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Technical Report

Preliminary Ecological Assessment

Yardley Road Solar Farm

Yardley Road Solar Farm Limited

your project our expertise

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1. Introduction

1.1 Terms of Reference

Starting in 2021, Atmos Consulting Ltd ('Atmos') was commissioned by Yardley Road Solar Farm Limited (the 'Applicant') to undertake a range of ecology and ornithology surveys to inform the planning application for a proposed solar farm near Potterspury, West Northamptonshire, hereafter referred to as the 'Site'.

The proposed solar farm (the 'Proposed Development') comprises the installation and operation of 40 megawatt (MW) ground-mounted solar photovoltaic (PV) panels fixed to a dual-axis solar tracking system, and associated infrastructure including access roads, cabling, inverter platforms, control room; a Distribution Network Operator (DNO) station; storage containers; security fencing and CCTV; and temporary construction compound. The planning application also includes the grid connection cable route.

In May 2021, Atmos was commissioned to undertake an Extended Phase 1 habitat survey and in March 2023 to carry out breeding bird surveys and protected species surveys.

In March 2025, Atmos was commissioned by the Applicant to undertake a Preliminary Ecological Appraisal (PEA) of the proposed grid connection route to the proposed solar farm development.

1.2 Site Location and Description

The Site is located near the village of Potterspury, approximately 11.3 km northwest of Milton Keynes (NGR SP 76758 44116) in the council area of West Northamptonshire. It is dominated by arable fields separated by hedgerows, with smaller fields of grazed grassland present, pockets of woodland are present in the south of the Site.

The grid connection corridor (approximate central national grid reference SP 79508 40723) is located approximately 3 km west of Milton Keynes, and 0.4 km east of the village of Potterspury, and comprises arable fields bounded by hedgerows and smaller fields of grazed grassland with areas of scattered woodland.

1.3 Objectives

The aim of this report is to provide a preliminary ecological appraisal based on the habitats and protected and notable species which occur or have the potential to occur on or near the Site and may be impacted by the proposed works. The report follows the 'Guidelines for Preliminary Ecological Appraisal' 2nd Edition (Chartered Institute for Ecology and Environmental Management, 2017).

The objectives are to:

- Identify any sites designated for nature conservation and notable habitats on, near and adjacent to the Site;
- Identify any notable and/or protected plant or animal species, which may occur on or near the Site;
- Identify the presence of any invasive plant species on or adjacent to the Site;
- To describe the baseline ecological status of the Site in respect of habitats and protected species and undertake ecological surveys including an extended UK Habitat Classification (UKHab) survey, breeding birds and eDNA for great crested newt;

- Undertake a preliminary assessment of the potential impacts on any ecological receptors of conservation value identified on, near or adjacent to the Site;
- Recommend further surveys, including mitigation, offsetting opportunities and enhancement measures as appropriate; and
- To demonstrate that the development proposals contribute an overall biodiversity net gain across the Site of at least 10%, in line with the Environment Act and local planning policy.

2. Legislative Context

2.1 Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments, including post-Brexit. The Regulations transpose Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites ('Natura 2000 Sites' termed Special Areas of Conservation SACs or Special Protection Areas (SPAs). The Regulations designate these sites as being important for either habitats or species (listed in Annexes I and II of the Habitats Directive respectively).

2.2 Wildlife and Countryside Act 1981

National legislation for the special protection of selected species is provided in the Wildlife and Countryside Act 1981 (WCA), as amended, and the Habitats Regulations.

Under Section 1(1) and 1(2) of the WCA, all British bird species, their nests and eggs (excluding some pest and game species) are protected from intentional killing, injury or damage. Under Sections 1(4) and 1(5), special penalties are applied to bird species included in Schedule 1 of the WCA and protection is extended for these species to disturbance to birds whilst building, in or near a nest and disturbance to dependant young. Schedule 5 provides special protection to selected animal species other than birds, through Section 9(4) of the WCA, against damage to "any structure or place which any [wild animal included in the schedule] uses for shelter and protection" and against disturbance whilst in such places.

Non-native invasive plants are listed in Schedule 9 of the WCA which makes it an offence to spread or enable them to be spread in the wild. The list includes species such as Japanese knotweed *Reynoutria japonica* and Himalayan balsam *Impatiens glandulifera*.

A number of animals, known as European protected species (EPS), are provided full protection through inclusion in Schedule 2 of The Habitats Regulations. The Habitats Regulations provide protection against deliberate disturbance to those animals wherever they are present and provides tests against which the permission for a development (that may have an effect on a Schedule 2 protected species) must be assessed before permission can be given.

