

Date of Meeting	11 January 2018
Application Number	17/04730/VAR
Site Address	Land West Of Norrington Lane, Broughton Gifford, Norrington Common SN12 8LR
Proposal	Minor material amendment to planning permission W/12/02072/FUL (varying conditions 4 and 10) to facilitate the "as built" plans
Applicant	Norrington Solar Farm Ltd
Town/Parish Council	BROUGHTON GIFFORD
Electoral Division	MELKSHAM WITHOUT NORTH – Cllr Alford
Grid Ref	388136 164692
Type of application	Full Planning
Case Officer	James Taylor

Reason for the application being considered by Committee

Councillor Phil Alford has requested that this application be determined by Members should officers be supportive of it and to allow Members to consider the following key issues:

- Scale of development;
- Visual impact upon the surrounding area;
- Design - bulk, height, general appearance; and
- Fencing.

This application was deferred at the 13th December 2017 Western Area Planning committee to allow a site visit to be conducted by Members on the 10th January 2018 prior to considering the merits of the development further at the 11th January 2018 meeting.

1. Purpose of Report

The purpose of this report is to consider the merits of the application and to explain the rationale for officers recommending approval.

2. Report Summary

The following report outlines the relevant material considerations, the results of the consultation process, the assessment of the planning merits and concludes by recommending that the application should be approved.

The key planning issues are considered to be:

- Introduction, Principle of Development and Planning History
- Potential contribution to reducing climate change and sustainable development objectives
- Impact on the Landscape of the Open Countryside
- Impact on Public Rights of Way

- Impact on Highway Safety
- Impact on Ecological Interests
- Impact on Archaeological Interests
- Impact on agricultural land and surface water flooding
- Impact on Heritage Assets
- Conditions

This conclusion and recommendation to grant permission is reached on the basis that the proposals address the previous reasons for refusal on the variation application 14/01962/VAR, an application determined by this planning committee. This is because the CCTV proposals have been omitted from this scheme and the previous metal fencing has been entirely removed and replaced with deer proof fencing, as per the original permission.

This proposal as built and operating makes a significant (10 Mw) and highly valued contribution towards Wiltshire's renewable energy targets. Although the site is located within the open countryside it has to be acknowledged that to provide the scale of renewable energy necessary to meet climate change targets that this type of development needs to be located in rural and semi-rural areas.

The on-going negative public response to this variation application compared to the original application is noted. However significant weight must be given to the fact that planning permission was granted in June 2013 for the installation of a solar photovoltaic (PV) farm covering this site of 22.1 hectares.

Furthermore the variation application of 2014 that sought to regularize the as built scheme was refused due to the impact of the existing fencing and proposed CCTV. These elements of the scheme have been addressed, with the fencing replaced by the approved fencing and the CCTV proposals dropped.

The development has been virtually completed and this application (by a new owner) seeks to make material alterations to the original approval. Officers submit that the alterations would not result in any significant material harm in planning terms above and beyond the extant approval when considered singularly or cumulatively with more recent large-scale solar PV schemes in the vicinity.

3. Site Description

The application site, until the implementation of planning approval W/12/02072/FUL, was agricultural fields. In total there were 4 fields with mature field margins and drainage ditches on the periphery. Since the implementation of the planning permission (albeit not wholly in accordance with the approved plans), the 4-field site has taken on a different character formed by the solar panel arrays and associated development such as invertors and fencing whilst retaining the same mature field margins.

It is important to stress that the site is not subject to any special landscape designations.

Access is to the east of the main solar farm area onto Norrington Lane – which is a single width country lane bounded by high hedgerows. The access point to the public highway was originally via a farm access. This has been altered (as previously approved) to facilitate the implementation of W/12/2072/FUL.

The application site has public rights of way across it, some of which have been formally diverted following the implementation of W/12/02072/FUL.

To the south of the application site is Broughton Gifford Common and the associated designated Conservation Area. There are also a number of listed buildings within the

designated conservation area including the Grade II* listed Gifford Hall. There are isolated rural dwellings close to the site to the east, next to the electricity station and residential property around The Common to the south of the application site.

4. Planning History

W/12/02072/FUL - Installation of solar photovoltaic (PV) arrays and frames covering 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access – Permission on 25.06.2013

14/01962/VAR - Minor material amendment to planning permission W/12/02072/FUL to facilitate CCTV and revised access track – Refused on 3 September 2014 for the following reasons:-

1. The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would have an unacceptable adverse visual impact on the countryside and landscape contrary to policies C1 and C34 of the West Wiltshire District Plan (1st alteration) and with policy CP51 of the emerging Core Strategy (April 2014 tracked changes version) and with the Governments Planning Practice Guidance that recognises the impact security measures on solar farms could have on the landscape.

