that the existing condition is proportionate in this respect and therefore the condition in its current form is considered unreasonable.

5.2.7.2 The proposed wording requires detail securing species that are capable of growing to the required heights, thereby seeking to secure the required level of screening at the site but without imposing restrictions that would lie outside of the Applicant's control. It is therefore, considered that the revised wording would ensure that the condition is reasonable whilst complying with all of the other tests for planning conditions and ensuring the character and appearance of the site and countryside is protected to an acceptable degree.

### **5.3 Other Matters**

5.3.1 The supporting statement refers to the fact that the condition has not been applied to other developments namely the residential developments located within the South Maldon Garden Suburb (OUT/MAL14/01103, 17/00396/FUL and FUL/MAL/18/00070). However, given that the nature of the developments are inherently different it is not considered that the conditions imposed on a residential scheme are directly comparable to this one.

5.3.2 As the application has been submitted as an application to vary condition 2 of the original planning permission, under the terms of Section 73 of the Town and Country Planning Act, it is considered necessary to reconsider the list of the original conditions, which should be adjusted to reflect any changing circumstances, discharge of conditions and changes to the relevant policies. However, given that no conditions have yet been discharged and there have not been any significant changes to policy, it is not considered necessary to update any conditions other than condition 4 which is the subject of this application.



#### 5.4 **Pre-commencement Conditions**

- 5.4.1 Pre-Commencement conditions are recommended and approval for the use of the use of these conditions has been approved by the Applicant's Agent in correspondence received on 30.06.2022 in relation to the original permission. As there has been no updates to these conditions it is not considered necessary to seek this agreement again.

#### 6. **ANY RELEVANT SITE HISTORY**

- **20/00893/SCR** - EIA screening request for proposed solar farm and associated infrastructure – EIA not required.
- **22/00261/FUL** - The construction and operation of a solar photovoltaic farm and associated infrastructure, including inverters, security cameras, fencing, access tracks and landscaping. Approved 8 August 2022.

#### 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

##### 7.1 **Representations received from Parish / Town Councils**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Woodham Mortimer and Hazeleigh Parish Council	No response received	Noted

##### 7.2 **Statutory Consultees and Other Organisations**

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Local Highway Authority	No objection	Noted

##### 7.3 **Internal Consultees**

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Arboriculture	No objection - The original wording is not enforceable under planning terms. Some parts of the hedge could not reach that height due to suppression or others that do get to that size would potentially look out of character in relation to the surrounding landscape if they are continuously managed at that height.	Addressed at section 5.2

## 7.4 Representations received from Interested Parties

7.4.1 No letters of representation have been received to date.

## 8. PROPOSED CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
- 2 The solar panels / solar array hereby permitted shall not exceed the limits contained within the approved Development Zone Plan Reference LCS033-DZ-01 rev 10  
REASON To ensure the development is carried out in accordance with the details as approved.
- 3 No development shall commence until full details (which must be within the parameters set out in the submitted Planning Design and Access Statement dated June 2022 Ref 15115 and completed by DWD Property & Planning) of the final layout, locations and dimensions, design, materials and colour (where appropriate) to be used for the panel arrays, inverters, substation, control building, switch room, CCTV cameras, fencing and any other components of the scheme shall be submitted to and approved in writing by the Local Planning Authority (LPA). The development shall only be carried out in accordance with the approved details and thereafter retained as such for the lifetime of the use.  
REASON In the interest of the character and appearance of the site, surrounding countryside and nearby heritage assets in accordance with Policies S1, D1, D3 and D4 of the Maldon District Local Development Plan and guidance contained within the NPPF.
- 4 Full details of the provision and subsequent retention of both hard and soft landscape works, including the boundary planting, on the site shall be submitted to and approved in writing by the Local Planning Authority prior to any works occurring above ground level at the application site. The details of the proposed landscaping shall include a vegetative screen. These details shall include:
  1. Details of the proposed vegetative screen and soft boundary treatments (including schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers / densities) shall demonstrate that the species of trees and shrubs shall be capable of growing to a size, and density to provide the necessary screening of the site by the fifth year of the development. The agreed vegetative screen shall be retained for the lifetime of the development. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with approved details.
  2. Details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support.
  3. Details of the aftercare and maintenance programme. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the first operation of any part of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant,

or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.