In addition to species protection, the WCA and Habitats Regulations also set out requirements/procedures for the notification, designation and protection of a range of statutory site designations in order to preserve important nature conservation resources.

All public authorities have a requirement to pay due regard to the conservation and enhancement of habitats and species through Section 41 of the Natural Environment and Rural Communities Act

2006 (NERC). Section 41 states, “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”. To this end, Section 41 of the NERC provides for the establishment of a list of habitat and species that are considered to be of “principal importance for the conservation of biological diversity in England”.

2.3 Environment Act 2021

The Environment Act 2021 makes provision about targets, plans and policies for improving the natural environment; environmental protection; waste and resource efficiency; air quality; water and nature and biodiversity. Part 6 is the key chapter for biodiversity as detailed below:

- Schedule 14 makes provision for at least 10% biodiversity gain to be a condition of planning permission in England; and
- Schedule 15 makes provision about biodiversity net gain in relation to development consent for national significant infrastructure projects (NSIPs).

2.4 Hedgerow Regulations 1997

The Hedgerows Regulations 1997 were created to protect hedgerows, in particular those in the countryside aged 30 years or older. It is a criminal offence to remove a hedgerow in contravention to the regulations. The legislation includes sub-categories detailing specific descriptions of offences, the procedure of notification to the local planning authority, circumstances that exempt the need to notify, replacement and retention notices, appeals against those notices, local planning authority records of hedgerows, injunctions, and how hedgerows may be defined to be 'important'.

2.5 Protected Species Legislation

Bats

All bat species in the England and Wales are protected through the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and by the Conservation of Habitats and Species Regulations (2017). Bats are commonly referred to as European Protected Species (EPS).

It is an offence to deliberately or recklessly:

- capture, injure or kill a bat;
- harass an individual or group of bats;
- disturb a bat while it is occupying a structure or place used for shelter or protection;
- disturb a bat while it is rearing or otherwise caring for its young;
- obstruct access to a breeding Site or resting place, or otherwise deny the animal use of the breeding Site or resting place;
- disturb a bat in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species to which it belongs;
- disturb a bat in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young;
- disturb a bat while it is migrating or hibernating;

It is also an offence of strict liability to:

- Damage or destroy a breeding Site or resting place of a bat even if they are not in use at the time (i.e. a summer roost during the winter period).

Seven species of bats are also listed on Section 41 of the Natural Environment and Rural Communities Act 2006 as species of principal importance/priority species.

Great Crested Newt

Great crested newt *Triturus cristatus* is afforded full statutory protection as a European protected species listed on Schedule 2 of The Conservation (Natural Habitats, &c.) Regulations 2017 (1994, as amended), which transpose into British law the European Community's Habitats Directive (92/43/EEC).

Under the terms of Regulation 39(1), with certain exceptions, a person commits an offence if he/she:

“(a) deliberately captures, injures or kills any [a great crested newt];

(b) deliberately disturbs wild [great crested newts].

(1A) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely —

(a) to impair their ability —

(i) to survive, to breed or reproduce, or rear or nurture their young;

(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate;

(b) to affect significantly the local distribution or abundance of [great crested newts];

(c) deliberately takes or destroys the eggs of [a great crested newt];

(d) damages or destroys a breeding site or resting place of [a great crested newt].”

It is also an offence under Regulation 39 to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild great crested newt, or any part of, or anything derived from one.

All of the above protections apply regardless of the stage of the life of the animal in question.

Protection of great crested newts is also provided for in the Wildlife and Countryside Act 1981, as amended. The great crested newt is listed on Schedule 5 of the Act, and is afforded partial protection under the terms of section 9(4)(b) and (c) and (5). This makes it an offence if any person:

9(4) *“... intentionally or recklessly ... (b) ... disturbs any [great crested newt] while it is occupying a structure or place which it uses for shelter or protection; or (c) ... obstructs access to any structure or place which any [great crested newt] uses for shelter or protection.”*

9(5) *“... (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead [great crested newt], or any part of, or anything derived from, such an animal; or (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things”.*

There are provisions in the above legislation for the licensing of activities to facilitate development that would otherwise constitute an offence. However, the statutory agency Natural England (NE) advises that the requirement for licensing should be carefully considered by developers, on a site/activity-specific basis, and recommends consideration of non-licensed mitigation such as reasonable avoidance measures relating to timing of works and sensitive site clearance to minimise potential for adverse impacts to this species where this can be achieved.

Great crested newt are also listed on Section 41 of the Natural Environment and Rural Communities Act 2006 as a species of principal importance/priority species.

