

Agenda Item	A8
Application Number	22/00668/FUL
Proposal	Erection of a substation compound comprising of a transformer, HV equipment, switchgear control room, welfare cabin and DNO substation building with associated boundary fencing, access road and column mounted CCTV cameras
Application site	Land to the South of Middleton Clean Energy Plant Middleton Road Middleton Lancashire
Applicant	Ms Donna Cooper
Agent	Mr Daniel Grierson
Case Officer	Mr Robert Clarke
Departure	Yes
Summary of Recommendation	Approval – Delegate back to Head of Service for finalisation of planning obligation.

1.0 Application Site and Setting

- 1.1 This site relates to an area of land which is part of the former Middleton Oil Refinery and is known locally as Middleton Wood. It comprises approximately 0.17 hectares of mainly rough ground with areas of tipped/piled material. In parts some natural regenerated vegetation has occurred. There are areas of hardstanding forming an original portion of the road network within the refinery site. The site is accessed via a road through an existing industrial state, off Middleton Road.
- 1.2 The site lies within the zone of influence of a Control of Major Accident Hazard (COMAH) site at Tradebe Solvent Recycling Ltd which is located immediately to the northwest within the established industrial area. It is also within the Health and Safety Executive middle consultation zone in relation to Heysham Power Station. The site falls within the established employment area Major Industrial Estate (EC1.9). It also falls within the Heysham Gateway Regeneration Priority Area. The site is also identified as forming part of a larger historic landfill site.
- 1.3 Adjacent to the eastern boundary of the site is the Middleton Former Refinery Biological Heritage Site (BHS). This extends over a large area to the east, south and west of the site and forms Middleton Nature Reserve. Located approximately 800 metres to the south west is the Lune Estuary Site of Special Scientific Interest (SSSI) which is also covered by the Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC), Ramsar Site and Marine Conservation Area.

2.0 Proposal

- 2.1 Planning permission is sought for the installation of a substation compound comprising of a transformer, HV equipment, switchgear control room, welfare cabin and Distribution Network Operator (DNO) substation control room building. The proposal also includes associated boundary fencing, internal access road and column mounted CCTV cameras. The proposed infrastructure is

required to complement the recently permitted battery storage site immediately to the north (22/00358/VCN) and the proposed battery storage site immediately to the south (22/00839/FUL).

3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
22/01152/EIR	Screening opinion for the erection of a substation compound comprising of a transformer, HV equipment, switchgear control room, welfare cabin and DNO substation building with associated boundary fencing and 4 column mounted CCTV cameras	Environmental Statement not required
22/00839/FUL	Construction of 100 MWh energy storage facility with associated boundary fencing, access road and column mounted CCTV cameras	Pending consideration
22/00358/VCN	Installation of 99.95MW battery storage facility including 2m security fence, battery units, cabling and creation of attenuation ponds (pursuant to the variation of condition 2 on approved application 18/01203/FUL to amend the layout and container specifications)	Approved
21/01534/NMA	Non material amendment to planning permission 18/01203/FUL for rearrangement of battery storage containers	Withdrawn
21/00735/NMA	Non material amendment to planning permission 18/01203/FUL to change the maximum output from 49.9MW to 99.95MW	Approved
18/01203/FUL	Installation of a 49.9MW battery storage facility including 2m security fence, battery units, cabling and creation of attenuation ponds	Approved
14/01117/FUL	Erection of a 47.5mw gas fired power station and associated works	Approved
95/01352/DPA	Change of use from derelict Shell/ICI works to Middleton Community Wood	Granted 1/4/1996

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultee	Response
United Utilities	No objection subject to conditions requiring submission and agreement of a drainage strategy. A public sewer crosses this site and building over it will not be permitted and an access strip will be required.
EDF	No response received.
Greater Manchester Ecology Unit (GMEU)	Raises concerns regarding Biodiversity Net Gain calculations. Conditions requested regarding confirmation of District Level Licencing for Great Crested Newts, a

	Construction Environmental Management Plan (CEMP) and methodology for the clearance of invasive species from the site.
The Wildlife Trust	Raises concerns regarding the impact of developing the site upon its ecological value and possibility of notable species. Off-site ecological compensation required along with a Construction Environmental Management Plan (CEMP).
Parish Councils	No response received.
County Highways	No objection subject to conditions requiring submission and agreement of a Construction Traffic Management Plan (CTMP) and incorporation of wheel washing facilities.
Environmental Health	No response received.
Emergency Planning	No response received.
Natural England	No objection.
Office of Nuclear Regulation	No response received.
Planning Policy	Response provided highlights the relevant policy considerations.
Property Services	No response received.
Engineers	No response received.
Health and Safety Executive	Does not advise against development.