2. The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would be detrimental to the heritage assets and setting of the Grade II listed building known as Gifford Hall contrary to the National Planning Policy Framework and policy 58 of the emerging Core Strategy (April 2014 tracked changes version) and the Governments Planning Practice Guidance.*

5. The Proposal

This is a minor material amendment application seeking to vary the original planning approval for the installation of solar photovoltaic (PV) arrays and frames covering 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access. As with the 2014 application the following alterations are detailed – and did not form a part of the reasons for refusal in the 2014 minor material amendment application:

- Amendments to access to allow separation from SSE electricity pole;
- Extension to permanent track way to allow year round maintenance access;
- Arrays to have 1 leg instead of 2 and 0.73 metres lower in height;
- Arrays to be 2x landscape rather than 6x portrait and closer together;
- Alterations to on-site substation detail including reduction in area by circa 22sqm and height by circa 0.5 metres;
- Alterations to DNO substation so circa 15sqm smaller but approximately 0.73 metres higher;
- Reduction in number and height of inverter houses to allow 8 (rather than 13) and circa 0.5 metres lower in height;
- Revised landscaping detail to reflect alterations above.

In order to address the previous reasons for refusal against the 2014 minor amendment application and in order to address wider Parish Council and resident concerns the following works/alterations to the proposal have been detailed/agreed with the Parish Council and

your officers:

- Removal of CCTV cameras from the proposal in order to reduce visual and heritage impacts (Never installed);
- Removal of all metal security fencing and replacement with deer proof fencing. (Deer proof fencing was approved in the 2012 application) (Work completed);
- Three acoustic noise barriers around the inverters closest to the southern and eastern boundaries of the site to address a concern raised by neighbours (Work completed);
- Revised drainage strategy (To be completed and a condition suggested by the applicants);
- Replacement of a stile with a kissing gate as requested by the Parish Council (Work completed) and signage as requested by Parish Council (Work completed);
- Completion of ecological and mitigation requirements from the original planning permission and Landscape Environment Management Plan (LEMP) as far as possible, including site and surroundings tidying; ecological enhancement; ditch clearing; and enhanced landscape planting (Work completed, on-going implementation);
- Additional landscaping in key areas to reduce the visual impact of the solar PV farm from the surrounding properties, landscape and heritage assets (Work completed);
- Replacement of dead Ash tree (Work completed).

It is understood that works are substantially complete and the development has been producing renewable energy since installation in July 2014. Outstanding planning requirements relate to installation of some drainage swales. The reference in the description to seeking changes to conditions 4 and 10 reflects the fact that condition 4 refers to the plans approved, and condition 10, the landscaping.

6. Planning Policy

Local context:

Wiltshire Core Strategy 2015

SO2: Addressing Climate Change;

SO5: Protecting and Enhancing the Natural, Historic and Built Environment;

CP3: Infrastructure requirements;

CP15: Spatial Strategy for the Melksham Community Area;

CP42: Standalone Renewable Energy Installations;

CP50: Biodiversity and Geodiversity;

CP51: Landscape;

CP57: Ensuring High Quality Design and Place Shaping;

CP58: Ensuring the conservation of the historic environment;

CP62: Development Impacts on the Transport Network;

CP67: Flood Risk; and

appendix D's 'saved policy CR1 (Footpaths and Rights of Way) of the West Wiltshire Leisure and Recreation DPD 2009.

National Context:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Section 66 of the Planning (Listed building and Conservation area) Act 1990 states that the local planning authority has a duty to pay special attention to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed building and Conservation area) Act 1990 states that the local planning authority has a duty to pay special attention to the desirability of preserving and enhancing the character or appearance of the conservation area.

7. Consultations

Broughton Gifford Parish Council: Objection.

“Broughton Gifford Parish Council has commented on this planning application after a Special Planning Meeting held on 7th June and a subsequent site walkabout on Monday 12th June. The site visit showed that some of the work on the ground did not match what was in the plan and generally seemed scrappy and unfinished.”

“In view of this, while the Parish Council SUPPORTS three recent improvements, (two on the ground and one promised by Jacobs) generally it has no option except to OBJECT to the Minor Amendment Application as a whole, as currently presented.

The Parish Council SUPPORTS the following proposals within the application:

1. ACCOUSTIC BARRIERS – INVERTERS: The Jacoustic close-timber-fencing enclosures around the inverter cabinets, albeit heavy in appearance for the open countryside, do appear successful in reducing the noise.

2. REPLACEMENT OF BROKEN STILE WITH KISSING GATE: Jacobs has promised to install a new kissing gate at the Norrington end of the site, where the existing stile, due to soil level changes, now steps from/to a big dip in the land, making it extremely unsafe/ hard to use. The Parish Council welcomes this change as it will enable safe footpath access from Norrington to the fields again.

3. REINSTATEMENT OF VERGES AT NORRINGTON: The Parish Council welcomes the re-instatement work done recently along the carved-up verges.