4. Hard landscape works: Details of hard surfacing, with materials finishing and edgings. The hard landscape works shall be carried out as approved prior to the first use / occupation of any part of the development hereby approved and retained and maintained as such thereafter.

REASON In the interest of the character and appearance of the site, surrounding countryside in accordance with Policies S1, D1, and D4 of the MDLDP and guidance contained within the NPPF.

- 5 If use of the hereby approved development should cease for the purposes of energy generation for a concurrent period exceeding six months or more, all the equipment and structures hereby approved shall be removed from the land and the site reinstated to its former condition. In any case, the Panels, associated structures, and infrastructure shall be removed at the latest by the 31 December 2065. Prior to the removal of any panels and equipment a scheme (to include timescales) for the reinstatement of the site to agricultural land alongside any retained ecological habitat areas shall be submitted to and approved in writing by the LPA. The site shall be reinstated in accordance with the approved details.

REASON In the interest of the character and appearance of the site, surrounding countryside and nearby heritage assets in accordance with Policies S1, D1, D3 and D4 of the MDLDP and guidance contained within the NPPF.

- 6 No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

REASON In the interests of the historic environment in accordance with Policy D3 of the MDLDP.

- 7 No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the WSI defined in Part 1 and confirmed by the Local Authority archaeological advisors.

REASON In the interests of the historic environment in accordance with Policy D3 of the MDLDP.

- 8 A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the Local Planning Authority following the completion of the archaeological evaluation.

REASON In the interests of the historic environment in accordance with Policy D3 of the MDLDP.

- 9 No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the Local Planning Authority.

REASON In the interests of the historic environment in accordance with Policy D3 of the MDLDP.

- 10 The applicant will submit to the Local Planning Authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a

full site archive and report ready for deposition at the local museum, and submission of a publication report.

REASON In the interests of the historic environment in accordance with Policy D3 of the MDLDP.

11 No development shall commence until a Construction Traffic Management Plan is submitted to and approved in writing by the Local Planning Authority to include the following:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. wheel and underbody washing facilities
- e. construction traffic routing
- f. construction signage and traffic management measures. The development shall be carried out in accordance with the approved Plan.

REASON In the interest of the highway safety in accordance with Policies S1, T1 and T2 of the MDLDP.

12 Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 102 metres west and 2.4 metres by 122 metres west as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

REASON In the interest of the highway safety in accordance with Policies S1, T1 and T2 of the MDLDP.

13 Prior to the commencement of any work on the site a joint inspection of the local road (A414) and the public right of way network which is to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority.

REASON In the interest of the highway safety in accordance with Policies S1, T1 and T2 of the MDLDP.

14 The public's rights and ease of passage over public footpath's No.23 (Woodham Mortimer), No.41 (Maldon) and No's. 2, 3, 7, 8 (Hazeleigh) shall be maintained free and unobstructed at all times.

REASON To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies S1, T1 and T2 of the MDLDP.

15 Prior to the commencement of the development a minimum 2.5m wide unobstructed buffer strip shall be left on both sides of the adopted routes of public footpaths No.2 and No.3 (Hazeleigh) to allow for grow of vegetation without obstructing the footpaths. The applicant or any successor in title will be responsible for the maintenance of the buffer strips.

REASON To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies S1, T1 and T2 of the MDLDP.

16 During the construction phase of the development, banksman shall be present whilst vehicle cross public footpaths No.7, No.8 (Hazeleigh), No.23 (Woodham Mortimer), No.41 (Maldon).

REASON To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies S1, T1 and T2 of the MDLDP.

