

<b>Agenda Item</b> A11	<b>Committee Date</b> 8 <sup>th</sup> December 2014	<b>Application Number</b> 14/01117/FUL
<b>Application Site</b> Middleton Clean Energy Plant Middleton Road Middleton Lancashire	<b>Proposal</b> Erection of a 47.5mw gas fired power station and associated works	
<b>Name of Applicant</b> Mr David Evans	<b>Name of Agent</b> -	
<b>Decision Target Date</b> 20 January 2015	<b>Reason For Delay</b> N/A	
<b>Case Officer</b>	Mr Andrew Dobson	
<b>Departure</b>	Yes	
<b>Summary of Recommendation</b>	Delegate to Chief Officer (Regeneration and Planning)	

## **1.0 The Site and its Surroundings**

- 1.1 This full application relates to an area of land which is part of the former Middleton Oil Refinery and is known locally as Middleton Wood. The site area is 0.476 hectares and comprises of mainly rough ground covered by inert tipped material upon which some natural regenerated vegetation occurs in parts.
- 1.2 Part of the site comprises existing hard surfaces forming an original portion of the road network within the refinery site.
- 1.3 The site abuts existing industrial sites which front Middleton Road and there is potential linkage through that land by an existing access road on the other side of the boundary. Although the land forms part of the wider Middleton Wood site which is in the City Council's ownership, it has until relatively recently continued to be used for the reclamation of inert construction material and hence has not regenerated into natural habitat in the same way that the wider site area has.
- 1.4 The site and its surroundings are subject to a number of designations, including Hazardous Substance Installations designations (Tradebe Solvent Recovery); a Radon Protected Area; a Minerals Safeguarding Area and is an area identified as being susceptible to groundwater flooding. Heysham industrial Estate, a waste site allocation, lies further to the south. The wider site includes a Biological Heritage Site designation

## **2.0 The Proposal**

- 2.1 The development consists of a 14m high, 1300m<sup>2</sup> industrial building which is to be used as a power hall housing five reciprocating gas engines. Fuel will be supplied from an existing underground natural gas pipeline. Emissions from the engines will be vented from a 25 m high flue stack.
- 2.2 The proposal is in effect a small gas powered powers station designed to provide on demand additional capacity at tomes when wind power is delivering less and demand is high. It is generally constructed off site and assembled on the land once consent is granted.

2.3 Approximately 18 permanent staff in combinations of shift workers would be employed by the site. Vehicular access to the site both during and after construction would be over the existing estate roads.

### **3.0 Site History**

3.1 The following application is relevant:

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
<b>95/01352/DPA</b>	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 so far from statutory and non-statutory consultees:

