

Maidstone Borough Council  
Development Control Section  
Maidstone House King Street  
Maidstone  
Kent  
ME15 6JQ

**Our ref:** KT/2022/129750/01-L01  
**Your ref:** 22/501335/FULL  
**Date:** 28 June 2022

Dear Austin Mackie

**INSTALLATION OF A RENEWABLE ENERGY LED GENERATING STATION  
COMPRISING OF GROUND-MOUNTED SOLAR ARRAYS, ASSOCIATED ELECTRICITY  
GENERATION INFRASTRUCTURE AND OTHER ANCILLARY EQUIPMENT  
COMPRISING OF STORAGE CONTAINERS, ACCESS TRACKS, FENCING, GATES AND  
CCTV TOGETHER WITH THE CREATION OF WOODLAND AND BIODIVERSITY  
ENHANCEMENTS**

**LAND NORTH OF LITTLE CHEVENY FARM SHEEPHURST LANE MARDEN KENT**

Thank you for consulting us on the above application. Based on the submitted information we consider that planning permission could be granted for the proposed development if the following planning **conditions** are included as set out below. Without these conditions, the proposed development poses an unacceptable risk to the environment and we would object to the application.

**Groundwater and Contaminated Land**

**Condition 1**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority (LPA)) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the LPA. The remediation strategy shall be implemented as approved.

**Reason**

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the National Planning Policy Framework (NPPF).

**Fisheries Biodiversity and Geomorphology**

The kingfisher (*Alcedo atthis*) is a protected species under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and has been found to have been nesting in the bank of the Lesser Teise, directly adjacent to the development site, as stated in Section 3.5.5 of the Ecological Impact Assessment.

It is an offense to intentionally disturb any Schedule 1 bird species during the breeding season without a valid licence from Natural England.

The proposed development will only be acceptable if a planning condition is included requiring a plan to ensure any potential disturbance to kingfisher nest sites is avoided during and post development. Without this condition we would object to the proposal because it cannot be guaranteed that the development will not result in harm to the kingfishers utilising the site.

### **Condition 2**

No development shall commence until a plan detailing the protection of kingfishers, a protected species under The Wildlife and Countryside Act 1981 (as amended), and their associated habitat has been submitted to the LPA. The plan must consider the whole duration of the development, from the construction phase through to development completion. Any change to operational responsibilities, including management, shall be submitted to and approved in writing by the LPA. The kingfisher protection plan shall be carried out in accordance with a timetable for implementation as approved.

The scheme shall include the following elements:

- Details of annual nesting bird surveys
- Sufficient buffer zones around any suspected nest sites
- Any works within 10m of known nesting sites must be overseen by a suitable qualified and experienced Ecological Clerk of Works (ECoW)
- A long-term monitoring program of the nesting birds utilising the site

### **Reason**

To protect the kingfisher and its habitat within the development site and in the adjacent river, and to avoid damaging the site's nature conservation value.

This approach is supported by paragraphs 174 and 180 of the NPPF which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Without this condition we would object to the proposal because it cannot be guaranteed that the development will not result in significant harm to the known population of breeding kingfishers.

### **Flood Risk**

We have no objection to this planning application. We have reviewed the Flood Risk Assessment from JBA Consulting dated March 2022 for the installations of renewable energy led generation station comprising of solar array panels and essential infrastructure.

We note that all essential infrastructure has been set in flood zone 3. We are satisfied with the finished slab level being set at 17.5mAOD which is 300mm above the design flood level.

It has not been confirmed what level the solar panels are being set at, nor what the impact would be if any part of these is flooded. The LPA needs to be satisfied that these will remain operational during a flooding event.

The applicant should confirm these will remain operational during a design flood event.

### **Decision notice**

We require decision notice details for this application, in order to report on our effectiveness in influencing the planning process. Please email decision notice details to [kslplanning@environment-agency.gov.uk](mailto:kslplanning@environment-agency.gov.uk).

If you have any questions, please contact me on the email below.

Yours sincerely

**Ms Aida Grabauskaite**  
**Planning Advisor**

Direct email [KSLPLANNING@environment-agency.gov.uk](mailto:KSLPLANNING@environment-agency.gov.uk)