The Parish Council OBJECTS to the MMA application for the following reasons:

4. DETERIORATING FENCING The Parish Council does not support the developer being allowed to retain the incorrect industrial fencing, rather than the required deer fencing, and is sceptical about the £100,000 cost that has been quoted. How has this sum been calculated? Apart from the fact that the industrial fence looks inappropriate, overbearing and obtrusive in the open countryside, it is not fit for purpose. It does not enclose the panels effectively or keep livestock in the enclosures. After less than a third of the life of the Solar Farm, the fence is already breaking down in several places ; peeling upwards at its base with gaps underneath to allow easy breaches and movement by all types of animals. The recent Parish Council site visit showed that sheep were running freely inside and outside the enclosures. The fencing must be replaced because it is deteriorating and is not stock-proof.

5. SOLAR PANELS: As you will be aware, 67% more solar panels have been built than were given permission. In some fields these are jammed together, making the corridors outside the enclosures too narrow and in other fields there are huge gaps, meaning an unnecessary loss of agricultural land. If the correct deer fencing were to be installed to replace the poor

industrial fence, this would provide an opportunity to redress the imbalances and place the fence at the same regular distance from panels throughout the site.

6. POOR QUALITY, UNPROTECTED LANDSCAPING The additional landscaping and screening is of poor quality; spindly new 3-5 ft whips and small hedgerow plants have been used. Sadly as the landscaping has not been properly protected from sheep roaming inside the enclosures, much of what has been planted, has been eaten or has died through lack of care. In one area sheep have completely knocked off the small protective sleeves. The new landscaping does not therefore provide the necessary additional screening. To be acceptable, some areas need to be redone using good quality strong plants, that are fully protected from animals.

7. POND AND DRAINAGE: There is no 10m exclusion zone around the pond and it is tightly fenced with barbed wire. While the plans show several drainage swales, only two sections (25%) have been installed so far.

8. REQUIREMENT FOR TARMAC SPLAY, NORRINGTON: The heavy duty tarmac splay, where the track from cottages joins the main Norrington Lane, has not yet been installed. There was a requirement for hedgerow adjacent to the Lane to be set back by 1.5 metres to give visibility and this has not yet been done.

9. BLOCKED, UNDELINEATED RIGHTS OF WAY: There is no explanatory rights of way board, showing diverted routes at the main Common stile or any directional waymarks to indicate diverted routes. Ideally, at least two boards are needed at either end of this large site; both at the main Common and at Norrington, next to the main stiles so that they are well placed to assist walkers. Two rights of way are blocked by a barbed wire "Wiltshire gate" which many walkers would find unnegotiable. One stile to the left of the first field from Norrington, actually has barbed wire along one side, making it difficult to climb without getting one's foot entangled. This needs to be made safe.

10. WILD FLOWER PLANTING, BORDER HEDGEROW ZONES & TREE DAMAGE: There is no ecological area protected from cattle, as promised in the original application. Some of the zones between hedgerows and the industrial fencing are narrower than the required 10m zones. With heavy cattle and bulls roaming the border areas, the narrower corridors along fields could make some dog walkers feel vulnerable. Two mature trees set within the hedgerow were not given the 10m zone required during construction and so one large Ash tree is now dead and needs to be replaced.

In summary, the Parish Council believes that this MMA Application has been prematurely submitted without the necessary changes being done to bring the site up to an acceptable standard, namely:-

a) Correct deer fencing to replace damaged industrial fencing. New fencing should be installed at the same distance away from solar panels in all fields.

b) Good quality, larger landscaping plants that are properly protected from animals and guaranteed to provide full screening within 5 years.

c) 10m exclusion zone around pond.

d) 100% swales, as shown in plans, to be installed.

e) 2 Explanatory rights of way boards at either end of Solar Farm; (The Common and at Norrington).

f) Removal of "Wiltshire gates" and replacement with fence/kissing gates.

g) Barbed wire removed from stile near Norrington and made safe or kissing gate installed.

h) Ecological zone provided with wild flower planting.

j) Replacement of dead Ash with mature new tree (12-15 ft high).

k) Fund retained to guarantee landscape management plan in place for duration of Solar Farm.

It is now four years since the original Solar Farm was installed (W/12/02072/FUL and there has already been much time and opportunity to rectify some of the worst planning breaches. There is concern that if the MMA application is permitted as it is, with set conditions, this work will never be properly completed. The Parish Council would therefore recommend that the MMA application should either be put on hold until the above work is seen to have been completed satisfactorily or rejected outright."

"Further to my Council's comments on 28th June 2017, the Parish Council wish to express their full support for the many letters sent by residents in objection to the original gross breach of planning consent in installing 67% more solar panels than the permission allowed. The extra unscheduled panels alters the appearance of the site overall quite considerably in giving the effect of solid glass and a greatly diminished open aspect. The overbuild on the site is shocking, showing a total lack of respect for the planning process. The Parish Council believes the developers should be taken to task for this and made to comply to the number/ total area of panels set by the original application and to remove the excess panels."

Melksham Without Parish Council: No objection.

