

Application No: 22/2219C

Location: LAND NORTH OF DRAGON'S LANE, SANDBACH, MOSTON,
CHESHIRE EAST, CW11 3QH

Proposal: Erection of a 12 MW battery storage facility with boundary fencing, access track

Applicant: Hydrock

Expiry Date: 04-Nov-2022

Summary

**RECOMMENDATION:
Approve subject to conditions**

Whilst in open countryside, the benefits of energy storage outweigh the limited harm to the character and appearance of the local landscape character.

Highway safety and parking implications are considered to be acceptable.

Nature conservation issues can be satisfactorily mitigated by conditions.

The impact on residential amenity is acceptable.

The application is therefore recommended for approval.

REASON FOR REFERRAL

Due to the size of the site hitting the threshold so needs to be considered by planning committee.

DESCRIPTION OF SITE AND CONTEXT

The application site is comprised of 3 agricultural fields, 2 hectares in size, located to the north of Dragons Lane, Moston. It is bound by hedgerows, trees and a field drain to the east.

The site is designated as being within the Open Countryside in the adopted local plan.

DETAILS OF PROPOSAL

The proposal comprises the erection of a 12 megawatt battery storage facility, with boundary fencing, an access track from Dragons Lane, landscaping and associated infrastructure, including:

- 12 PCS (Power Conversion System) Containers
- 12 Battery Containers
- Onsite Substation
- 6 MV (Medium Voltage) Skids
- Landscaping
- Site fencing & CCTV

RELEVANT HISTORY

No relevant planning history relating to this application.

POLICIES

Cheshire East Local Plan Strategy (CELPS)

SD 1 Sustainable Development

SD 2 Sustainable Development Principles

PG 6 Open Countryside

SE 8 Renewable and Low Carbon Energy

SE 12 Pollution, Land Contamination & Land Instability

CO 1 Sustainable Travel and Transport

It should be noted that the Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There are however policies within the legacy local plans that still apply and have not yet been replaced. These policies are set out below.

Congleton Borough Local Plan (CBLP)

PS8 Open Countryside

GR6 Amenity and Health

GR7 Amenity and Health

GR9 Accessibility, Servicing and Parking Provision

NR3 Habitats

Moston Neighbourhood Plan (MNP)

LCD1 Design and Landscape Setting

LCD2 Dark Skies

INF1 Utilities

INF3 Surface Water Management

ENV1 Wildlife Habitats, Wildlife Corridors and Biodiversity

ENV2 Trees, Hedgerows and Watercourses

Site Allocations and Development Policies Document (SADPD)

The Site Allocations and Development Policies Document (SADPD) is at an advanced stage of preparation. The Council received the Inspector's Report on 17 October 2022, completing the

examination stage of the Plan. The Report concludes that the SADPD provides an appropriate basis for the planning of the Borough, provided that a number of Main Modifications are made to it. The Council can now proceed and adopt the Plan, which is expected to be decided at the Full Council meeting on 14 December. Having regard to paragraph 48 of the National Planning Policy Framework, relevant policies, as amended by the Main Modifications, may be given substantial weight in determining planning applications.

GEN1 – Design Principles
ENV 1 Ecological Network
ENV 5 Landscaping
ENV 7 Climate Change
ENV 11 Proposals for Battery Energy Storage Systems
INF 3 Highway Safety and Access

Material Planning Considerations

National Planning Policy Framework

CONSULTATIONS (External to Planning)

Environmental Protection:

No objection subject to an informative relating to hours of noise generative works.

Highways:

No objection subject to conditions relating to visibility splays, phasing and provision of a construction management plan.

Flood Risk:

No objection subject to conditions.

Natural England:

No objection subject to a condition for a construction environmental management plan.

Cheshire Brine Subsidence Compensation Board:

Make comments relating to foundations and services.

Moston Parish Council:

Moston Parish Council objects to this application for development in the open countryside which will require extensive infrastructure, the loss of agricultural land, concerns the proposal could have a significant effect on the SSSI in regards to the the level of use by the SSSI birds, poor highways access on country lanes using difficult canal bridge where numerous accidents have occurred, inaccurate information regarding alternative suitable sites and lack of information there would not be a negative impact on Moston Open Green Space, Dragons Corner.

OTHER REPRESENTATIONS

None received at the time of report writing.

