

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE  
3<sup>rd</sup> JULY 2019  
REPORT OF DIRECTOR,  
ECONOMIC GROWTH AND DEVELOPMENT  
SERVICES**

**19/0328/VARY**

**Land To The East, Of Cowpen Bewley Road, Saltholme  
Section 73 application to vary condition No.13 (Noise) of planning approval 18/2079/FUL -  
Application for a gas fired generating facility (GFGF) for the generation of 49.99MW  
electricity to facilitate regional distribution during generation shortfall and to meet peak  
supply demands.**

**Expiry Date: 5 July 2019**

**SUMMARY**

Planning permission is sought to vary condition 13 of planning approval 18/2079/FUL which relates to the noise impacts of a gas fired facility (GFGF) for the generation of 49.99MW electricity to facilitate regional distribution during generation shortfall and to meet peak supply demands close to the Saltholme Power Station in Billingham.

The principle of the development has been established by application 19/2079/FUL and this application is purely concerned with impacts of varying condition 13.

There have been a number of objections which relate to the impact of the development on residents in Cowpen Bewley and impact on the nearby RSPB Saltholme site. These matters have been fully considered and are addressed in the main report.

Overall it is considered that the proposed variation of the condition will not have a significant adverse impact on sensitive receptors and is acceptable. In view of the consultation responses received and material planning considerations, it is considered that there are no sustainable planning reasons which would deem this application to be unacceptable.

**RECOMMENDATION**

**That planning application 19/0328/VARY be approved subject to the following conditions and informatives;**

**01 Variation of condition 13 only**

*Nothing in this permission other than the variation of condition No. 13 (noise) shall be construed as discharging the conditions attached to the previous permission 18/2079/FUL.*

*Reason: To define the consent*

**02 Mitigation Measures**

*The mitigation measures as identified in the noise assessment accompanying the application (Report JAT10500-REPT-07-R1 dated 08 February 2019) shall be implemented in full and retained for the life of the development"*

*Reason: To ensure residential amenity is protected from noise pollution in accordance with Local Plan Policy ENV7 and the National Planning Policy Framework.*

### **03 Rating Levels/Mitigation**

*The rating sound levels specified within the submitted report 'RPS Noise Assessment (Report JAT10500-REPT-07-R1) dated 08 February 2019 must be achieved at all times that the development is operational and at all identified noise sensitive receptors.*

*Before bringing the plant into operation, a noise management and monitoring plan shall be submitted to and approved in writing by the local planning authority and should include details and triggers for any necessary remedial actions to be undertaken should previously unanticipated impacts occur. The measurements and assessments shall be made in accordance with BS4242: 2014 Methods for rating and assessing industrial and commercial sound.*

*Should remedial action be required, the work shall be undertaken in accordance with the approved details within a suitable timeframe to be agreed with the local planning authority.*

*Reason: To ensure residential amenity and designated sites are protected from noise pollution in accordance with Local Plan Policies ENV5 and ENV7 and the National Planning Policy Framework.*

## **INFORMATIVE OF REASON FOR PLANNING APPROVAL**

Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by gaining additional information required to assess the scheme and by the identification and imposition of appropriate planning conditions.

## **BACKGROUND**

1. Planning permission was approved for the provision of two gas fired generating facilities for the generation of 49.99MW of electricity to facilitate regional distribution during generation shortfall and to meet peak supply demands. A copy of the delegated report is attached at Appendix 1.
2. The facilities will cover periods when there is a shortage of electricity generation and peaks in demand in electricity use, these structures will provide an ancillary services to the National Grid to help it manage both the frequency and voltage on the Grid system. The facilities would not operate continuously but would run as a flexible back up supply to meet periods of peak demand. For the majority of the time the stations would be switched off, waiting for an instruction from National Grid to generate (usually for no more than a couple of hours mainly between 4pm-7pm on weekdays in the winter). Outside of these hours, it is only likely to be required during a major power shortage or grid system stress event, where National Grid may require the facility to step-in and support in an emergency situation.
3. The two relevant applications are;  
18/2079/FUL Application for a gas fired generating facility (GFGF) for the generation of 49.99MW electricity to facilitate regional distribution during generation shortfall and to meet peak supply demands. PAC 4th January 2019  
18/2082/FUL Application for a gas fired generating facility (GFGF) for the generation of 49.99MW electricity to facilitate regional distribution during generation shortfall and to meet peak supply demands. PAC 4th January 2019

4. A further Section 73 application, 19/0331/VARY is under consideration to vary condition No.13 (Noise) of planning approval 18/2082/FUL.

