

Agenda Item A13	Committee Date 10 December 2018	Application Number 18/01203/FUL
Application Site Middleton Clean Energy Plant Middleton Road Middleton Lancashire		Proposal Installation of a 49.9MW battery storage facility including 2m security fence, battery units, cabling and creation of attenuation ponds
Name of Applicant Mr David Evans		Name of Agent
Decision Target Date 26 November 2018		Reason For Delay Committee cycle and awaiting additional information
Case Officer		Mrs Eleanor Fawcett
Departure		Yes
Summary of Recommendation		Approval subject to the expiry of the consultation period for the amended plans and a legal agreement in relation to ecology mitigation.

1.0 The Site and its Surroundings

- 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 0.48 hectares of mainly rough ground with areas of tipped material upon which 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 adjacent allocated employment site. It is also within the middle zone in relation to Heysham Power Station and a public sewer crosses the site. Adjacent to the eastern boundary of the site is Middleton Former Refinery Biological Heritage Site (BHS). This extends over a large area to the east, south and west to the site and forms Middleton Nature Reserve and has some public access. The site is currently within an area allocated as Middleton Wood in the saved Local Plan. 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) and Ramsar Site.

2.0 The Proposal

- 2.1 The proposal relates to the erection of a facility for the battery storage of electricity, which would have a capacity up to 49.9MW. The energy would be taken from the national grid at times of low demand and then returned at times of high demand. The proposal includes the siting of transformers and batteries, in addition to access roads, parking and an attenuation pond. The layout of the site has been amended to site all of the development to the east of the existing access road, which has resulted in the site boundary extending further to the east (fully abutting the BHS), and to the south.

3.0 Site History

3.1 The most relevant site history is set out below:

Application Number	Proposal	Decision
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 non-statutory consultees:

Consultee	Response
Middleton Parish Council	No comments received.
Environmental Health	No objection subject to assessment of contamination.
County Highways	No objection.
Natural England	No objection.
Greater Manchester Ecology Unit (GMEU)	Insufficient information has been submitted to demonstrate that the favourable conservation of newts will be maintained at the site. Recommend condition requiring a construction environmental management plan.
Lancashire Wildlife Trust	No objection. The additional information addresses previous concerns regarding the need for adequate management of potential ecological impacts during construction and operation of the scheme and on Great Crested Newt mitigation and compensation measures.
HSE	Does not advise against.
Emergency Planning	No comments received.
Office of Nuclear Regulation	No comments received.
EDF	No comments received.
United Utilities	No objection. A public sewer crosses this site and building over it will not be permitted and an access strip, three metres either side of the centre line of the sewer will be required. Request conditions requiring foul and surface water to be drained on a separate system; and submission of a surface water drainage scheme.

5.0 Neighbour Representations

5.1 No comments received

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraph 80 – Supporting economic growth
Paragraph 108 – Access and transport
Paragraphs 124 and 127 – Achieving well-designed places
Paragraph 148 – Supporting renewable and low carbon energy
Paragraphs 170,175 and 176 – Protecting and enhancing biodiversity
Paragraph 178 and 179 – Risks from contamination

Paragraphs 93 96 and 98 – meeting the challenge of climate change

6.2 Local Planning Policy Overview – Current Position

At the 20 December 2017 meeting of its Full Council, the local authority resolved to publish the following 2 Development Plan Documents (DPD) for submission to the Planning Inspectorate:

- (i) The Strategic Policies and Land Allocations DPD; and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were submitted to the Planning Inspectorate on 15 May 2018 for independent Examination, which is scheduled to commence in early January 2019. If the Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council in mid-2019.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2017, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 Lancaster District Local Plan Saved Policies

E26 – Middleton Wood community woodland

6.4 Lancaster District Core Strategy (adopted July 2008)

SC1 – Sustainable Development
SC5 – Achieving Quality in Design

6.5 Development Management Development Plan Document (adopted July 2014)

DM15 – Proposals involving employment land and premises
DM25 – Green Infrastructure
DM27 – The protection and enhancement of biodiversity
DM35 – Key design principles
DM40 – Protection of water resources and infrastructure

6.6 Emerging Strategic Policies and Land Allocations DPD

EC1 – Established Employment Areas

6.7 Other Material Planning Considerations

National Planning Statement for Overarching Energy (EN-1), Department of Energy and Climate Change, July 2011

Towards a Smart Energy System, Department Energy & Climate Change, December 2015

7.0 Comment and Analysis

7.1 The main issues to be considered in the determination of this application are:

- Principle of the development, including departure from the Local Plan
- Ecological Implications
- Highway Implications
- Design, landscape and visual impact