OFFICER APPRAISAL

Principle of Development

Policy PG6 (2) allows for public infrastructure development within the Open Countryside, subject to compliance with other relevant policies in the Development Plan.

Policy LE2 of the MNP supports general industry and other non-rural enterprise uses in this location providing they do not have an unacceptable adverse impact on the amenity of nearby residents or the surrounding landscape and ecology or lead to significantly harmful levels of air and noise pollution.

The proposal would be part of a public infrastructure development for the storage of energy so is acceptable in pure land use terms.

The proposal is therefore considered to be in compliance with Policies PG 6, SD 1, SD 2 of the CELPS and is acceptable in principle.

Renewable Energy

Policy SE 8 of the CELPS positively supports the development of renewable and low carbon energy, subject to impact on the landscape, including the natural and built environment and any issues of adverse impact on residential amenity in terms of noise, dust and visual intrusion amongst other issues.

Policy ENV 11 of the SADPD supports proposals for battery energy storage systems, where they assist with the balancing of the electricity grid and support renewable energy sources (such as wind and solar) and also meet other criteria. These include loss of best and most versatile agricultural land and use of existing power infrastructure. This policy is only afforded moderate weight at the time of report writing.

The NPPF in Paragraph 158, states that LPAs should not require applicants to demonstrate the overall need for renewable or low carbon energy.

The facility would be charged from the grid from a mixture of renewable energy sources (predominantly solar and wind) and non-renewable sources. Currently, when energy is produced from wind or solar, that is not required by the grid, it is wasted.

This facility would allow that energy to be stored and released when demand is high and thus has significant energy and environmental benefits.

A recent appeal decision for a larger facility in the Green Belt, than the one proposed in this application, was allowed. The Inspector stated that:

The policy support for renewable energy and associated development given in the Framework is caveated by the need for the impacts to be acceptable, or capable of being made so. Nevertheless, the energy storage benefit of the proposal must be accorded substantial weight.

Paragraph 151 of the Framework accepts that very special circumstances will need to be demonstrated if developments are to proceed in the Green Belt. It states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Although modest in scale, the appeal scheme would make a valuable contribution to cutting greenhouse gas emissions, by increasing the opportunity to store energy, and this also attracts substantial weight.

This appeal decision shows that substantial weight should be given to the benefits of facilities such as this.

As such the proposal carried significant environmental benefits and thus is attached substantial weight. The proposal is therefore considered to be in compliance with Policies SD 1, SD 2 and SE 8 of the CELPS & EVN11 of the SADPD.

Design

Clearly because of the nature of the development, it would have a utilitarian appearance. The batteries would be housed within storage containers similar to shipping containers and there would be other buildings ancillary to the functions of the facility.

The facility would be surrounded by a 3.4m Palisade security fence, which would have a very industrial appearance. However, there are existing hedgerows and trees and additional hedgerow and tree planting would be undertaken, which, it is considered would provide adequate screening for the site.

Subject to conditions relating to the landscaping, the proposal is considered to be acceptable and in compliance with Policy SE 1 of the CELPS.

Amenity

The proposal is for the development of a battery energy storage system and is located on agricultural land. The nearest residential properties to the site are in excess of 300m away from the proposed facility and as such there would be no significant impact on residential amenity.

Environmental Protection Officers have assessed the proposals and have confirmed that they have no objection to them in terms of noise and disturbance, air quality or contaminated land. An informative should be included relating to hours of working during construction.

The proposal is therefore in compliance with Policy GR6 of the CBLP and Policy SE12 of the CELPS.

Highways

Traffic Impact

The traffic impact associated with the proposal is broken down into two phases:

1. The traffic impact associated with the construction phase of the proposal; and
2. The traffic impact associated with the proposal once completed, the operational phase.

1. Construction Phase:- The traffic impact associated with the construction phase of the proposal is summarised in Table 1 and is based on information provided by a contractor the applicant has previously worked with during the construction of a similar facility to that now proposed.

Vehicle Movement	Two-Way Trips (based on a 30-week construction phase)	
	Total Trips to Project Completion	Average Daily Trips
Site Operatives & Visitors	900	6
Construction Traffic	400	3

Table 1

The above average daily two-way trips can be expected to vary and be both higher and lower, depending on the phase of construction i.e., site clearance/enabling works, construction phase, installation phase etc. In conclusion, having regard for the low background traffic flows (traffic count data supplied by the applicant indicates commuter peak hour traffic flows of less than 100 vehicles per hour in each direction of travel on Dragon's Lane), the daily traffic generation expected to be associated with the proposal, even during busier periods of construction, would not be expected to have a material impact on the safe operation of the adjacent or wider highway network.