<b>Consultee</b>	<b>Response</b>
<b>LCC – Property Services</b>	Supports the principle of development but the layout appears “ <i>rushed and ill-considered</i> ” and requires further thought. The development could be relocated nearer the boundary of the Biological Heritage Site to the east, keep the roadway in its current position and add car parking to the west of the roadway.
<b>LCC Environmental Health</b>	No comments at the time of compiling this report. Any comments will be verbally reported.
<b>Natural England</b>	<p>The requirements of Regulations 61 and 62 of the Habitats Regulations do not appear to have been considered by Lancaster City Council (i.e. there is no Habitats Regulations Assessment). Further information should be provided on the likelihood of significant effects from the proposal upon the designated (European) sites to allow the Council to undertake their Habitats Regulations Assessment. This further information includes comprehensive details on air quality, drainage, water, protected species, Special Protected Area birdlife, the Lune Estuary and Heysham Marsh Site of Special Scientific Interest; and the Morecambe Bar Special Area of Conservation, Special Protected Area and Ramsar designated Morecambe Bay.</p> <p><i>Note: If the Council is minded to grant consent it must first provide notice to Natural England to include a statement of how the Council has taken account of Natural England’s advice (and shall not grant a permission before a period of 21 days beginning with the date of that notice) – under Section 281 (6) of the Wildlife and Countryside Act 1991 (as amended).</i></p>
<b>Lancashire Wildlife Trust</b>	<p>Comments – Appropriate measures required (prior to approval) for minimise impacts on great crested newts which are likely to use the site for foraging, dispersal and hibernation. Little Ringed Plover (protected species) recorded at the site in 2014 and passerine species on adjacent land. Mitigation required to minimise impacts on breeding birds. Other measures required to ensure no wildlife habitat damaged during construction or operation; measures to mitigate against lighting, dust or noise (especially for bats). Protected plants and butterflies are supported by the habitats – ecological enhancement of the site post-construction should compensate for loss of this habitat type.</p> <p>Changes to existing drainage may cause hydrological impacts – measures potentially required to address this. LWT member access should be maintained; a method statement for the electricity cable easement is required; all loading/storage to be contained within red edge and measures for leaching from spoil, other pollutants, compaction of ground, damage to vegetation put in place; measures to avoid spread of Japanese Knotweed which is present in the vicinity of the development site;</p>
<b>Environment Agency</b>	No comments at the time of compiling this report. Any comments will be verbally reported.
<b>County Highways</b>	No objection subject to Construction Traffic Management Statement conditions.
<b>Middleton Parish</b>	No comments at the time of compiling this report. Any comments will be verbally reported.

<b>Council</b>	reported.
<b>Health and Safety Executive</b>	No comments at the time of compiling this report. Any comments will be verbally reported.
<b>United Utilities</b>	Comments – A public sewer crosses the site – no building is permitted over it. Access trip of 6m (3m per side) required from centre-line of the sewer. Site should be drained on a separate system (foul draining to public sewer; surface water draining sustainably). General comments regarding permeable paving, building regulations and metered supply also provided.

## **5.0 Neighbour Representations**

5.1 At the time of compiling the report 3 representations have been received. Two of these representations express support for the proposal which will make a tangible contribution of clean gas-powered electricity, with a small developable footprint on a brownfield site, with a good design and no significant visual impacts.

The 2<sup>nd</sup> representation concerns access issues. The site to the north (Tradebe Solvent Recycling) is a designated Control of Major Accident Hazards (COMAH) site. The primary access for emergency service vehicles is via Middleton Lane, yet the prevailing wind direction means that this route is unsafe. Secondary and tertiary routes off Main Avenue are unavailable due to flytipping and the presence of protected species. Recently the City Council, County council, Police, Fire & Rescue Service, NW Ambulance Service and Tradebe amongst others have been trying to resolve these issues and reinstate the secondary access route across land being proposed for the current application. Given that the application only provides basic information, it is unclear if the access road will accommodate a fire appliance and reassurances regarding this are sought.

## **6.0 Principal National and Development Plan Policies**

6.1 National Policy Statement for Energy Infrastructure (EN-1)  
National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)

### Lancaster District Core Strategy (2008)

- SC1 Sustainable Development
- SC8 Recreation and Open Space
- ER2 Regeneration Priority Areas
- ER3 Employment Land
- ER7 Renewable Energy
- E1 Environmental Capital
- MR1 Planning Obligations

### Lancaster District Local Plan Saved Policies

E26 Middleton Wood Community Woodland

### Development Management DPD

- DM15 Proposals involving employment land and premises
- DM17 Renewable Energy Generation
- DM18 Wind Turbine Development
- DM25 Green Infrastructure
- DM27 The protection and enhancement of biodiversity
- DM35 Key design principles
- DM37 Air quality management and pollution
- DM40 Protection of water resources and infrastructure

## **7.0 Comment and Analysis**

7.1 The material considerations in this case are:-

- a) Whether a departure from the Development Plan is justified.
- b) Whether the proposal would have an adverse impact on the Biological Heritage Site or other ecological interests including the wider Morecambe Bay SSSI.