- Impacts in relation to nearby hazardous installations

7.2 Principle of the development

- 7.2.1 The site is located within a wider area of derelict land which is allocated as a community woodland (Middleton Wood) in the saved Local Plan. Part of this area includes a Biological Heritage Site (BHS), which is outside the application site. Given that the proposal would be contrary to the allocation, it represents a departure from the adopted development plan. As part of the emerging Strategic Policies and Land Allocation DPD, an extension is proposed to the adjacent industrial estate (identified as EC1.9) and this would include the application site, extending up to the boundaries with the BHS. Given the advanced position of the emerging plan, this does carry some weight. In addition, consent was granted in 2015 for the erection of a gas fired power station on this site.
- 7.2.2 The current proposal relates to the erection of a battery storage facility, which would have a capacity of up to 49.9MW. The energy would be taken from the national grid at times of low demand and then returned at times of high demand. This falls outside the uses that would be supported in principle on established employment areas and would provide very limited employment, with 2 full-time equivalent employees. However, there is a need for this type of development which should be taken into consideration. The National Planning Statement for Overarching Energy (EN-1) sets out that an increase in renewable electricity is essential to enable the UK to meet its commitments under the EU Renewable Energy Directive. However, some renewable sources (such as wind, solar and tidal) are intermittent and cannot be adjusted to meet demand. As a result, the more renewable generating capacity we have the more generation capacity we will require overall, to provide back-up at times when the availability of intermittent renewable sources is low. The document goes on to say that electricity storage can be used to compensate for the intermittency of renewable generation.
- 7.2.3 Another report by the Department for Energy and Climate Change in 2015 (Towards a Smart Energy System) highlights the importance of electricity storage within a smart, flexible energy system which overall would help to achieve the following benefits:
- a) Defer or avoid investment in network reinforcement;
 - b) Reduce the need for a significant increase in reserve generation capacity;
 - c) Meet binding climate change targets with less low carbon generation;
 - d) Make the best use of our low carbon generation;
 - e) Optimise balancing of our energy system on a minute-by-minute basis.
- 7.2.4 In terms of the location, this type of development is often more appropriate in an industrial area, rather than the open countryside, due to the visual impact. The application site is well related to existing National Grid 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 extended part of the employment site and will leave the opportunity for more employment development on the wider site in the future. Paragraph 148 of the NPPF sets out that the planning system should support the transition to a low carbon future and paragraph 154 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 storing energy when there is a surplus in the network and releasing it when there is a deficit. For the above reasons, it is considered that the site provides an appropriate location for a battery storage facility and the conflicts with the adopted and emerging development plan are outweighed by the benefits of the proposal.

7.3 Ecological Implications

- 7.3.1 The site is located approximately 800 metres to the north east 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. Natural England has advised that they consider that the development would not have significant impacts on these National and European protected sites.
- 7.3.2 The main part of the site lies adjacent to the Middleton Former Refinery Biological Heritage Site (BHS) with the proposed electricity cable route extending through this. This is also a nature reserve which is managed by the Lancashire Wildlife Trust. An ecology report has been submitted with the

application and Greater Manchester Ecology Unit (GMEU) has provided advice in relation to this. As a result of this, an addendum was provided to address the concerns raised.

7.3.3 Both the application site and the BHS are known to support Great Crested Newts, which are a European Protected Species. The submitted Preliminary Ecological Appraisal sets out that this is a medium sized population and that a European Protected Species Licence will be required for the development. Before a licence can be granted, the following three tests must be satisfied. These are:

- 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”;
- iii) That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”.

In considering planning applications that may affect European Protected Species, Local Planning Authorities are bound by Regulation 9(1) and 9(5) of the Conservation of Habitats and Species Regulations 2010 to have regard to the Habitats Directive when exercising their function.

7.3.4 The proposed development will provide some limited employment, but would support renewable energy schemes by storing energy when there is a surplus in the network and releasing it when there is a deficit, thereby helping to reduce carbon emissions. It is therefore considered that the proposal is in the public interest and would contribute towards one of the Government’s objectives in terms of tackling climate change. The development of this site has already been assessed as part of the emerging Land Allocations and Strategic policies DPD as part of a larger extension to the adjacent industrial estate and would help to support the management of the nature reserve through the mitigation proposed, which is discussed below.

7.3.5 In terms of the third test, it must be demonstrated that the favourable conservation status of newts would be maintained at the site. In the original response from GMEU, it was advised that a mitigation method statement should be submitted in order to ensure that this test can be passed. The submitted addendum sets out that all mitigation, compensation, and enhancement measures, method statements or management plans will form part of the Construction and Environmental Management Plan (CEMP) which will be prepared and agreed prior the commencement of work on the site. It goes on to say that the mitigation measures for great crested newts will include:

- Temporary amphibian fencing to prevent great crested newts and other amphibians accessing the working during construction;
- A minimum 30 days pit-fall/matting trapping, prior to any site clearance, to remove great crested newts and other amphibians from the site;
- Gradual and sensitive habitat manipulation to encourage great crested newts and other amphibians towards traps;
- Fingertip hand searches of any refugia or hibernation features within the site prior to site clearance;
- Toolbox talks to construction operatives prior to and during any works;
- Consideration of all construction activities, including site lighting and vehicle movements; and
- Monitoring of great crested newt breeding populations within the BHS in the short to medium term (e.g. one and five years after construction)

