
APPLICATION NO.	21/03760/FULLN
APPLICATION TYPE	FULL APPLICATION - NORTH
REGISTERED	10.01.2022
APPLICANT	Novus Renewable Services Ltd
SITE	Land at Lains Farm, Cholderton Road, Quarley, AMPORT
PROPOSAL	Installation of a solar farm including battery storage and associated development
AMENDMENTS	None
CASE OFFICER	Emma Jones

Background paper (Local Government Act 1972 Section 100D)

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1.0 INTRODUCTION

1.1 This matter is presented to NAPC to inform Members that one of the reasons for refusal that formed part of the NAPC resolution, will not be defended by the Local Planning Authority at the forthcoming appeal.

1.2 This planning application was considered by the Northern Area Planning Committee on the 21 September 2023 when, in accordance with the officer recommendation, it was resolved to refuse planning permission on the following grounds:

- 1. Insufficient information has been provided with the application to demonstrate that the proposal would have no adverse effects on the integrity of the Special Protection Areas at Salisbury Plain and Porton Down. As such, it cannot be concluded that the proposal will not result in a likely harmful significant effect on protected sites and species, in accordance with the requirements of the Conservation of Habitats and Species Regulations. As such, the proposal fails to comply with Policy E5 of the Test Valley Borough Revised Local Plan (2016).*
- 2. Insufficient information has been submitted with the application to demonstrate that the proposed development would not have an unacceptable impact on the safe operation of Thruxton Airfield, in terms of harmful impacts from glint and glare. The proposed development would thereby fail to comply with Test Valley Borough Revised Local Plan 2016 Policy E8. Furthermore, as the 'agent of change', the proposed development has failed to demonstrate (through the provision of appropriate mitigation) that unreasonable restrictions would not be placed on the operation of Thruxton Airfield as a result of the proposed development, contrary to National Planning Policy Framework paragraph 187.*

- 1.3 The applicant, Novus Renewable Services Ltd, submitted an appeal to the Planning Inspectorate against this refusal, which was registered on the 11 April 2024. The appeal, which is to be considered at a Public Inquiry, is scheduled to take place from the 9 to 11 July 2024.
- 1.4 A copy of the Officer report to NAPC is contained at **Appendix A**
A copy of the Update Paper to NAPC is contained at **Appendix B**

2.0 **BACKGROUND**

- 2.1 In its previous role as Competent Authority (under the Habitats Regulations) and at the point a decision was made on the planning application, the LPA considered that insufficient information, in the form of a detailed Ground Nesting Bird Mitigation Strategy, had been submitted with the planning application, with the effect that the LPA could not carry out an Appropriate Assessment (in consultation with Natural England), in accordance with the Habitats Regulations, that would conclude that the effect of the development on the interests of the Salisbury Plain SPA or Porton Down SPA was acceptable. A condition to secure the submission of a mitigation strategy would not have been an appropriate method of completing that process prior to the determination of the application. In that circumstance reason for refusal 1 was recommended and accepted by NAPC in its resolution.

3.0 **CURRENT POSITION**

- 3.1 The appellant has since submitted additional information as part of their current Appeal, comprising of a Ground Nesting Bird Mitigation Strategy. The Council has corresponded with the RSPB in respect of this. The RSPB has confirmed that the submitted mitigation strategy is acceptable in respect of the proposals. It is considered that it can be concluded that the effect of the proposal on the interests of the European sites is acceptable, and that the method by which the mitigation can be secured would be via condition in the event that planning permission is granted.
- 3.2 That said, the LPA no longer retains the role of the Competent Authority in the determination of the appeal matter. That function will now be performed by the Planning Inspector (PINS) in accordance with Regulation 7(1) of the Conservation of Habitats and Species Regulations (2017). Given that the Council considers that the Ground Nesting Bird Mitigation Strategy would enable PINS to complete a satisfactory Appropriate Assessment (in consultation with Natural England), it is no longer necessary for the LPA to defend that reason for refusal. Indeed, the LPA can now assist the appeal process in this matter by confirming the position set out in this report.

4.0 **CONCLUSION**

- 4.1 It is the Council's position that the Ground Nesting Bird Mitigation Strategy that accompanied the Appeal submission would, had the LPA retained its role as Competent Authority under the Habitats Regulations, have been sufficient for the LPA to conclude that the proposal would not adversely affect the interests of the European sites, and would address the basis on which this reason for refusal formed part of the resolution of the Committee. It is the Council's position that as this is now a matter for PINS to conclude on, there is no longer

a basis for the Council to defend this reason for refusal. The appeal will continue in relation to the other remaining reason for refusal, in relation to the impacts from glint and glare on Thruxton Airfield.

- 4.2 The urgency in this matter is that if the position is maintained for longer than necessary the Council could be at greater risk of a costs award at the appeal.
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