2. Operational Phase:- The traffic impact associated with the proposal once operational, is expected to be low and likely largely associated with periodic maintenance.

Access

The proposal for access to the site is illustrated in Hydrock drawing number 17393-HYD-XX-XX-DR-TP-0001 revision P03. The drawing illustrates that site access lateral visibility splays of 2.4m x 76m and 77m are achievable to the east and west respectively.

Based on the measured 85th percentile wet weather speed of traffic on Dragon's Lane, in the vicinity of the site access, of 42mph and 41mph for traffic travelling westbound and eastbound respectively; achievable visibility is approximately 10m below the absolute minimum recommended in the Design Manual for Roads and Bridges. However, Highways Officers are satisfied that the small shortfall in visibility would not be expected to have a material negative impact on road safety, given the following mitigating factors:

- The low commuter peak hour traffic flows, which are typically less than 100 vehicles per hour in each direction of travel;
- The relatively small number of daily trips expected to be generated by the proposal; and
- The good road safety record of Dragon's Lane, there have been no reported Personal Injury Accidents in this location during the last five-year period of data availability (2017 to 2021).

The site access vehicle swept paths analysis, illustrated in Hydrock drawing number 17393-HYD-XX-XX-DR-TP-0001 revision P03, is acceptable.

Car Parking

The applicant has not supplied a car parking layout for site operatives and visitors. However, Highways Officers are satisfied that there is sufficient space available within the site to accommodate car parking demand associated with the proposal.

Highways Conclusion

Subject to conditions relating to visibility splays, phasing and provision of a construction management plan, the proposal is considered to be acceptable in highway safety and parking terms.

The proposal is therefore in accordance with Policy GR9 of the CBLP, Policy CO 1 of the CELPS and Policy INF 3 of the SADPD.

Light Pollution

Policy LCD2 of the MNP states that 'outdoor lighting systems should have a minimum impact on the environment, minimising light pollution and adverse effects on wildlife subject to highway safety, the needs of particular individuals or groups, and security'. This site lies within the open countryside and there will be lighting associated with the site.

As such conditions should be imposed to control the installation of external lighting.

Landscape

The applicant has submitted a Design and Access Statement, Landscape and Visual Appraisal, Landscape Masterplan and an Arboricultural Impact Assessment (AIA).

Officers broadly agree with the findings of the landscape and visual appraisal, however whilst the proposed new planting would help to mitigate the visual effects of the proposed development this would take time to establish.

To provide adequate screening and integration of the proposed development for landscape and visual receptors to the north, in addition to the proposed tree planting, the landscape masterplan has been updated to include hedge planting within the large gap between G30 and H31 along the northern site boundary.

Subject to conditions, the proposal is in accordance with Policies SE1 and SE4 of the CELPS, Policy ENV 3 of the SADPD and Policy LCD 1 of the MNP.

Ecology

Statutory Designated Sites

The application site falls within Natural England's SSSI impact risk zones. Natural England have been consulted on this application and have no objection subject to the provision of a Construction Environmental Management Plan.

Non-statutory Designated Sites

The 'Meadow off Dragon's Lane' Local Wildlife Site (LWS) is located immediately north of the application site. It is considered that the proposed development would not result in a direct

impact upon this site. However, in order to avoid any indirect impacts on the LWS it is recommended that if planning consent is granted, a condition should be attached to secure the submission of a Construction Environment Management Plan (CEMP) which includes measures to avoid dust contamination of the LWS and ensure an undeveloped buffer is maintained between the development and the LWS during the construction phase.

Trees with Bat Roost Potential

Two trees on site (T4 and T12) have been identified as having moderate potential to support roosting bats. T12 would be removed as part of the proposed development, consequently a further bat survey has been undertaken of this tree.

Evidence of bat activity in the form of a minor bat roost has been recorded within tree 12. The usage of the tree by bats is likely to be limited to single or small numbers of animals using the tree for relatively short periods of time and there is no evidence to suggest a significant maternity roost is present. The loss of the roost associated with the tree, in the absence of mitigation, is likely to have a low impact upon on bats at the local level and a low impact upon the conservation status of the species as a whole.