- 17 As detailed within TN01, during the construction phase of the development banksman shall be present when vehicles route along public footpath No.23 (Woodham Mortimer). The banksmen shall be located at either end of footpath No.23's shared alignment with the access track. The banksman shall ensure no construction vehicles use the footpath when PROW users are present.  
REASON To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies S1, T1 and T2 of the MDLDP.
- 18 No works shall take place until a scheme to provide an enforceable and robust soil, grass, and/or land management plan to keep land in good condition has been submitted to, and approved in writing by, the LPA. The scheme shall subsequently be implemented as approved.  
REASON In the interests of surface water flood risk in accordance with Policy D5 of the MDLDP.
- 19 Prior to the first operation of the development a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities / frequencies, has been submitted to and agreed, in writing, by the LPA. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.  
REASON In the interests of surface water flood risk in accordance with Policy D5 of the MDLDP.
- 20 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the LPA.  
REASON In the interests of surface water flood risk in accordance with Policy D5 of the MDLDP.
- 21 The development hereby approved shall be carried out in accordance with the details set out in the submitted Flood Risk Assessment and Drainage Strategy, April 2022, and shall be fully implemented and in place prior to the first operation of the development hereby approved and retained for the lifetime of the development.  
REASON In the interests of flood risk in accordance with Policy D5 of the MDLDP.
- 22 Prior to the commencement of development a detailed Arboricultural Method Statement providing specific detail on how the trees in and around the site will be protected during the construction of the development shall be submitted to and approved in writing by the LPA.  
REASON In the interest of the character and appearance of the site, surrounding countryside in accordance with Policies S1, D1, and D4 of the MDLDP and guidance contained within the NPPF.
- 23 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the updated Reptile survey report (Cherryfield Ecology, June 2022), the Ecological Assessment Revision A (Landscape Science Consultancy, January 2022) and Addendum Report (Cherryfield Ecology, June 2022), as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.  
REASON To conserve and enhance protected and Priority species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

- 24 Any works which will impact the breeding / resting place of Great Crested Newts, shall not in any circumstances commence unless the LPA has been provided with a GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead.

REASON To conserve protected species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

- 25 Prior to the commencement of development a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) to include retained trees and Priority habitat (River Pant)
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.
  - i) Containment, control and removal of any Invasive non-native species present on site. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority."

REASON To conserve protected and Priority species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

- 26 Prior to first operation of the development hereby approved, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the LPA. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the LPA.

REASON To conserve protected and Priority species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

- 27 "A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the LPA prior to the first operation of the development hereby permitted. This should detail management measures to achieve the objectives of the BNG calculations outlined within the Biological Impact Assessment (BIA) (Cherryfield Ecology, February 2022). The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.
  - e) Prescriptions for management actions.
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - g) Details of the body or organisation responsible for implementation of the plan.
  - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and biodiversity implemented so that the development still delivers the fully functioning objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details."

- REASON To conserve protected and Priority species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).
- 28 No development shall commence until a Skylark Mitigation Strategy, to secure 8 skylark mitigation plots to compensate for the losses or displaced territories arising from the development, has been submitted to and approved in writing by the Local Planning Authority. The Skylark Mitigation Strategy shall include the following:
- a. Purpose and conservation objectives for the proposed Skylark nest plots;
  - b. Detailed methodology for the Skylark nest plots following Agri Environment Scheme option: 'AB4 Skylark Plots';
  - c. Locations of the Skylark plots in nearby agricultural land by appropriate maps and/or plans;
  - d. Persons responsible for implementing the compensation measure.
- No development shall commence until the approved Skylark Mitigation Strategy has been implemented to the satisfaction of the Local Planning Authority, and thereafter all features shall be retained for a minimum period of 10 years."
- REASON To conserve protected and Priority species in accordance with Policy N2 of the Maldon District Local Development Plan and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).
- 29 The Solar Panels hereby approved shall be of an anti-glare design.

REASON To avoid detrimental impacts of neighbouring amenity, visual amenity, users of the Public Rights of Way and aircraft safety in accordance with Policies D1, D4 and T1 of the Maldon District Local Development Plan.

**INFORMATIVES**

- 1 The Applicant is advised that the archaeological work will need to comprise geophysical survey of the entirety of the development area, followed by targeted trial-trenching and excavation or other mitigation measures in the form of revised layouts or construction methodologies if required. All fieldwork should be conducted by a professionally recognised archaeological contractor in accordance with a brief issued by this office.
  
- 2 The Applicant is advised that The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath's No.23 (Woodham Mortimer), No.41 (Maldon) and No's. 2, 3, 7, 8 (Hazeleigh) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
  
- 3 The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with the Local Highways Authority (LHA). In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.