

Agenda Item	A8
Application Number	24/00203/VCN
Proposal	Installation of a 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 planning permission 22/00358/VCN to amend layout and details of equipment)
Application site	Middleton Clean Energy Plant Middleton Road Heysham Lancashire
Applicant	Ms Sarah Ruscoe
Agent	Mr Daniel Grierson
Case Officer	Mr Robert Clarke
Departure	Yes
Summary of Recommendation	Approval

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 0.48 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 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 was granted in January 2020 for the installation of a battery storage facility through planning application 18/01203/FUL. A subsequent Section 73 variation of condition application reference 22/00358/VCN sought amendments to the layout and design specifications of the original development and was approved in June 2022.

- 2.2 The current application is a further Section 73 variation of condition application which seeks to vary condition 2 (approved drawings) attached to permission 22/00358/VCN, in order to vary the site layout and design specifications further. These proposals include changes to the type and design of the battery storage units, the layout of infrastructure within the site, alterations to the internal road layout to reflect the revised site layout and relocation of a drainage basin from the southern boundary to the northern boundary of the site. The extent of the site remains the same, as does the height and positioning of the boundary fencing.
- 2.3 The applicant has confirmed that the reason for the proposed changes are due to developments in the large scale energy storage market, with more advanced and higher capacity equipment becoming available. The changes to the site layout also secure betterment with respect to separation distances between the battery storage units following relevant fire safety regulations.
- 2.4 As this application is a Section 73 Variation of Condition which seeks to vary condition 2 relating to the approved plans, it is not for this application to review the proposal in full, but to focus solely on the matters to which the variation of condition application relates.

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
22/00358/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
Middleton Parish Council	No response received.
County Highways	No objection.
Environmental Health	No objection.
Fire Safety Officer	The developer should produce a comprehensive risk reduction strategy as the responsible person for the scheme as stated in the Regulatory Reform (Fire Safety) Order 2005. The risk reduction strategy for the site should cover the construction, operational and decommissioning phases of the project.

Lancashire County Council Resilience Service	No objection, advises that on-going communication between the developer and the Lancashire County Council Resilience Service will be necessary.
EDF	No response received.
Office of Nuclear Regulation	Indicates that Heysham Power Station requires consultation on the development.
Natural England	No response received.
Wildlife Trust	No response received.
United Utilities	No response received.
Greater Manchester Ecology Unit	Considers the revised pond design to be overly engineered and of less ecological value.
Planning Policy	No response received.
Engineers	No response received.

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

5.0 Analysis

5.1 The principle of the development has already been established through the granting of the previous planning permissions. This application just seeks to vary condition 2 of permission 22/00358/VCN, which relates to the approved plans. As such the key considerations in the assessment of this application are:

- Design, landscape and visual impact
- Fire Safety
- Ecology
- Highway Implications

5.2 **Design, landscape and visual impact** (National Planning Policy Framework Section 12 Achieving well-designed and beautiful places, Section 15 Conserving and enhancing the natural environment and Review of the Development Management DPD policies DM29 (Key Design Principles) and DM46 (Development and Landscape Impact).)

5.2.1 The battery containers and associated infrastructure will predominantly occupy the eastern half of the site enabling the western area of the site to remain open. The battery storage units now proposed remain relatively low with a maximum height of approximately 2.65 metres, which is the same as the previously approved structures. Other associated infrastructure such as transformers and inverters are to be sited adjacent to each row of battery storage units. Given the height and design 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.

5.3 **Fire Safety** (National Planning Policy Framework Section 8 Promoting health and safe communities, Section 12 Achieving well-designed and beautiful places and Review of the Development Management DPD policies DM29 (Key Design Principles).)

5.3.1 The recent NPPG guidance relating to battery energy storage systems encourages early engagement between developers and relevant fire and rescue services. It also advocates the guidance produced by the National Fire Chiefs Council when developing such a scheme.