4.2 No responses have been received from members of the public.

5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle of development
- Ecological Implications
- Highway Implications
- Design, landscape and visual impact
- Impacts in relation to nearby hazardous installations
- Drainage

5.2 **Principle of development** (NPPF paragraphs: 7 – 12 (Achieving Sustainable Development) paragraphs 152 and 155 (Planning for climate change); Development Management (DM) DPD policies DM14 (Proposals involving employment land and premises), DM30 (Sustainable Design) and DM53 (Renewable Energy Generation in Lancaster District); Strategic Policies and Land Allocations DPD policies SP1 (Presumption in Favour of Sustainable Development), SP4 (Priorities for sustainable economic growth), EC1.9 (Established Employment Areas) and EC5.5 (Regeneration Priority Area)

5.2.1 The site is within an allocated employment site (EC1.9). Given that the proposal would be contrary to the employment (B-type uses) allocation, it represents a departure from the adopted development plan as the proposal falls outside the uses that would be supported in principle on established employment areas. However, there is a need for this type of development which should be taken into consideration. The Draft Overarching National Policy Statement for Energy (EN-1) although not formally designated, places emphasis on energy storage infrastructure. EN-1 sets out that an increase in renewable electricity is essential to enable the UK to meet its commitments under relevant legislation. Energy storage technology is recognised as being key to delivering the path to net zero by 2050 and The Energy White Paper: Powering our net zero future (December 2020)

places significant emphasis on electricity storage, acknowledging that novel energy storage technologies could enable the decarbonisation of the energy system more deeply at lower costs. However, renewable sources (such as wind, solar and tidal) are intermittent and cannot be adjusted to meet demand. As a result, as the deployment of renewable generating sources becomes more widespread, the greater the need is for associated renewable energy storage capacity. The renewable energy that is stored in battery storage facilities is subsequently fed back into the grid at times when the availability of intermittent renewable energy sources is low. The document goes on to say that electricity storage can be used to compensate for the intermittency of renewable generation.

- 5.2.2 The development proposed does not seek to provide additional battery storage capacity itself. This proposal seeks consent for electrical infrastructure and associated ancillary equipment which will allow the energy stored in two neighbouring consented battery storage containers located to the north (permitted through 22/00358/VCN) and to the south (currently proposed through 22/00839/FUL) to be connected and distributed into the national grid efficiently.
- 5.2.3 Policy DM53 sets out the Council's commitment to supporting the transition to a lower carbon future and support for proposals for renewable and low carbon energy schemes, including ancillary development, where the direct, indirect, individual and cumulative impacts on stated considerations are or will be made acceptable. On 30 January 2019, the council declared a climate emergency. Lancaster City Council subsequently conducted a climate emergency focused review of the adopted Local Plan, thus highlighting the importance that the climate emergency has in decision making in the district. The aim of the review is to ensure that the climate emergency declaration is fully considered within the planning policies for the district ensuring that climate change adaptation and mitigation is central to all new development. The Council is also committed to supporting the district in reaching net zero by 2030.
- 5.2.4 The submission sets out that changes in energy generation, alongside a significant increase in electricity demand, as well as intermittent supplies from renewable and low carbon energy sources, have led to a situation where electricity supply requires reinforcement to meet current and expected demands. This proposed development will aid in providing more efficient and greater battery storage capacity for the neighbouring sites to the north and south and will contribute towards relieving and reinforcing the supply of energy to meet demand, and to ensure there is a reliable source of power for both business and residential consumers. Consequently, the proposed electrical infrastructure development will contribute towards helping the national grid provide a reliable source of power in the face of fluctuating and changing energy demand and supply. At times the grid struggles to provide an efficient, consistent supply of energy due to variations in demand and the unreliability of renewable energy supplies. Energy storage facilities and their associated infrastructure like that proposed offer flexibility to absorb surplus energy from renewable sources at times of excess to be released when needed.
- 5.2.5 In terms of the location, this type of development is often more appropriate in an industrial area, rather than in the open countryside, due to the visual impact, or close to residential areas. The application site is well related to existing energy infrastructure and there are a number of renewable energy projects in the area including a solar farm and wind turbines, both on and off-shore. The proposal will occupy a relatively small proportion of the allocated employment site overall and will leave the opportunity for employment development on the wider site to the east in the future. Paragraph 152 of the NPPF sets out that the planning system should support the transition to a low carbon future and paragraph 158 states that it should be recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The proposal would comply with these aims as it would help to reduce carbon emissions by facilitating greater and more efficient storage capacity. For the above reasons, it is considered that the site provides an appropriate location for battery storage infrastructure and the conflict with the Development Plan with respect to the site's employment allocation are outweighed by the benefits of the proposal.
- 5.2.6 As required by Policy DM53, a condition is recommended to ensure that if the infrastructure proposed becomes non-operational for a period in excess of one year, the development is to be removed in full and the site fully restored to its original condition within one year.
- 5.3 **Ecological Implications (NPPF paragraphs 174 and 179-182 (Habitats and biodiversity); Strategic Policies and Land Allocations (SPLA) DPD policies SP8 (Protecting the Natural Environment) and**