Historic England:

"Within the village of Broughton Gifford are a number of listed structures that have the potential to be affected by this proposal; Gifford Hall (grade II) being the most highly graded and nearest to the site. There are also a number of Grade II listed buildings in close proximity to Gifford Hall that could also be affected. This group of designated heritage assets is located to the eastern side of Broughton Common and forms an important element of the Broughton Gifford Conservation Area.*

The site of the solar farm covers approximately 20 hectares of land located to the west of Norrington Lane and abuts the Conservation Area boundary. The topography is generally flat with minor undulations, and the land around the Conservation Area is predominantly agricultural in use and rural in character with a number of public footpaths connecting the village to outlying areas.

The list description for Gifford Hall states that it is "A good, little altered example of an early 18th century classical house", and whilst its primary facade faces south towards the Common, its wider setting, and that of the Conservation Area, is one of rural, open character.

I visited site on 11 September 2017 and observed the solar farm from public footpaths and from Gifford Hall itself.

The solar farm impacts on the agricultural, rural character which defines the setting of the Grade II Gifford Hall and of Broughton Gifford Conservation Area. Their settings are harmed by the introduction of a form of modern development at odds with the historical character of the area.*

Given the scale of the consented solar array and its impact on the setting of the Grade II Gifford Hall and Broughton Gifford Conservation Area, Historic England would have expected to have been consulted on the original application that has now been implemented, albeit not in accordance with the permitted plans.*

The current application is to increase in the number of rows of panels (from 93 to 155), with a reduction in the gaps to the hedges in some places. This suggests that, despite the

reduction in height of the panels, the local, visual impacts are greater than the permitted scheme.

The solar farm is visible from some of the rear windows of the upper floors of Gifford Hall, where the rows of panels appear as a solid mass, i.e. due to the oblique viewing angle the gaps between the rows are not visible. The permitted scheme had fewer rows, with taller panels, and may also have appeared as a similar mass of panels.

The approved “deer fence”, with wooden posts, is more akin to what one would expect to find in an agricultural environment.”

“In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess; section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas; and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account in determining the application.”

Wiltshire Council's Conservation Officer: No comments and did not object to original scheme.

Environment Agency: No comments received. Note that they raised no objection to original scheme

Natural England: No comment.

Wiltshire Council's Archaeology: No comments received. Note that they raised no objection to original scheme.

Wiltshire Council's Ecology: No objection. Note that they raised no objection to original scheme.

Wiltshire Council's Environmental Health: No objection.

Wiltshire Council's Highways: No objection.

Wiltshire Council's Landscape Officer: No comments received. Note that they raised no objection to previous variation application but stated that they would prefer not to have seen the addition of CCTV or changes to fencing but there are no major landscaping concerns.

Wiltshire Council's Rights of Way: No comments received. Note that they raised no objection to original scheme.

Wiltshire Council's Tree Officer: No comments received. Note that they raised no objection to original scheme.

8. Publicity

This application was advertised by means site notices; neighbour notification letters; newspaper advertisement and publication on the Council's website.

Circa 52 letters of objection have been received and the issues raised may be summarised as follows:

- This is the same application as in 2014 and should be refused again. Nothing has changed;
- Only one retrospective application can be made, (nothing has changed / exactly the same) and so this must be refused. – We ought to determine the application as there have been material changes in circumstances;
- Statutory duty to remove an illegal eyesore through enforcement;
- Land should be returned to agricultural use;
- Site should be developed as agreed by 2012 permission;
- Applicant has shown disregard to neighbours; and planning and government conditions and guidelines;
- Developer has disregarded / flouted terms and conditions on earlier application;
- Additional planting inadequate in face of such a massive and significant overbuild;
- Harm to heritage assets of Gifford Hall (Grade II* listed) and conservation area through overbuild and fencing;
- Landscape and visual impact, harmful to the countryside character and therefore amenity of local residents and rambles;
- 67 - 70% overbuild / too many rows / rows too close together;
- This overbuild was not approved / considered as part of the refused 2014 variation;
- Legal principle of desirability of consistency in decision making applies / need to have regard to relevant previous decisions / 3rd party comments on perceived overbuild are a material consideration that allows a different decision to be reached over 2014 variation;
- Fence seven times the length of the Titanic;
- Inadequate notification and consultation;
- Wildlife (deer, foxes, badgers, rabbits) being trapped inside enclosures / biodiversity and landscaping enhancements not realised;
- Cumulative impact with other solar development in the vicinity;
- Significant damage to the highway verges, adjacent drainage ditches and common land;
- The access has not been completed;
- Do not understand how this is a minor amendment;
- Noise from inverters unacceptable / barriers ineffective / well designed acoustic cabins and bunding required;
- Detracts from local economy by reducing agricultural labour force demand and reliance on non-local maintenance and construction labour; and
- Deprived people of a right of way through farm land.

9. Planning Considerations

9.1 Introduction and Principle of Development and Planning History:

Planning permission (ref: W/12/02072/FUL) has been granted for the installation of solar photovoltaic (PV) arrays and frames covering 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access. This sets the principle for such development on the site.