5.3.2 Consultation between the developer and the Lancashire Fire and Rescue Service (LFRS) has been undertaken. The revised site layout and separation distances seeks to incorporate guidance set out in relevant fire regulations which aim to mitigate the risk of fire propagation. The developer has committed to continuing to work with the LFRS and United Utilities as the detailed design stage progresses. It is considered reasonable to incorporate a new planning condition within the planning permission to require the preparation of a final risk reduction strategy which can be undertaken in consultation with the LFRS, this has been agreed with the developer. The strategy is to include details of those measures set out within the LFRS consultation response to this application. This is also consistent with the approach taken by the Planning Inspectorate in respect of a recent planning appeal decision.

5.4 **Ecology** (National Planning Policy Framework Section 15 Conserving and enhancing the natural environment and Strategic Policies and Land Allocations (SPLA) DPD policies SP8 (Protecting the Natural Environment) and EN7 (Environmentally Important Areas); Review of the Development Management (DM) DPD policies DM43 (Green Infrastructure) and DM44 (Protection and Enhancement of Biodiversity).)

5.4.1 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. Natural England previously advised that the development would not have significant impacts on these protected sites. Given that the proposed infrastructure will be located in a similar position to the previous approval, it is considered that the development would continue to not have significant impacts on the designated sites.

5.4.2 The development site lies adjacent to the Middleton Former Refinery Biological Heritage Site (BHS), this is a nature reserve which is managed by the Lancashire Wildlife Trust (LWT). Both the application site and the BHS are known to support Great Crested Newts, which are a European Protected Species. To mitigate the loss of habitat, the original permission included a condition requiring the developer to enter into an obligation to provide a financial contribution to improve habitat for newts within the nature reserve. The original permission also included a condition requiring agreement of a Construction and Environmental Management Plan (CEMP). The financial contribution has now been provided by the developer, for that reason, condition 3 of 22/00358/VCN can be removed. Furthermore, the CEMP required through condition 5 and invasive species methodology required through condition 6 of 22/00358/VCN have now been submitted and approved, therefore the relevant conditions can be updated to reflect the already approved details. Consequently, it is considered that the proposed changes to the scheme would not have a greater impact on ecology than was previously determined. When assessing the original application, it was considered that the proposal would 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.

5.4.3 The relocation and adjustment of the pond drainage basin from the southern boundary to the northern boundary is acceptable in principle, however, relative to that approved through 22/00358/VCN, the pond is now smaller and appears much more engineered in form. This will have implications with respect to the ecological value of the pond over the long term. Whilst the pond is to form a functioning part of the sites drainage system, its design also needs to be guided by the ecological details set out in the Preliminary Ecological Appraisal by Landscape Ecology Limited and submitted as part of 18/01203/FUL. The developer has stated that they are committed to delivering a drainage basin which both serves the drainage needs of the development but provides ecological enhancement. The detailed drainage strategy for site is yet to be finalised, for that reason the developer has requested that the final details of the pond also be conditioned. This is considered a reasonable approach and therefore a new condition requiring approval of final details of the pond, particularly its ecological composition, is recommended.

5.5 **Highway Implications** (National Planning Policy Framework Section 9 Promoting sustainable transport and Review of the Development Management DPD policy DM29 (Key Design Principles) and DM60 (Enhancing Accessibility and Transport Linkages).)

5.5.1 The proposed development will utilise an existing 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 other than the position of the access gates as, it is considered that there would not be a detrimental impact to highway safety.

6.0 Conclusion and Planning Balance

6.1 The application proposes some alterations to the previously approved plans, comprising the change of specification and layout of the battery storage units and associated infrastructure, and the position of internal access tracks and access gates. As set out above, the proposed changes would not result

in a detrimental impact on highway safety, biodiversity or the character and appearance of the locality and are therefore acceptable and comply with local and national planning policy.

Recommendation

That Planning Permission BE GRANTED subject to the following conditions:

Condition no.	Description	Type
1	Approved plans	Control
2	Contamination	Pre-commencement
3	Surface water drainage details	Pre-commencement
4	Pond details	Pre-commencement
5	Details of materials	Prior to development above ground
6	External lighting details	Prior to development above ground
7	Landscaping scheme	Prior to development above ground
8	Risk reduction strategy	Prior to installation of battery units
9	CEMP - in accordance with details approved through 22/00163/DIS	Control
10	Invasive species – in accordance with INNS approved through 22/00153/DIS	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