- 5.3.1 The site is located approximately 800 metres to the northeast of the Lune Estuary Site of Special Scientific Interest (SSSI) which is also covered by the Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site. The application is supported by a Shadow Habitat Regulations Assessment, this has been reviewed by Natural England who agree with the findings that the development of the site would not have significant impacts on these protected sites and that the site is not considered to be functionally linked land for over-wintering birds. The Council have adopted the Shadow Habitat Regulations Assessment with the agreement of Natural England.
- 5.3.2 The development site lies adjacent to but wholly outside of the Middleton Former Refinery Biological Heritage Site (BHS). This is a nature reserve which is managed by the Lancashire Wildlife Trust. Both the application site and the BHS are known to support a population of Great Crested Newts, which are a Protected Species. The proposed development presents a risk that Great Crested Newts may be harmed as a result of developing the site. Under the terms of the Habitats Directive and the Conservation of Habitats and Species Regulations 2010 (as amended), a Licence will be required from Natural England. In this instance, rather than seek the traditional mitigation Licence, the applicant has opted to enter into the District Level Licence (DLL) incentive offered by Natural England. A provisional Great Crested Newts DLL Impact Assessment & Conservation Payment Certificate has been received as part of this application. Under the traditional approach to licensing for the disturbance of Great Crested Newts, developers wishing to develop land where Great Crested Newts are known to be present must trap and relocate the species from the site before commencing development. Research by Natural England has found that the amount of money spent on surveying, trapping and excluding with plastic fencing can outstrip that spent on habitat creation and management by a ratio of almost seven to one. Crucially, a lot of resource is used without there being significant benefits for the Great Crested Newts population. With respect to this application, Natural England have confirmed in writing that a provisional DLL was issued in relation to the application site on 8th November 2022. Significant weight must be attached to the fact that Natural England have granted a provisional Licence in this instance.
- 5.3.3 Ultimately, although Natural England have granted the provisional DLL, the Local Planning Authority must still have regard to Regulation 9(1) and 9(5) of the Conservation of Habitats and Species Regulations 2010 (the derogation tests) and must consider whether or not:
- i) That the development is 'in the interest of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment;
 - ii) That there is 'no satisfactory alternative'; and,
 - iii) That derogation is 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'
- 5.3.4 Having engaged with Natural England, it is accepted that their granting of the Licence demonstrates compliance with test iii above. However, tests 'i' and 'ii' must still be considered by the Local Planning Authority.
- 5.3.5 With respect to the first test, the benefits of the scheme in terms of control of energy supply and storage, and the environmental credentials of this, are detailed within the 'Principle of the development' section of this report. These benefits are considered to be in the public interest, and as such this test is considered to be passed. In terms of test two and the lack of a satisfactory alternative, by the nature of the proposal, proximity to the recently approved (22/00358/VCN) battery storage scheme is essential as is proximity to a grid connection. As such, the impact upon the Great Crested Newt population is considered to be adequately mitigated through the DLL process, and it is considered that the proposal is acceptable with regard to the Conservation of Habitats and Species Regulations 2010.
- 5.3.6 The application is supported by an Ecological Impact Assessment as well as a Biodiversity Net Gain (BNG) assessment including the DEFRA 3.1 Matrix. The Ecological Impact Assessment sets out that the development site consists of mosaic habitats on previously developed land and the habitats on site have the potential to support a range of notable or protected species, such as GCN. The Lancashire Wildlife Trust have confirmed that other priority and notable species are known to be