- c) Whether there would be wider impacts on the locality in terms of noise, air quality, and traffic movements.
- d) Whether the development would undermine safety considerations in relation to any of the nearby Hazardous Installations.
- e) Whether the development would lead to the disturbance of hazardous substances remaining on the site from the earlier period of remediation.

7.2 Although there is a technical departure from the Development Plan, this relates to the land allocations in the former Lancaster District Local Plan which expected the whole of the Middleton Wood area to become a community woodland over time. In reality this was unlikely to occur as the extent of restoration enabling public access was much less than originally envisaged. In the consultation draft of the emerging Local Plan this part of Middleton Wood is proposed to be allocated for employment development. The area of the proposed employment allocation which would be taken up by the power station would be relatively small leaving the opportunity for more commercial development on the site in the future.

7.3 Although the wider portion of Middleton Wood has not been created into a community woodland with extensive public access, the bulk of it (outside the proposed employment portion) is a Biological Heritage Site and is naturally regenerating. There is a cost attached to maintaining this habitat which falls on the council, and it currently contracts the Lancashire Wildlife Trust to assist with the management of the land.

7.4 One of the key objectives of introducing an employment allocation on that part of the site not within the Biological Heritage Site was to help generate income to continue the maintenance of the site to the standard which has been achievable in the past. To this end a Section 106 agreement will initially secure a contribution to mitigate the impact of the development by helping the further management and restoration of the remainder of the site.

7.5 In overall strategy terms the district plays an important role as part of Britain's Energy Coast facilitating a number of growth projects aimed at improving the nations self-sufficiency in energy production. This part of the district is identified in the emerging Local Plan as Heysham Gateway. An area where opportunities will be developed to enhance economic activity associated with the energy industry and the strategic importance of the Port of Heysham. The proposal is entirely in accordance with those objectives. A full set of analysis of the impact of the development on the locality has been undertaken. They appear to demonstrate that there are no overriding impacts which are unacceptable.

7.6 The siting of the proposal is such that it sits astride the route of one of the former refinery estate roads which runs across the site, and through the small industrial complex to the north linking ultimately to Middleton Road. Discussions are taking place which consider the various merits of siting the development in this way. It could have an impact on emergency means of escape from the development to the north and could influence how the rest of the council's land is released for development. Re siting might mean that the development sits closer to the features in the Biological Heritage Site, but ultimately may be more practical.

7.7 It can be seen from the report that at the time of writing this report all the consultation responses have not yet been received and final determination of this proposals does require certainty on a number of environmental and safety issues. Whilst this is a relatively modest-sized proposal the reason for it not being dealt with under delegated powers is because of the departure from the Local Plan currently in force and the fact that the land is in the council's ownership. If the Committee is content with the principle of the departure it is asked that the decision be delegated to the Chief Officer to consider whether the conclusion of the consultation process demonstrates that there are no adverse outcomes arising from the development which warrant that the application be refused.

## **8.0 Planning Obligations**

8.1 A Section 106 Agreement will be required to secure a contribution to the continuing maintenance and improvement of the Middleton Wood BHS.

## **9.0 Conclusions**

- 9.1 There is a need to try to determine this application before the next Committee Meeting in January to enable the applicants to have certainty to bid for a license from the Government to undertake the development. This can only be practically achieved by delegating the final decision to the Chief Officer if the Committee are content with the principle of the development.

### **Recommendation**

That the application be delegated to the Chief Officer (Regeneration and Planning) to determine.

### **Article 31, Town and Country Planning (Development Management Procedure) (England) Order 2010**

In accordance with the above legislation, the City Council can confirm the following:

The local planning authority continues to work proactively with the applicant/agent. However at this stage given that there is no formal recommendation of approval or recommendation, the Article 31 Statement cannot be confirmed at this time.

If Members resolve to delegate the application back to the Chief Officer (Regeneration and Planning), then an update to the file should record the Article 31 Statement, compliance (or otherwise) with development Plan policy, and any other material considerations that inform the recommendation.

### **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

### **Background Papers**

None