The submitted report recommends the installation of features for roosting bats and also recommends the timing and supervision of the works to reduce the risk posed to any bats that may be present when the works are completed.

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 licence under the Habitat Regulations.

The UK implemented the EC Directive in the Conservation (natural habitats etc) regulations which contain two layers of protection:

- A licensing system administered by Natural England which repeats the above tests
- A requirement on local planning authorities (“LPAs”) to have regard to the directive’s requirements.

The Habitat Regulations 2010 require local authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- The proposed development is 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
- There is no satisfactory alternative
- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

Current case law instructs that if it is considered clear or very likely that the requirements of the directive cannot be met because there is a satisfactory alternative, or because there are no conceivable “other imperative reasons of overriding public interest”, then planning permission

should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Overriding Public Interest

The provision of mitigation would assist with the continued presence of bats and maintain a favourable conservation states of the species of bats concerned.

Alternatives

There is an alternative scenario that needs to be assessed, this are:

- No development on the site

Without any development, the benefits of the storage of energy would not be achieved.

The Council's Nature Conservation Officer has advised that evidence of bat activity in the form of minor roosts of bats has been recorded within a tree. The usage by bats is likely to be limited to a small-medium numbers of animals using the tree for relatively short periods of time during the year and there is no evidence to suggest a significant maternity roost is present. The loss of the tree on this site in the absence of mitigation is likely to have a low impact on bats at the local level and a low impact upon the conservation status of the species as a whole.

The submitted report recommends the installation of integrated bat boxes in the completed building as a means of compensating for the loss of the roost.

No objections are raised by the Council's Ecologist subject to conditions.

It is considered that the retention of Tree 12 as part of the proposed development must be considered as a 'suitable alternative' under the habitat regulations as a means of avoiding an impact on protected species in accordance with the mitigation hierarchy.

If the loss of Tree 12 is considered unavoidable and planning consent is granted it is considered that the proposed mitigation and compensation would be sufficient to maintain the favourable conservation status of the species concerned.

A condition is required to secure that the development proceeds in accordance with the submitted Bat Survey Report.

Birds

The hedgerow habitats on site may support nesting birds potentially including the more widespread priority species which are a material consideration for planning. The proposed development is likely to result in a low impact upon nesting birds. If planning consent is granted a condition is required to safeguard nesting birds

A number of Snipe flushed from the site during February site visit. Sites that regularly support overwintering Snipe can qualify as a Local Wildlife Site. At present there is insufficient information to assess whether this species regularly occurs on site.

In order to compensate for any adverse impacts on this species, a scrape has been incorporated into the landscape plans submitted in support of the application.

If planning consent is granted it is recommended that a condition be attached which requires the submission and agreement of a detailed design for the scrape.

Hedgerows

Native hedgerows are a priority habitat and hence a material consideration. A short length of hedgerow around the existing site entrance may need to be removed as a result of the proposed development. It is considered that sufficient compensatory hedgerow planting is shown illustratively on the submitted layout plan to compensate for that lost.

A detailed landscaping plan and planting specification would however be required to secure the compensatory planting. In the event that planning consent was granted this matter could be dealt with by means of a planning condition.

Great Crested Newts

A number of ponds are located within 250m of the proposed development. The application site however offers relatively limited habitat for Great Crested Newts and the proposed development would not result in the fragmentation or isolation of Great Crested Newt habitat.

The potential impacts of the proposed development are limited to the low risk of any newts that venture onto the site being killed or injured during the construction process. In order to address this risk the applicant's ecological consultant has recommended a suite of 'reasonable avoidance measures (RAMS)'

It is considered that, provided these types of measures are implemented the proposed development would be highly unlikely to result in a breach of the Habitat Regulations. Consequently, it is not necessary for the Council to have regard to the Habitat Regulations during the determination of this application.

A condition should be included to secure the development proceeding in accordance with the non-licensed Method Statement for Great Crested Newts

The proposed development to proceed in strict accordance with the submitted non-licensed Method Statement for Great Crested Newts.

Water Vole/Otter

A water course is present on the site's eastern boundary that may provide habitat for these protected species.

A single survey for these species has been undertaken, however this was undertaken at an inappropriate time of year for water voles and a single visit is insufficient to establish the presence/absence of these species.

An undeveloped buffer has however been incorporated into the site layout. It is considered that if this buffer is safeguarded during the construction phase, this would negate the need for further surveys. A condition should be included to secure the safeguarding of the buffer.