present in the local area and possibly within the development site including species of butterfly and moth. The development proposed will lead to the loss of mosaic habitats and Biodiversity Action Plan (BAP) neutral grassland habitats and could have a negative effect on any protected or notable species within the area at the time. However, the site is also quite disturbed given the public access to the land and footpaths which crisscross the site. In order to mitigate the harm in which the development phase will result, a Construction Environmental Management Plan (CEMP) will be necessary to ensure adequate mitigation to noise, light, dust and water pollution during this construction phase. Mitigation in terms of timing of works is necessary to minimise the displacement or disturbance of bird species, whereby the nesting and wintering period should be avoided. Furthermore, visual and noise mitigation through fencing and boundary planting will be required to mitigate the impacts of the development throughout the lifetime of the proposal, in addition to controls on artificial lighting from site. Subject to the aforementioned measures, it is considered that the proposal can adequately mitigate the impacts upon the natural environment and protected species.

- 5.3.7 The BNG assessment provided confirms that the development site accounts for 1.19 habitat units in its current form. The proposed development incorporating the green roof mitigation to the three non-battery storage buildings would lead to a loss of 1.07 habitat units or a 90.01% Net Loss in the ecological value of the site. In light of the fact that the proposed development extends across the full extent of the development area, it is not possible for the BNG losses to be compensated for within the development site itself. Brownfield sites such as this site where nature has been allowed to regenerate and are functionally linked with a wider network of habitats often hold quite significant ecological significance. In this instance, it is clear that the development of the site including and particularly for its allocated purpose (industrial uses) will most likely always result in harm to the sites ecological value. In this respect, there is a conflict with the site's allocation for employment/industrial development and the need to deliver ecological enhancements as part of that same development. In this case, it is not possible to both develop the site and enhance the ecological value of the site at the same time.
- 5.3.8 Therefore, off-site ecological compensation, to mitigate the BNG losses within the development site, is required. The developer has engaged with the Lancashire Wildlife Trust and has agreed to fund enhancement works within the adjacent Middleton Nature Reserve and BHS. The compensation scheme has been developed and costed by the Lancashire Wildlife Trust and consists of the installation of a network of fencing and gates within the Middleton Nature Reserve. The fencing will prevent unauthorised access from members of the public onto sensitive habitats within the reserve. Over a short amount of time, the habitats that have been degraded as a result of trampling, dog walking, antisocial behaviour, fires, etc. will begin to naturally regenerate. The regenerated and fenced habitats will provide protected areas for breeding birds, Great Crested Newts, wintering birds, invertebrates and other priority or notable species that are known to be present. This will then have ongoing and long-term benefits to the species that utilise the sites and the wider area. For example, there may be a higher success rate of breeding birds, breeding Great Crested Newts and invertebrates (as well as other species) as a result of the enhanced and regenerated habitats.
- 5.3.9 The financial contribution for the off-site compensation scheme will be split between this application (22/00668/FUL) and the application for the battery storage extension to the south of the site (22/00839/FUL). The total contribution is £36,000 with this distributed proportionately based on site area between the two developments. 27% or £9,720 is to be contributed upon commencement of works proposed through 22/00668/FUL. The remaining 73% or £26,280 is to be contributed upon commencement of works proposed through 22/00839/FUL. Therefore, the financial contribution is proportionate to the level of harm in which each development results individually. This is to be secured by way of a planning obligation. It is considered that the habitat enhancement that would result by way of the off-site compensation scheme and the resulting benefits in which this will result to the adjacent nature reserve, satisfactorily compensates for the ecological harm in which the proposed development results to the development site. It is considered that providing a financial contribution to fund habitat enhancement works within immediately adjacent Nature Reserve is the best of course of action as opposed to the developer purchasing credits from a recognised habitat bank.
- 5.3.10 Cotoneaster, a potentially invasive species, was found to be present on the site. As outlined in the Ecological Impact Assessment, invasive species on site should be mapped during spring/summer months to prevent unintentional spread. Invasive species control should be implemented within the

development area. An appropriate Invasive Species Management Plan will be prepared and this can be the subject of a condition.

5.3.11 Overall, whilst the development will diminish the ecological value of the site, it is considered that the proposal will not have a significant impact on biodiversity as whole in light of the mitigation and off-site compensation works which have been secured.