The development, save for provision of some swales is completed with the production of renewable energy having been occurring since July 2014. The detailed material considerations are the potential impact on planning interests from the proposed modifications.

A variation planning application was refused by planning committee in September 2014 (ref: 14/01962/VAR). This was refused for the following reasons:

1. The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would have an unacceptable adverse visual impact on the countryside and landscape contrary to policies C1 and C34 of the West Wiltshire District Plan (1st alteration) and with policy CP51 of the emerging Core Strategy (April 2014 tracked changes version) and with the Governments Planning Practice Guidance that recognises the impact security measures on solar farms could have on the landscape.

2. The metal security perimeter fencing and the proposed 72 CCTV cameras based on poles would be detrimental to the heritage assets and setting of the Grade II listed building known as Gifford Hall contrary to the National Planning Policy Framework and policy 58 of the emerging Core Strategy (April 2014 tracked changes version) and the Governments Planning Practice Guidance.*

Reason 1 and reason 2 for refusal have been addressed in this current proposal because:

The metal security perimeter fencing has been removed from the site. This has been replaced with deer proof fencing as required under the original consent. The applicant removed the metal fencing in 2017 after discussion and negotiation with Council officers. The installed deer proof fencing is approximately 10cm lower than the approved deer proof fence and has fewer supporting poles as they are at 5m intervals rather than the 4m intervals approved originally. Otherwise the as built security fencing is as originally approved.

These differences are considered to be minimal and with the reduction in the number of supporting poles and the slightly lower fence, would be a minor improvement on the originally approved fencing that would result in no unacceptable adverse visual impact on the countryside and landscape; and no detrimental impact to heritage assets and setting of the Grade II* listed building known as Gifford Hall.

Furthermore no CCTV cameras (or associated poles) are being proposed. No CCTV cameras have been installed on site and the site has been producing renewable energy since 2014 without any known security issues.

Based on the above it is clear that the reasons for refusal in September 2014 by the Western Area Planning Committee have been addressed and overcome.

It must be borne in mind that beyond the fencing and CCTV a number of alterations formed a part of the 2014 variation application; were described in the officer report to the committee and were not objected to by the Council at the time and did not form part of the reasons for refusal. This includes the items listed within section 5 above, namely:

- Amendments to access to allow separation from SSE electricity pole;
- Extension to permanent track way to allow year round maintenance access;
- Arrays to have 1 leg instead of 2 and 0.73 metres lower in height;
- Arrays to be 2x landscape rather than 6x portrait and closer together;
- Alterations to on-site substation detail including reduction in area by circa 22sqm and height by circa 0.5 metres;
- Alterations to DNO substation so circa 15sqm smaller but approximately 0.73 metres higher;
- Reduction in number and height of inverter houses to allow 8 (rather than 13) and

circa 0.5 metres lower in height;

- Revised landscaping detail to reflect alterations above.

This variation application has also detailed a number of further alterations (listed within section 5 above) to the as built scheme. These have been driven by requests made from the Parish Council to the applicants, namely:

- Three acoustic noise barriers around the inverters closest to the southern and eastern boundaries of the site to address a concern raised by neighbours (Work completed);
- Revised drainage strategy (To be completed and a condition suggested by the applicants);
- Replacement of a stile with a kissing gate as requested by the Parish Council (Work completed) and signage as requested by Parish Council (Work completed);
- Completion of ecological and mitigation requirements from the original planning permission and Landscape Environment Management Plan (LEMP) as far as possible, including site and surroundings tidying; ecological enhancement; ditch clearing; and enhanced landscape planting (Work completed, on-going implementation);
- Additional landscaping in key areas to reduce the visual impact of the solar PV farm from the surrounding properties, landscape and heritage assets (Work completed);
- Replacement of dead Ash tree (Work completed).

9.2 Potential contribution to reducing climate change and sustainable development objectives

The modifications proposed would enable the solar farm to continue to contribute to ambitious targets to cut greenhouse gas emissions and accord with the economic, social and environmental dimensions of sustainable development. The NPPF supports the increase in the supply of renewable energy generation, and advises that local planning authorities should approve such applications if their impacts are or can be made acceptable.

9.3 Impact on the landscape of the Open Countryside

In short, there would be some nominal apparent changes in terms of the immediate landscape context, but these would not cause significant harm over the extant approval. The reduction in the gaps between the solar arrays and resultant increase in rows is balanced by the reduction in the height and width of the arrays, reduction in the number of solar panels, easement allowed for overhead wires through the site, the reduction in inverter buildings and the reductions in scale and heights that have occurred. The gap between the rows of the solar arrays is not materially different from the nearby solar farm at Norrington that was approved following a site visit from members, and is similar to other approved solar farms, such as Poulshot.

Wider impacts would be negligible and the amendments would not affect the potential

cumulative impact of this scheme with other developments in the area over and above the extant approval.