7.3.6 The report also sets out that the applicant is in discussion with Lancashire Wildlife Trust regarding a financial contribution to offset any great crested newt habitat lost to the proposals and habitat enhancement measures could also be undertaken within the BHS, and could include creation of areas of rough grassland and native species scrub habitats, and provision of additional refugia via log and rubble piles. The mitigation measures are acceptable in principle, subject to the agreement of a Construction and Environmental Management Plan, which can be covered by a condition. However, GMEU has set out that if the applicant wishes to offset the habitat loss through a financial contribution to manage the BHS, this would need to be agreed prior to permission being granted, with specific details on the compensation measures for newts. The previous consent on the site included a legal agreement securing a financial contribution of £10,000 to be used towards improvements at the BHS and it is the intention that the same amount would be secured through a new agreement, prior to the granting of consent. Clarification has been sought in relation to what

works this money would fund. This is to ensure that these would provide adequate mitigation for the development proposed and ensure that the favourable conservation status of newts would be maintained. Subject to the receipt of adequate details, it is considered that the tests required by the licence could be passed.

7.3.7 The cable route for the development passes through the BHS and the impacts of this were not considered in the initial assessment. The addendum sets out that the cabling works would run adjacent to the existing concrete track. This would minimise the impacts on the BHS and the works could be covered by the CEMP. Japanese knotweed has been identified within the BHS and areas adjacent to the site. The ecology report sets out that an appropriate Invasive Species Management Plan will be prepared, including inspection and monitoring of soil movements as well as delineation of areas of Japanese Knotweed and appropriate treatment regimes. The response from Wildlife Trust also indicates that little ringed plover have nested on the site within the last 5 years. GMEU has advised that any construction works on the site should therefore avoid disturbance to this species, which is fully protected under Schedule 1 of the Wildlife and Countryside Act 1981, as amended. They have recommended that this can be included within the CEMP.

7.3.8 Overall it is considered that the proposal will not have a significant impact on biodiversity, subject to appropriate mitigation as detailed above, and should ensure that the favourable conservation status of newts would be maintained.

7.4 Highway Implications

7.4.1 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. It has been confirmed that this will just require the removal of some vegetation and rubble. It is considered to be of a sufficient standard to meet the needs during construction operation given that the volume of traffic will be low. This road does also serve as an emergency escape route for Tradebee, who have an obligation to maintain a clear route. This land is owned by the Council and the applicant will have a right of access over this and there will be an obligation that this is maintained. Parking has been shown for three vehicles which will be sufficient for the low numbers of visits required to the site by staff. The Highway Authority has raised no objections to the proposal and it is considered that there would not be a detrimental impact to highway safety.

7.5 Design, landscape and visual impact

7.5.1 The battery containers and associated infrastructure will occupy an area of approximately 4000 sq.m and will be relatively low, with a maximum height of 3.5 metres. The plans set out that all metal surfaces would be painted in subdued colour and the site would be surrounded by a dark green 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 in general.

7.6 Impacts in relation to nearby hazardous installations

7.6.1 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.

8.0 Planning Obligations

8.1 A Legal Agreement will be required to secure a financial contribution for the continuing maintenance and improvement of the Middleton Wood BHS. This is proposed to be a figure of £10,000 which is the same as that proposed in relation to the previous application at the site.

9.0 Conclusions

- 9.1 The application represents a departure from the saved Local Plan, which allocates the site as part of a community woodland. However, it has been allocated as part of an extension to the adjacent industrial estate within the emerging Strategic Policies and Land Allocation DPD, which is at an advanced stage. Whilst the proposal does not fall within the acceptable uses set out in the associated policy, it is considered to be a compatible use, it is close to the required national grid infrastructure and will contribute towards reducing carbon emissions by storing 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 a battery storage facility and would not have a detrimental impact on highway safety, biodiversity or the character and appearance of the locality.

Recommendation

That Planning Permission **BE GRANTED** subject to the expiry of the consultation period in relation to the amended plans, a legal agreement securing a financial contribution towards the management of the adjacent Biological Heritage Site and the following conditions:

1. Standard 3 year timescale
2. Development in accordance with amended plans
3. Assessment and remediation of contamination
4. Surface water drainage system and maintenance
5. Construction Environmental Management Plan
6. Containment, control and removal of Japanese knotweed
7. All materials (including finishes and colours) to be agreed
8. External lighting details
9. Landscaping scheme

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

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

Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure developments that improve the economic, social and environmental conditions of the area. For the reasons stated in the report, the proposal departs from the Development Plan. However, taking into account the other material considerations which are presented in full in the report, it is considered that these outweigh the provisions of the Development Plan, and in this instance the proposal can be considered favourably.

Background Papers

None