

Application No: 15/5329C

Location: LAND AT ERF WAY, MIDDLEWICH, CHESHIRE

Proposal: Gas fuelled capacity mechanism embedded generation plant to support the National Grid.

Applicant: Mr David Sheppard

Expiry Date: 25-Feb-2016

SUMMARY:

The site is within the Settlement Zone Line of Middlewich on an existing employment park, where there is a presumption in favour of sustainable development.

The maintenance of a stable and secure electricity supply is an important material consideration in the determination of this application.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon ecology, highway safety, amenity, landscape, trees and design.

RECOMMENDATION:

Approve subject to conditions

PROPOSAL

The application proposes the construction an electricity generating compound within a secure 2.4m wire mesh security fence and internal acoustic wall.

The development would contain 20 containerised electricity generation units that would be gas powered. The equipment is designed to cover peak periods of electricity demand and is thereby known as a 'peaking station'. There would also be ten transformers within the site, a switchgear cabin, gas governor and metering kiosk, substation and welfare cabin. The power generated would feed into the local power network.

The site would be secured by a 2.4m high mesh security fence and inside this there would be a 4m high acoustic wall. Access would be taken from a newly formed access off ERF Way.

SITE DESCRIPTION

The application site comprises an area of employment land on the Midpoint 18 employment site. Midpoint 18 is an established industrial area and the site is bounded by ERF Way to the south,

an established tree buffer and Tesco warehouse to the north with overhead power lines to the east.

The site is situated on the northern side of ERF Way, Middlewich and is within the Middlewich Settlement Zone Line.

RELEVANT HISTORY

There are several historic applications on this site relating to the development of the employment park, none of which are relevant to this application.

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Development Plan:

The Development Plan for this area is the adopted Congleton Borough Local Plan First Review 2005, which allocates the site as being within the Settlement Zone Line of Middlewich.

The relevant Saved Policies are: -

PS4 – Towns
GR1 – New Development
GR2 – Design
GR3 – Density, Housing Mix and Layout
GR4 – Landscaping
GR6 – Amenity and Health
GR7 - Pollution
GR9 - Accessibility, Servicing and Parking Provision
GR18 – Traffic Generation
GR20 – Public Utilities
GR22 – Open Space Provision
NR3 – Habitats
E3 – Employment Development in Towns
SPD14 – Trees and Development

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

SD 1 Sustainable Development in Cheshire East
SD 2 Sustainable Development Principles
SE 1 Design
SE 4 The Landscape

SE 5 Trees, Hedgerows and Woodland
PG 1 Overall Development Strategy
SE 3 Biodiversity and Geodiversity
SE8 Renewable and Low Carbon Energy

CONSULTATIONS:

Town Council: No objection, but have concerns about safety and security.

CEC Flood Risk Manager: No objection subject to conditions

REPRESENTATIONS

There has been one representation submitted in relation to this application. This appears to have concerns about security and a 'Paris' style attack and also the impact on Great Crested Newts.

APPRAISAL

The key issues to be considered in the determination of this application are set out below.

Principle of Development

The site lies in the Settlement Zone Line of Middlewich on an existing employment park, as designated in the adopted Congleton Borough Local Plan First Review 2005, where there is the presumption in favour of sustainable development.

The issue in question is whether this proposal represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the presumption in favour of sustainable development.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

"Sustainable means ensuring that better lives for ourselves don't mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment"

There are, however, three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources

prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;

These roles should not be undertaken in isolation, because they are mutually dependent.

ENVIRONMENTAL ROLE

Energy Efficiency

The plant is designed to participate in the Capacity Mechanism, which is part the Governments energy policy, contained within the Energy Act 2013. The aim of this Act is to encourage the building of power stations that are able to provide electricity at times of most need. This is due to the closure of the majority of coal fired power stations and increasing amounts of intermittent renewable generation of power.

The plant would be gas powered and able to be turned on in 15 seconds and have full power in 2 minutes, meaning that power can be supplied at peak times when needed. The only types of existing quick-start power generation methods are heavy fuel or diesel generators that are less efficient and have worse emissions profiles or open cycle gas turbines that are also less efficient and produce power in much larger blocks.

The proposal therefore would represent a more energy efficient and responsive method of supplying power at times of peak demand.