This proposal details a revised landscape mitigation that has recently been provided. This is because previous mitigation planting failed as a result of sheep grazing at the site and a lack of suitable protection. The landscaping strategy has also been reviewed and supplementary planting over and above previous applications. In November 2017 planting work has taken place and protective fencing has been installed to allow hedges to grow and reach a manageable height of between 2 and 3 metres and 2 metre width as it matures. The hedges include a mix of native species including hawthorn, blackthorn and goat willow. Further planting includes a wildflower mix around the retained pond and additional hedgerow trees to the eastern end of the site to include oak and field maple.

This is not a landscape that is subject to any special landscape designations. Due to the topography of the area, the presence of mature field boundaries that have been retained and the additional mitigation landscaping that has now been provided it is considered that the proposals would cause no harm over and above the extant planning approval.

9.4 Impact on Public Rights of Way

Over and above the extant approval, the rights of way and their routes are unchanged.

The experience of those using the rights of way would be little altered over and above the extant scheme, especially now that the deer proof fencing has been installed instead of the metal fencing and the CCTV cameras have been omitted from the proposal.

9.5 Impact on Highway Safety

The proposals would have no impact over and above the extant scheme in terms of highway safety and the highway officer raises no objection. As the scheme has been implemented, traffic generation is minimal. The access has been consolidated with tarmac and the arrangements in situ do not pose any highway safety concerns.

9.6 Impact on Ecological Interests

The Council's ecologist has raised no objection to the revisions and it is assessed that they would have no impact on ecological interests.

9.7 Impact on Archaeological Interests

The alterations detailed would not affect the archaeological area of interest on the site. The area that has no or limited archaeological interests would be less disturbed with the reduction in the number of legs on the arrays.

9.8 Impact on agricultural land and surface water flooding

The modifications have no impact on the ability to use the site for grazing. The site has been grazed for a number of years whilst electricity has been generated. Suitable protection has now been provided to ensure the additional landscaping may reach maturity.

The surface water management has been reviewed in the context of the as built scheme and a number of improvements suggested by the applicant's drainage consultants. The drainage memo sets out the provision of an additional 90m long swale in the north-west corner of the site. It also sets out a requirement for 15 "check dams" to be provided within

the existing swales along the southern edge of the site. These will address the gradient within the swale and slow down water transfer by the swale. These changes are considered to be reasonable and proportionate to the nature of the development that has merely incised impermeable surfaces by as little as 0.64%

The drainage works are now the only outstanding work at the site and it is considered that they can be subject to a condition so as to allow this variation application to be approved.

9.9 Impact on Heritage Assets

Historic England's officer has visited the site and viewed the development from within Gifford Hall as part of their assessment of this proposal. They have noted the designated heritage assets as the conservation area and the grade II* listed Gifford Hall. Their comments have been set out verbatim above.

It is noted that the topography of the area is generally flat with minor undulations, and the land around the Conservation Area is predominantly agricultural in use and rural in character with a number of public footpaths connecting the village to outlying areas. Some of these rights of way dissect the application site. It is also noted that there are significant landscape features between the recognized heritage assets and the application site commensurate with the rural character at this point.

It was previously assessed that the impact on views from Broughton Gifford Conservation Area would be very limited. This is as a result of distance, topography and the trees in between. Any views from public areas, such as The Common, are small distant glimpses through the intervening trees. The significance of The Common as part of the Conservation Area lies in its open nature and the houses bordering it. The solar farm has no impact on this and so any impact on the character and appearance of the conservation area from the changes to the solar farm is negligible and at best, at the very bottom end of less than significant.

It was previously assessed under application W/12/02072/FUL that there were 2 listed buildings whose settings could be affected - Gifford Hall and The Hayes. It was assessed that *"Gifford Hall is visible from the site in long distance views, and long distance oblique views of the PV arrays will be visible from upper floor rooms of the property. However, the distance (300m) of the property from the site and the intervening landscape would ensure that the setting of the listed building would not be harmed as a result of the landscape. At the Hayes upper floor south facing windows would have views of the development. The distance of the 550m would ensure that any impact on the setting of the building would be so small as not to be significant."*

As was the case in September 2014 the proposed alterations for which consent is now sought, would not impact further on these heritage assets over and above the extant approval as they would be viewed within the context of other similar development which either creates a backdrop of development or obscures it from view. As set out above the contentious fencing and CCTV no longer form part of this proposal.

Historic England advise that Gifford Hall's primary facade faces south towards the Common and not the application site. They set out that the solar farm is visible from some of the rear windows of the upper floors of Gifford Hall and appears as a mass of panels as it would likely have done under the consented scheme. As such, any impact from the amended proposal only affects the setting of the rear upper part of the building, and this only from limited parts of the application site as the house is not visible at all from other parts of the site. Any impact is therefore at the lower end of less than substantial.