5.4 **Highway Implications** (NPPF paragraphs 104-109 (Promoting Sustainable Transport);, Development Management (DM) DPD policy DM60: (Enhancing Accessibility and Transport Linkages)

5.4.1 The proposed development will utilise an existing privately maintained access road through the adjacent industrial estate, off Middleton Road. Adjacent to the site there is an existing road, which served the former refinery site, and this will provide access to the site. There are no changes proposed to the access to the site as part of this application and it is considered that there would not be a detrimental impact to highway safety. County Highways raise no objection to the development subject to a condition requiring the submission and agreement of a Construction Traffic Management Plan which is recommended.

5.5 **Design, landscape and visual impact** (NPPF: paragraphs 126-136 (Achieving Well-Designed Places), paragraphs 170 and 172 -177 (Conserving and Enhancing the Natural Environment); Development Management (DM) DPD policies DM29 (Key Design Principles) and DM46 (Development and Landscape Impact)

5.5.1 The proposed infrastructure will occupy an area of approximately 0.17 hectares and will be relatively low when compared to the industrial units within the wider industrial estate. The proposed transformer is the largest piece of equipment measuring 8.6 metres in height and 12 metres in length. The substation and welfare buildings are smaller at approximately 3.5 metres in height. The plans set out that all metal surfaces would be painted in subdued colour and the site would be surrounded by a powder coated 2 metre high perimeter fence. The precise colour and details of the fence can be conditioned. Given the height of the structures and the proximity to the existing industrial development, it is considered that the proposal will not have a detrimental impact on the landscape or the amenity of the area.

5.6 **Impacts in relation to nearby hazardous installations** (NPPF: paragraphs 45, 97, 126-136 (Achieving Well-Designed Places); Development Management (DM) DPD policies DM29 (Key Design Principles)

5.6.1 The site lies within the zone of influence of a Control of Major Accident Hazard (COMAH) site at Tradebe Solvent Recycling Ltd, which is located immediately to the northwest, within the adjacent allocated employment site. It is also within the middle zone in relation to Heysham Power Station and a public sewer crosses the site. No objections have been raised to the proposal by operators of either of these sites. The scheme retains the emergency access route in relation to Tradebe. An assessment has also been undertaken by HSE (through the online system) which raises no objection in terms of the proximity of the use proposed in relation to the hazardous installations.

5.7 **Drainage** (NPPF: Section 14 (Meeting the challenge of climate change, flooding and coastal change), Development Management (DM) DPD policies DM29 (Key Design Principles) and DM34 (Surface Water Run-off and Sustainable Drainage)

5.7.1 The proposed development will involve the installation of some impermeable elements, such as transformer infrastructure and control cabins, located on a broader area of permeable subbase aggregate. This will include some degree of surface water attenuation within the site before discharging back to the hydrological network at greenfield rate. Despite the lack of a detailed drainage strategy at this time, given the scale and nature of the site, it is considered that the surface water run-off management can be designed and accommodated within the site in accordance with the sustainable drainage hierarchy. This can be controlled through planning condition. No details have been provided regarding foul drainage, and whilst on-site facilities are likely to be modest due to the lack of continual employee presence on site, details of this would similarly be required through planning condition.

6.0 Conclusion and Planning Balance

6.1 The application represents a departure from the Local Plan, which identifies the site as part of an allocated employment site. Whilst the proposal does not fall within the acceptable uses set out in the associated policy, it is considered to be a compatible use and will contribute towards reducing carbon emissions by facilitating the storage and distribution of electricity from renewable energy schemes when there is a surplus in the network and releasing it when there is a deficit. It is therefore considered that the site provides an appropriate location for energy infrastructure. The application is considered to be acceptable in all other regards.

Recommendation

That Planning Permission BE GRANTED subject to the following conditions:

Condition no.	Description	Type
1	Timescale	Control
2	Approved plans	Control
3	Decommissioning and removal in the event of the site becoming non-operational	Control
4	Construction Environmental Management Plan	Pre-commencement
5	Construction Traffic Management Plan	Pre-commencement
6	Surface water and foul drainage strategy	Pre-commencement
7	Standard contaminated land condition	Pre-commencement
8	Control of invasive species	Pre-commencement
9	District Level Licencing Confirmation	Pre-commencement
10	Details of materials: colour and finish to containers; details of fencing; details of surfacing; details of green roof; details of building colours	Prior to development above ground
11	Details of external lighting	Prior to development above ground
12	Soft landscaping scheme	Prior to development above ground
13	Development in accordance Ecological Impact Assessment mitigation strategy	Control

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

Lancaster City Council has made the decision in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The decision has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None