Badger

A badger sett has been recorded some distance from the application site boundary. It is considered that, based on the current status of Badgers on and adjacent the site, the proposed development is likely to result in a minor impact on this species as a result of the loss of suitable foraging habitat.

As the status of Badgers can change within a short time-scale it is recommended, that in the event that planning consent is granted a condition be attached that requires the submission of an updated Badger Survey prior to the commencement of development.

Reptiles

Grass snake has been recorded in the broad vicinity of the application site and may potentially occur on the application site. The application site however supports limited habitat for this species.

The provision of a buffer adjacent to the watercourse, as shown on the submitted landscape plan on site would assist with minimising impacts upon this species.

The submitted ecological report recommends that a method statement of reasonable avoidance measures (RAMS) be prepared to further minimise the risk of reptiles being disturbed or harmed during site clearance and construction works. The submitted Great Crested Newt method statement would fulfil this function.

Biodiversity Net Gain

In accordance with Local Plan Policy SE3(5) all development proposals must seek to lead to an overall enhancement for biodiversity. In order to assess the overall loss/gains of biodiversity an assessment undertaken in accordance with the Defra Biodiversity 'Metric' has been submitted in support of this application.

The metric calculation as submitted shows the proposed development and associated landscape works would deliver a biodiversity net gain as required by Local Plan Policy SE3(5). Whilst there are some minor errors on the spreadsheet relating to strategic significance these do not significantly alter the out-put of the calculation and the scheme does deliver a net gain.

If planning consent is granted a condition is required to secure a Habitat Creation Method Statement and a 30 year Habitat Management Plan.

Flood Risk

Based on the updated Flood Risk Assessment (FRA) submitted, Flood Risk officers have no objection in principle to development at this location. However, the developer will need to submit a drainage strategy in line with the detail included with the approved FRA. Providing sufficient storage for the 1 in 100 years + CC% event and limit existing flows to greenfield run-off rates. This can be secured by condition.

CONCLUSIONS AND REASON(S) FOR THE DECISION

Whilst in open countryside, the benefits of energy storage outweigh the limited harm to the character and appearance of the local landscape character.

Highway safety and parking implications are considered to be acceptable.

Nature conservation issues can be satisfactorily mitigated by conditions.

The impact on residential amenity is acceptable.

The application is therefore recommended for approval.

RECOMMENDATIONS

APPROVE subject to the following conditions:

- 1. Time limit**
- 2. Approved plans**
- 3. Materials as set out in the application**
- 4. Provision of site access visibility splays**
- 5. Phasing to ensure that site access and visibility splays are provided prior to site clearance commencing**
- 6. Provision of a Construction Traffic Management Plan**
- 7. Submission and implementation of a Construction Environmental Management**
- 8. Submission and implementation of a detailed design of a wetland scrape**
- 9. Safeguarding of nesting birds**
- 10. Implementation of the Great Crested Newt Method Statement**
- 11. Submission of an updated Badger Survey prior to commencement of development**
- 12. Submission and implementation of a scheme to safeguard a 5m undeveloped buffer adjacent to the water course on the eastern boundary**
- 13. Submission and implementation a detailed habitat creation plan, 30 year habitat management plan and monitoring plan**
- 14. Implementation of bat mitigation measures in respect of the loss of tree 12**
- 15. Provision and implementation of a detailed drainage strategy/design**
- 16. Implementation of the details shown in the revised Landscape Masterplan**
- 17. Submission and implementation of details of boundary treatments**

Informatives

NPPF

Prior to first development the developer will enter into and sign a Section 184 Agreement under the highways Act 1980 to provide a new vehicular crossing over the adopted footway/verge in accordance with Cheshire East Council specification.

Please be aware that CEC byelaw 10 "No Obstructions within 8 Metres of the Edge of the Watercourse" No person without the previous consent of the Council shall erect any building or

structure, whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 8 metres of the landward toe of the bank where there is an embankment or wall or within 8 metres of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 8 metres of the enclosing structure.

The hours of noise generative* demolition / construction works taking place during the development (and associated deliveries to the site) are restricted to:

Monday – Friday 08:00 to 18:00 hrs

Saturday 09:00 to 14:00 hrs

Sundays and Public Holidays Nil

Deviation from the above hours may be possible in exceptional circumstances with the written agreement of the Local Authority.

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Development Management, in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