### **SITE AND SURROUNDINGS**

5. The application site comprises approximately 4 hectares of farmland used primarily for arable farming. To the north of the site are open fields extending to Cowpen Bewley Village and to the south east is the Saltholme Electricity Sub Station.
6. To the north west is Cowpen Industrial Estate with Belasis Technology Park to the south west. RSPB Saltholme is to the south and the main A1185 road to the east.
7. The application site lies outside the limits to development and a small part of the site (Southern edge) lies within flood zone 2 and 3. The site is close to the proposed SPA which has recently been through the consultation process.

### **PROPOSAL**

8. This Section 73 application is to seek a variation to condition No.13 (Noise) of planning approval 18/2079/FUL which stated

*“The mitigation measures as identified in the noise assessment accompanying the application (Report JAT10500-REPT-07-RO dated 4th September 2018) shall be implemented in full and retained for the life of the development”*

9. The applicant states that the updated noise report reflects new data following a detailed design and contracting process. Some of the original assumptions made were based on manufacturers’ data which has now been updated according to the final design. The applicant claims that this is “Best Available Techniques”, stating MAN engines are the most efficient and lowest carbon and Rolls Royce was discounted because they cannot achieve as high an HHV (Higher heating value) efficiency percentage as the MAN engines.

### **CONSULTATIONS**

10. The following Consultations were notified and any comments received are set out below:-

11. Environmental Health Unit

I have checked the Noise Assessment provided and have found no grounds for objection to vary condition no.13 (noise). I have checked the acoustic documentation for this application and worked closely with the Acoustic engineer, who contacted me directly as soon as he found they were not going to get below background levels for the residents of Cowpen Bewley Road.

However, the significance of this is not severe for several reasons.

- The properties are a good distance downwind from the proposed site
- The affect is measured to worse case where the plant is operating 24/7 and it is planned that these plants are for emergency top-ups
- There is a benefit in numbers of these plants and there are already 2 in operation in Haverton Hill which are a similar distance up wind and they have not caused any issues.

I do believe the acoustic report is as honest and robust as possible, using the appropriate British Standard for the assessment.

12. Tees Archaeology

Thank you for the consultation on this application. I have no comments on the proposed variation.

13. The RSPB

We understand that the application to vary condition 13 (noise) has arisen from design changes to the proposed development which will result in an increase in noise levels during operation. The RSPB's response is focused upon the potential impacts of this increase upon the following adjacent designated sites:

- Teesmouth and Cleveland Coast Special Protection Area (SPA) and proposed SPA (pSPA),
- Teesmouth and Cleveland Coast Ramsar
- Teesmouth and Cleveland Coast Site of Special Scientific Interest (SSSI).

We have had the opportunity to view the submitted document: Report JAT10500 - REPT-07-R1 - Noise Assessment for Peaking Plant Facility

We note that the document does not include an assessment of the potential for noise impacts to ecological receptors, however, we have had the benefit of a separate assessment undertaken by the applicant, which considers the potential impacts to the above detailed protected sites. This concludes that the combined predicted noise level (arising from both facilities) at the above detailed designated sites does not exceed 55dB. Therefore, we consider the predicted amended noise levels to be just within acceptable limits and agree that adverse effects upon the designated sites are unlikely. However, should actual noise levels exceed 55dB, noise impacts cannot be ruled out. We are not clear whether the applicant is proposing a noise management and monitoring plan. In particular, we consider it necessary to monitor and record conditions at (and impacts to) the designated sites and their qualifying/notified features. The monitoring programme should include detail of (and triggers for) any necessary remedial actions to be undertaken should previously unanticipated impacts occur.

14. Councillor Evaline Cunningham

I am concerned with the proposed changes to this application which effectively means more noise and less protection. Having compared the noise levels and proposed reduction measures in the original application in 2018 and the revised one in 2019, its clear the changes are quite extensive. The change from Rolls Royce to MAN engines necessitated an increase in the number of engines and an increase in noise levels.

The revised application, rather than offer additional noise mitigation measures to combat greater noise, proposes a lower standard of sound proofing on these units.

This company must have known they were already planning or had already decided to change the standards at the time of the original application and now, having been granted the original permission, are attempting to renege on the promises made to minimise noise levels. And that, was despite a condition imposed in the approved application that the noise levels stipulated must be adhered to. I therefore very much understand the concerns of residents who will have to live with the additional noise if this revised application is approved. I therefore support the residents with the concerns they have raised.

15. Highways Transport & Design Manager

No objections

16. Alexander Cunningham MP

Objections received and the full comments are attached at Appendix 6, relating primarily to the change in the equipment and resultant noise impacts.

