

Business Clinic

Whether it's a legal, tax, insurance, management or land issue, *Farmers Weekly's* experts can help

Is it still worthwhile pursuing solar power developments?



The long-term considerations of solar development include decommissioning obligations and tax implications

Q I have a 300-acre mixed farm in Devon. I considered turning some of my land into a solar farm previously when Feed-in Tariffs (Fits) were around, but didn't manage to get it sorted. I'm still interested, but is it worthwhile?

Martin Williams
Associate, energy team
Carter Jonas

In 2015, the UK government took away subsidies for solar. This dramatically affected the viability of developments and, as a result, the market for standalone solar schemes took a nosedive.

However, recently the cost of photovoltaic (PV) panel technology has significantly reduced, alongside an increase in their efficiency, making solar development in the UK viable again.

Breakdowns and issues are becoming less frequent, the PV panels run for longer and cost less to maintain, and emerging technology such as tracking and bi-facial panels increase generation.

While previous schemes were usually proposed to be installed for a 25-year period, now solar farms are typically set to have a 35- to

40-year lease term. If developers are able to develop larger-scale solar farms, operated for longer using the same kit, they can spread the cost over time, making projects viable.

The first thing to consider is the suitability of your land. Typically, to get planning consent, solar farm developments need to avoid the best agricultural land (Grade 3 or below is ideal) and be free of any sensitive environmental designations.

Grid connection is also key; a site needs to be within about 5km of a substation, or have suitable overhead lines crossing the land that can be connected into the grid. A specialist adviser will be able to tell you quite easily if this is the case.

In addition, sufficient area is needed. All developers will have their opinion on the area required, and the scale will depend on the grid

connection, but it's generally accepted that 80 acres and above would be viable. This can be made up of your land and neighbouring land.

It sounds as if your land certainly ticks a lot of the boxes. So, it is going to be worthwhile? In short, yes. An operational solar farm can have great financial benefit.

Developers typically seek a lease term of at least 35 years, paying an annual index-linked rent and, in some cases, a percentage revenue share top up rent, with the land restored to its previous condition at the end of the term.

The rents offered to landowners vary significantly depending on the site, but for large-scale solar farms, rents should be in excess of £800/acre, and can be £1,000/acre.

Any percentage revenue share should at least match the base rent, and this is an important element to ensure that landowners benefit from any increase in generation, or in the event that a developer is able to secure a higher price for the generated electricity.

Many developers are also seeking to incorporate battery energy storage into their solar farm designs, which should attract an additional rent based on a sum per megawatt.

Other benefits of a solar farm include maintenance and grazing rights, with most developers allowing sheep grazing around the PV panels and, in some cases, paying for this.

It is important to remember, though, that these are large-scale, long-term projects.

Consider the longevity of the developer and its ability to sell the project, the tax implications, and the proposed insurance, indemnities, and decommissioning and reinstatement obligations of the developer.

If a developer approaches you, we recommend taking expert advice, to see if what you are being offered is not only in line with market rates, but also the best terms and the most appropriate for the landholding in the long run.

DO YOU HAVE A QUESTION FOR THE PANEL?

Outline the issue and *Farmers Weekly* will put your question to a member of the panel.

Send your enquiry to Business Clinic, *Farmers Weekly*, RBI,

Quadrant House, The Quadrant, Sutton, Surrey SM2 5AS, and include a telephone number. You can also email fw-businessclinic@markallengroup.com

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It is worthwhile checking on the status and progress of planning applications – the system is working well, despite lockdown

How is the Covid-19 pandemic affecting the planning process?

Q We have submitted a planning application for the change of use of two agricultural barns that are due for a decision.

We haven't received any updates from the local planning authority and are concerned our application has simply been put on hold during the Covid-19 pandemic.

What is the current situation with the planning system and what, if anything, can we do to progress our application? Can we simply proceed with the building work?

Alex Madden
Head of planning
Thrings

The UK planning system has responded and adapted well to the coronavirus pandemic and the task of maintaining decision-making under the lockdown.

The strategy of the Ministry of Housing, Communities and Local Government (MHCLG) has been clear: local authorities should continue to determine applications, under the existing timescales, by using technology and delegation.

The government has introduced temporary measures to relax planning rules and processes to ensure the system can operate effectively during this period.

Its most recent changes included measures to allow councils in England to publicise planning applications through social media, to consult on local planning matters, and to afford developers more flexibility to defer

payments towards local infrastructure.

The MHCLG currently has no plans to change the determination timescales as set out in the Development Management Procedure Order 2015 (which requires most applications to be determined within eight weeks of submission). Likewise, the MHCLG has recently urged local authorities to hold planning committee meetings virtually rather than to postpone meetings.

From our own experiences, local authorities have been quick to adapt. However, in practice, the timescales for determination are not always met. During the pandemic, there will undoubtedly be delays, varying from council to council.

So, what are the options to progress your application during lockdown?

As a first step, check your local planning authority's website for any updates on procedural changes or news on your application.

If your application has passed its determination date and you have not received any update, it would be sensible to contact the allocated planning officer, either by email or telephone, and have a discussion.

This may present an opportunity for you or your agent to ascertain if there are any outstanding issues that need to be addressed. A personal touch can often hit the right note which may, in turn, assist in your application being determined.

Local authorities are usually keen to be open and transparent about delays and should provide you with a reasonably accurate timeframe for a determination to be made.

If you have trouble contacting your planning officer, it may be worth speaking to the head of development control about whether your case has been allocated to another officer.

If you are unable to obtain a satisfactory response from the planning officer, or the urgency of determination means you cannot wait, you have the option of appealing to the secretary of state on the grounds that the application has not been determined within the prescribed timeframe (unless you have agreed in writing to an extension).

But remember that each case will turn on its own merits, so speaking to a planning specialist before embarking on an appeal is advisable.

The procedure for such an appeal is similar to that when appealing a refused application.

The local authority will be asked to explain why the application was not determined within the specified time and what its decision would have been if it had determined the application.

The risk in making a start on the building work is that such operations may be unauthorised and could lead to a visit from the enforcement officer, as well as jeopardising the pending application.

It is not clear whether you have a class Q prior approval application in for determination with the council, or a routine planning application.

If the former, the commencement of any works at this stage could be fatal for the application, as you would be jumping the gun by not first seeking the council's consent.

However, if you now find yourself in a situation where the 56-day period for determination has lapsed (and there have been no requests for an extension of time), you may have a deemed consent provided you satisfy the qualifying criteria.

You should seek specialist planning advice at this stage, since there are number of options available to you.