Historic England considers that the character and setting of the heritage assets at this point is one of a rural, open character. It was acknowledged at the time of the original permission that the countryside in the application site would be altered in character but the limited impact on the countryside was outweighed by the benefit of providing a significant amount (10Mw) of renewable energy. It is considered that the very much less than substantial harm to the setting of the rear of Gifford Hall from the amended proposals is still outweighed by the public benefit of provision of the renewable energy generated from the site.

The wider rural context to the settings of the heritage assets is considered to be of limited relevance to their significance. The open character of the Common, where grazing would have traditionally occurred, is of greater significance to the setting and it ought to be appreciated that the traditional buildings generally face towards the common land at Broughton Common and Norrington Common rather than the wider countryside where the development has been sited.

The statutory nature of designated heritage assets as a material consideration is clearly set out within the policy section above where the statutory duties under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to listed buildings and their settings, and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding conservation areas and their settings are clearly set out as policy context. Considerable care has been had in the assessment in relation to these matters and Historic England's advice has been set out verbatim above and given careful attention, along with the public representations on this matter. The Historic England advice sets out that the consented scheme may also have appeared as a similar mass to the as built scheme. Your officers have applied appropriate weight to the statutory duties in their assessment of all the material considerations. It is for the decision maker to apply appropriate weight and officers in relation to this have applied great weight to the conservation of the various heritage assets and had regard to the importance of the Grade II* listing status of Gifford Hall in its balanced assessment.

It is your officers' view that no additional harm of any substance is caused by the proposed changes to the rows/arrays, whether to the conservation area, any listed building, or landscape and visual impact more broadly. It is in this context that the recommendation for approval is given.

9.10 Public responses

A great deal of weight has been placed on the perceived "overbuild" by the developers at this site. The level of development is as per what was considered by the western area planning committee in 2014. Members of the public have set out an overdevelopment of some 67% based on the number of rows increasing from 93 on the approved plans compared to the 155 rows as built in 2014.

The number of rows at the site has increased by circa 67%. However the overall height of each array has reduced by circa 24% and the width of the PV arrays has reduced from 5.95m to 3.33 meters; some 44%. The total number of solar panels has been calculated for both the consented scheme and the "as built" scheme. The consented scheme allowed for circa 50,000 solar panels, whereas the as built scheme resulted in circa 43,500 solar panels. This is a reduction of approximately 13%.

It has been suggested that the change in number of rows of panels was a matter which was missed by the LPA in determining the 2014 application. This is not the case. The report at the time noted that the rows were closer together than the original permission; however it was also noted that the arrays were reduced in height and width and as such the scheme was broadly comparable in this regard. Furthermore the change was illustrated to the

committee in the presentation that included photos of the rows and the fences in situ. As noted in the current report, the height of arrays and gaps between rows were (and are) broadly consistent with other solar PV parks within western Wiltshire and known by the Council.

The perceived overbuild has become a far more notable feature of the public objections in this application and so the matter has been given further consideration and been reported in greater detail on this occasion in order to address the public response. The as built arrangement has resulted in additional rows, but less solar panels, and arrays of less height and width. However, the principle of consistency in decision-making does not prevent additional reasons being given in respect of a later decision compared with an earlier one. Hence, any alteration to the proposals as to the rows/arrays compared with the 2012 permission would constitute a material consideration which should be taken into account in determining this application, notwithstanding that the impact of such change did not form part of any reason for refusal of the 2014 application. Simply because the other changes set out in the 2014 submission, such as additional rows of less height and width, did not form part of the reasons for refusal previously does not bind the Council to not objecting at this point. Nor does the Court of Appeal decision in relation to the 2012 approval bind the Council to any particular layout. Such alterations, as set out in this application, are a matter of planning judgement and need to be afforded appropriate weight by the decision maker.

It is considered that the consented scheme and as built scheme are broadly comparable in terms of the planning impacts. It is considered that with the change to the perimeter fencing that has been made, the scheme has a spacing, character and appearance that is comparable to other solar developments within western Wiltshire.

The comments made by the developers as part of their submissions including planning judgements and it is for the decision maker to note these as a material consideration and reach their own planning judgement in light of all material considerations. It is similar to considering public responses to the consultation process. The public responses and the developer comments are not determinative to the application, but need to be considered when making a planning assessment and afforded appropriate weight by the decision maker.

It has been suggested that this application should be determined differently to other applications because of its retrospective nature and the breaches in conditions that has occurred etc. However this is not a reasonable approach. The planning system as part of effective enforcement of planning controls allows for a number of mechanisms to deal with such situations including planning applications that seek to regularise a situation and negotiation and discussion. Retrospective planning applications are allowed under section 73A of the 1990 Town and Country Planning Act. Paragraph: 012 Reference ID: 17b-012-20140306 of the PPG sets out that a retrospective application “must be considered in the normal way”.

9.11 Conditions

It is necessary to consider the original conditions imposed on the basis that the Council would, if it approved this application, create a fresh permission. The original conditions have therefore been revisited and omitted and amended as appropriate to the stage reached at the time of writing. The development has been completed save for the outstanding drainage works at paragraph 3.6 of the applicant’s drainage memo.