17. The Environment Agency

No comments

18. Cowpen Bewley Residents Association

I write to you for, and on behalf, of Cowpen Bewley Residents' Association regarding the above planning application, which was discussed at a meeting of the Association on Tuesday October 9th, 2018 with Cllrs. Stoker and Cunningham in attendance.

We noted that the application has received no opposition from various environmental and conservation bodies such as the Environment Agency and Natural England as well as the RSPB. As such the concerns relating to noise, pollution and the like that would naturally arise from a neighbouring village are almost certainly not relevant. We have also received assurances on traffic arrangements during the construction phase. As such we present no opposition on these grounds, provided that the installation is built and operated in accordance with the proposal documents. We could however raise objections to any variance from these written down specifications.

The Residents' meeting did however raise significant concerns at the precedent hereto created of the industrialisation of the land to the east of the Link Road, thus the rural, green belt to the west of the village; rather than re-development of the significant brownfield areas to the west of Cowpen Bewley Road and elsewhere in the vicinity. This encroachment of the industrial belt towards the village is viewed with major reservations. We would request therefore if this were noted within the planning process; that this development will not be taken as precedence for further development of land between the A1185 and the village of Cowpen Bewley.

19. Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE - NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

European sites – Teesmouth and Cleveland Coast Special Protection Area (SPA) and pSPA

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Teesmouth and Cleveland Coast Special Protection Area and pSPA and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- The modelled contour maps included in the updated noise report show the combined impacts of both developments as creating noise levels of less than 55dB at the ecologically sensitive receptors within the RSPB reserve at Saltholme. This is within acceptable limits.

Teesmouth and Cleveland Coast Site of Special Scientific Interest - Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

20. Highway England

No objection

21. National Grid, Principal Environment Officer Northern Gas Networks, Sabic UK Petrochemicals Ltd Air Products Plc, Teesmouth Bird Club, Councillor M Stoker

No comments received

## **PUBLICITY**

22. Neighbours were notified by letter, site notice and press advert and comments (including pro-forma letters) were received from the following addresses with the content summarised below. Full detailed comments can be found at <http://www.developmentmanagement.stockton.gov.uk/online-applications/>
1. Mr P Barker Chapel Cottage Cowpen Bewley
  2. Gail Mackay The Barn Orchard Farm
  3. Janet Fairhurst Ashdale Barn Cowpen Bewley
  4. Kathryn Dent Ivy House Barn Cowpen Bewley
  5. Mrs Maria Shannon Earls Nook Farm Cottage Cowpen Bewley
  6. Mr And Mrs Harmison The Wheel House Cowpen Bewley
  7. P Hogg The Granary Cowpen Bewley
  8. Mr Paul Wilson Ivy House Cowpen Bewley
  9. Mr S Swales 2 Earls Cottages Cowpen Bewley
  10. Mr B Walker The Bull Pens Cowpen Bewley
  11. Colin And Nicola Marsay 6 Woodbine Cottages Cowpen Bewley
  12. John And Kirsty Kish Green View Cowpen Bewley
  13. John McCue School House Cowpen Bewley
  14. Mr M C Bell 3 Woodbine Cottages Cowpen Bewley
  15. Stuart Holmes Lamb Cottage Cowpen Bewley
  16. Mrs Dawn McKenna Orchard Farm Cowpen Bewley
  17. Barrie Hutchinson And Claire Lester Little Marsh Cottage Cowpen Bewley
  18. Shirley Peel Colemans Nook Bungalow Cowpen Bewley Road
  19. Gary McKenna Orchard Farm Cowpen Bewley
  20. George Raymond Laing Colemans Nook Bungalow Cowpen Bewley Road
  21. Mrs Barbara Madden The Bungalow Cowpen Lane
  22. Claire Fairhurst Ashdale Barn Cowpen Bewley Road
  23. Mr Craig Hann 1 Manor House Farm Cottages, Cowpen Bewley.
  24. Mrs M E Barker Chapel Cottage Cowpen Bewley
  25. P Jordison Ivy House Cowpen Bewley
  26. Mrs J Wilson Ivy House Cowpen Bewley
  27. Ian Elves The Old Mill Cowpen Bewley
  28. Margaret Elves The Old Mill Cowpen Bewley
  29. Trevor Steele The Bungalow Cowpen Lane
23. The objections can be summarised as follows;
- Potential increase in noise levels that will pose and affect residents of Cowpen Bewley Village at all times, during the day and night.
  - Impact of increased noise levels may have on the surrounding wildlife in the subject area.
  - Do Saltholme RSPB gain financially from the development?
  - Concerns from an ill resident regarding living in close proximity to Saltholme North Peaking Plant Facility and the potential negative impact on health and mental wellbeing.
  - Impact of noise pollution on health & quality of life
  - The report predicts total ambient night-time levels with the Saltholme South PPF operating alone, or, in combination with the Saltholme North PPF, would be 3dB above the WHO threshold for sleep disturbance. The report argues current sound levels already exceed WHO threshold in the Cowpen Bewley Road & Cowpen Lane area by 1dB therefore a +2dB increase would have a low impact upon sleep disturbance. However, Planning Practice Guidance on Noise (PPG-N) indicates in cases where

existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in overall noise level may result in a significant adverse effect.