Badgers

Badgers and their setts are protected under the Protection of Badgers Act 1992 (as amended) and by Section 11 (Schedule 6) of the Wildlife and Countryside Act 1981 (as amended). It is illegal to kill, injure, take, possess or cruelly ill-treat a badger or attempt to do so. Badger setts are protected from interference and it is an offence to obstruct access to, or any entrance of, a badger sett. In addition, it is illegal to disturb a badger when it is occupying a sett.

Wild birds, their nests and eggs

All wild birds are protected at all times under the 1981 Act. In summary it is an offence to intentionally:

- Kill, injure or take any wild bird.

It is also an offence to:

- Take, damage or destroy the nest of any wild bird while it is being built or in use.
- Take or destroy the eggs of any wild bird.

In addition to the above, it is also an offence for species listed on Schedule 1 of the 1981 Act as amended to:

- Disturb and wild bird whilst it is building a nest or is in, on or near a nest containing eggs or young.
- Disturb dependent young of such a bird.
- Nests of certain species (osprey, golden and white tailed eagle) are also protected at all times in England, Wales and Scotland.

A total of 49 bird species are listed on Section 41 of the Natural Environment and Rural Communities Act 2006.

2.6 Planning Policy and Guidance

2.6.1 National Planning Policy

The National Planning Policy Framework (NPPF) was first published by the government on 27th March 2012. It provided new guidance for local authorities, replacing the existing planning policy guidance, including that relating to biodiversity in Planning Policy Statement 9 (PPS9): Biological and Geological Conservation. In February 2025, an updated version of the NPPF was published.

The Government Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and their impact within the Planning System, which was originally accompanied PPS9, remains valid at the time of writing. The Circular states that its purpose is to provide 'administrative guidance on the application of the law relating to planning and nature conservation as it applies in England.'

Section 15 of the NPPF specifies the requirements for conserving and enhancing the natural environment. While a key aim of the NPPF is to assist plan-makers, it also provides advice for the determination of planning applications, much of which reaffirms the protection previously afforded by PPS9 (superseded by NPPF) to designated sites, priority habitats and species and ancient woodland. The NPPF places a greater emphasis on ecological networks and states that the planning system should provide net gains for biodiversity, by "minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures" (Paragraph 187).

The Environment Act (2021) provides a framework for environmental protection. Measures to halt environmental decline include a requirement for all applicable planning permissions to deliver a compulsory minimum of 10% biodiversity net gain from 12th February 2024 onwards, and from 2nd April 2024 onwards for sites qualifying as 'small sites'.

2.6.2 Local Planning Policy

The grid connection is situated on the boundary of two councils, West Northamptonshire Council and Milton Keynes City Council.

West Northamptonshire Council adopted their local plan in 2016. The relevant policies from this plan are included below.

Policy BN1 - Green Infrastructure Connections

Green infrastructure corridors of sub-regional and local importance as set out in figure 6 of the joint core strategy will be recognised for their important contribution to sense of place and conserved, managed and enhanced by:

- 1) incorporating existing and identified future networks into new development proposals;
- 2) securing contributions from development or other sources for the creation of and future management of the green infrastructure networks;
- 3) delivering long term management strategies for the sub-regional and local network measures to enhance existing and provide new green infrastructure provision will:
 - a) be designed and delivered sustainably with prudent use of natural resources;
 - b) mitigate and adapt to the effects of climate change including through improved flood risk management and as a carbon store;
 - c) be designed to the highest quality in terms of appearance, access provision and biodiversity enhancement and protection;
 - d) reflect local character through the planting of native and other climate appropriate species and consideration of natural and cultural heritage features;
 - e) be supported by a long-term management strategy.

Policy BN2 - Biodiversity

Development that will maintain and enhance existing designations and assets or deliver a net gain in biodiversity will be supported. Development that has the potential to harm sites of ecological importance will be subject to an ecological assessment and required to demonstrate:

- the methods used to conserve biodiversity in its design and construction and operation.
- how habitat conservation, enhancement and creation can be achieved through linking habitats.
- how designated sites, protected species and priority habitats will be safeguarded.

Development management decisions will reflect the hierarchy of biodiversity and geodiversity designations attaching appropriate weight to the status of the site which would be affected. In cases where it can be shown that there is no reasonable alternative to development that is likely to prejudice the integrity of an existing wildlife site or protected habitat appropriate mitigation measures including compensation will be expected in proportion to the asset that will be lost. Where mitigation or compensation cannot be agreed with the relevant authority development will not be permitted.

Policy BN3 - Woodland Enhancement and Creation