Highways

The section of ERF Way from where the access would be taken is unadopted. However it is constructed to serve an employment park and already serves existing large scale businesses in a safe manner.

During construction there would be more vehicular movements onto the site, but once operational the site will only be visited by engineers in a van, usually once a day. In addition the Head of Strategic Infrastructure has raised no objection to the proposal.

The proposal is therefore considered to be acceptable in terms of highway safety, parking and traffic generation and in accordance with Policies GR9 and GR18 of the adopted local plan.

Ecology

A small population of Great Crested Newts is known to be associated with the pond located immediately adjacent to the proposed development. In the absence of mitigation the proposed development would have a medium magnitude adverse impact upon this population due to the loss of terrestrial habitat located in close proximity to the pond. The proposed development also poses the risk of killing or injuring any great crested newts that were present when the proposed works were completed.

In order to compensate for the loss of terrestrial habitat the applicant's consultant recommends that the retained habitat be enhanced. To mitigate the risk of Great Crested Newts being killed or injured during the works the applicant is proposing to remove and exclude newts from the footprint of the development under the terms of a Natural England license.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places

(a) in the interests 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 consequences of primary importance for the environment, and provided that there is

(b) No satisfactory alternative and

(c) No detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NR2 (Wildlife & Conservation Statutory Sites) states that development will not be permitted which would have an adverse impact on protected species or their habitats, unless mitigation / habitat creation is secured.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case the Council's Ecologist has assessed the application and relevant supporting ecological documentation and raises no objection to the proposed development. In terms of Great Crested Newts, the Council's Ecologist is satisfied that the development is unlikely to have a significant impact upon this protected species subject to compliance with the submitted Ecology Report.

Having regard to the above it is concluded that the proposal would have an acceptable impact on nature conservation interests and would comply with Local Plan policy NR2 (Wildlife & Conservation Statutory Sites) and the Framework.

It is considered that if planning consent is granted the proposed mitigation and compensation would be sufficient to maintain the favourable conservation status of the local population of Great Crested Newts. This should be controlled by condition.

Common Toads and Grass Snakes may occur on the application site on a transitory basis and are priority species. It is considered that the proposed Great Crested Newt mitigation would also be sufficient to address the potential impacts on these additional species.

If planning permission is granted a condition should be imposed in order to protect breeding birds.

Protected species habitat is present a short distance from the proposed development. In order to avoid any risk of protected species being disturbed during the proposed works the applicants consultant recommends that the habitat be closed temporarily until the works are completed. This would be done under license from Natural England. This is an acceptable approach and should be secured by condition.

ECONOMIC SUSTAINABILITY

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that:

'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'

With regard to the economic role of sustainable development, the proposed development would involve some employment and economic benefits during construction and the creation of four full time jobs related to the power plant and other related maintenance employment opportunities.

Ensuring that there is a responsive supply of energy is also a key economic consideration for local businesses.

SOCIAL SUSTAINABILITY

Design

The development would have a utilitarian appearance appropriate to its use. This would not be out of keeping with the character and appearance of the site and surrounding development.

Amenity

The site is on an existing employment park and there are no residential properties in close proximity. The proposal therefore raises no issues relating to residential amenity.

Ensuring a stable supply of electricity is an important benefit of the proposal contributing to the social sustainability of the development.

Response to Observations

The representation of the member of the public has been given careful consideration, however it is not considered that a development of this nature and in this location would be likely to lead to a 'Paris style' attack and that the security fencing would be adequate to safeguard the facility. The issues relating to Great Crested Newts are addressed in the Ecology Section of this report.

Conclusion – The Planning Balance

The site is within the Settlement Zone Line of Middlewich on an existing employment park, where there is a presumption in favour of sustainable development.

The maintenance of a stable and secure supply is an important material consideration in the determination of this application.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon ecology, highway safety, amenity, landscape, trees and design.

RECOMMENDATION

Approve subject to the following conditions:

- 1. Time limit**
- 2. Approved plans**
- 3. Compliance with the submitted Ecology Report and Mitigation Measures dated January 2016**
- 4. Protection for breeding birds**
- 5. Closure of protected species habitat until construction works are completed**
- 6. Submission of details of the colour and finish of the security fence and acoustic wall**

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation)

has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