10. Conclusion

Officers submit that the solar installation would make a significant and highly valued

contribution towards the provision of renewable energy targets in Wiltshire. Although the site is located within the open countryside it has to be acknowledged that to provide the scale of renewable energy necessary to meet climate change targets that this type of development needs to be located in rural and semi-rural areas.

The more significant level of public response to this variation application compared to the original application is noted. However planning permission for the installation of solar photovoltaic (PV) arrays and frames covering the same 22.1 hectares including associated cable trenches, electrical connection buildings and improvements to existing access was granted in June 2013 and that is a very significant material consideration. The development has been virtually completed and this application seeks to make relatively minor alterations to the original approval. It is assessed that the alterations would not result in any significant material harm in planning terms above and beyond the extant approval when considered singularly or cumulatively with more recent large- scale solar PV schemes in the vicinity; and as such, it is recommended favorably.

Furthermore this is a resubmission of an earlier variation application in 2014. This was refused by the western area planning committee due to issues with the fencing and proposal for CCTV. The metal fencing has been removed and replaced by deer proof fencing, akin to that approved on the original scheme. The CCTV proposals have been omitted. Therefore all the reasons for refusal have been addressed by this revised submission. Further alterations beyond this have been made to resolve additional concerns raised by the Parish Council and to reflect the as built scheme.

Given the established planning history, and the applicant's addressing of the reasons for refusal of the previous application, it is not considered that there are any sound reasons for refusal of this application.

RECOMMENDATION: Approve subject to conditions.

1.

The development hereby approved shall be discontinued and the land restored to its former condition on or before 31 December 2039 in accordance with the hereby approved Decommissioning Plan approved under W/12/02072/FUL; unless before that date planning permission has been sought and granted for the retention of these structures for an extended period of time.

REASON: In the interests of amenity and the circumstances of the use; and in the interests of consistency with W/12/02072/FUL.

2.

In the event that the development ceases to be operational for the generation of energy before the end of the period defined in condition 2 then all associated development on, under or above the application site shall be removed from the site and the land returned to its former condition in accordance with the hereby approved Decommissioning Plan approved under W/12/02072/FUL, within six months of the cessation of the generation of energy from the site.

REASON: In the interests of amenity and the circumstances of the use; and in the interests of consistency with W/12/02072/FUL.

3.

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the hereby approved plans:

1295/2575 (Revision V5) - Location Plan by aardvark, dated 20 Feb 14;
001-9-5575 SHT 1 of 1 - Substation general arrangement by Ormazabal, dated 23/01/14;
B2281200-L-14 Rev 3 - Landscape Mitigation Plan by Jacobs, dated 03/11/2017;
HESR FRAME 3 Version 1 by Power Electronics, dated 13/06/2013;
Sheet 1 - Track detail 1 by prosolia, dated 04/14;
150641- Detail Doors Locks by prosolia, dated 10/12;
DXX70 - Detail Fibergate GRP by prosolia, dated 02/14;
JG16-350/XSEC2D/01 Rev 0 - Cross Section by Jacobs, dated Nov 16;
JG16-350/Topo3D/01 Rev D - As built Plan by Jacobs, dated Nov 17;
Proposed fence design V1 by Lightsource, dated 25.07.17;
B2281200-JAC-SKT-D-00001 Rev 1.0 by Jacobs, dated Aug 17 (within Jacobs Memorandum dated 28 November 2017);

Drawing: 1295/2576 (Revision V2) - Existing Site Plan;
Drawing: 1285/2580 (Revision V1) – Topographic Survey;
Drawing: 1295/2559 (Revision V3) – Footpath Site Plan; and
Drawing: 1295/2585 (Revision V1) – Indicative interpretation board specification details;

REASON: To define the terms of this permission.

4.

The development shall be maintained in accordance with the hereby approved Landscape and Ecological Enhancement Plan – Addendum dated 29 August 2017; and the Landscape and Ecological Enhancement Plan dated October 2013 approved under the discharge of conditions against W/12/02072/FUL.

REASON: To ensure a satisfactory landscaped setting for the development, the protection of existing important landscape features; the protection and enhancement of biodiversity interests and in the interests of consistency with W/12/02072/FUL.

5.

Within 4 months of the grant of this approval the drainage works identified at paragraph 3.6 of the “As Built Surface Water Drainage System” Memorandum by Jacobs, dated 28 November 2017 and detailed on drawing reference B2281200-JAC-SKT-D-00001 Rev 1.0 by Jacobs, dated Aug 17 at Appendix C shall have been carried out as hereby approved. The surface water drainage system shall be maintained through the lifetime of the development as per the provisions of this document.

REASON: To minimise flood risk by ensuring the satisfactory management of surface water from the site through its lifetime; and in the interests of consistency with W/12/02072/FUL.