- Noise impact also needs to be considered alongside the neighbouring proposed gas fired PPF "Saltholme North" (see section 3.10). The report predicts, based on BS4142:2014 Cumulative Assessment for Cowpen Bewley Road & the Cowpen Lane, noise rating levels will be up to +5dB above current background sound levels during day, evening and night-time. Indeed, the report states "The results indicate that an adverse impact may occur during all periods of the day" (see section 8.4).
- The detrimental impact upon resident's health & quality of life by the potential use of the facility in the longer term also needs to be considered.
- Although the report claims the likelihood of the Saltholme South Peaking Plant Facility being operational at night is low, it has been included in the assessment as night-time use cannot be ruled out. The current position is that there are no limitations in terms of timing nor duration of operating the facility other than the site is to be operational to a maximum of 2750 hours in any one year (see section 1.1). Indeed, it clearly states in the report there is potential the proposed development could be required to operate at any time of day or night especially (but not only) in the event of a major power shortage or system failure or system stress event (see section 5.7). There is potential within the current Environmental permit for Statera Energy Limited to operate the facility for 114.5 days/year at continuous 24 hours output, 229 days/year at 12 hours/day or 7.55 hours/day every day of the year.
- The impact assessment on birds at RSPB Saltholme Wetlands does not feature in the new report.
- A larger scale contour map would provide a more accurate representation of noise levels at residential properties in the Cowpen Bewley Road & Cowpen Lane areas which appear to be bordering the 45-50dB contour in Figure 3.
- Why has the company chosen this location
- Why is the company considering the use of gas in the first place?
- And are there any more changes / variations to the noise levels that have been missed?
- The baseline was achieved by 15 min sampling which is the minimum recommended by the standard, and admitted in the standard as 'difficult to determine', were the two samples at night and during the evening and three during the day enough to determine an accurate baseline?
- Section 9 mentions uncertainty, has this been taken in to account with regards to the baseline/background levels from which this whole report is reliant? And to the data used for calculating the actual noise levels emanating from the power station are these independent of the power company? If the figures used are incorrect then this whole report is inaccurate.
- There was a letter submitted by the environmental health officer on the 7th of March, in the letter she states the significance is not severe because –  
'The properties are a good distance downwind' what exactly is a good distance, and on what technical basis is this relevant.  
'The affect is measured to worse case where the plant is operating 24/7 and it is planned that these Plants are for emergency top ups' As in point 4 above I cannot find anything in the report suggesting that there is a restriction on night time or daytime running so the operators are free to run anytime they wish up to 2750hrs in any calendar year. So again this is irrelevant.  
' There is a benefit in numbers of these plant and there are already 2 in operation in Haverton Hill which are a similar distance up wind and they have not caused any issues' What has the benefit in numbers of these plant got to do with the noise levels in

this report? (Apart from increasing the cumulative noise levels) Also where in Haverton Hill are these two plants and are they exactly the same with respect to noise output?

## **PLANNING POLICY**

24. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Borough Council Local Plan 2019.
25. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

### **National Planning Policy Framework**

26. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.  
So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:  
the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or  
any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

### **National Planning Policy Guidance – Noise (relevant extracts) (<https://www.gov.uk/guidance/noise--2>)**

27. The guidance states that noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment.



Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

At the lowest extreme, when noise is not noticeable, there is by definition no effect. As the noise exposure increases, it will cross the no observed effect level as it becomes noticeable. However, the noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. The noise can slightly affect the acoustic character of an area but not to the extent there is a perceived change in quality of life. This table summarises the noise exposure hierarchy, based on the likely average response.

Perception	Examples of outcomes	Increasing effect level	Action
Not noticeable	No Effect	No Observed Effect	No specific measures required
Noticeable and not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life.	No Observed Adverse Effect	No specific measures required
		Lowest Observed Adverse Effect Level	
Noticeable and intrusive	Noise can be heard and causes small changes in behaviour and/or attitude, eg turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
		Significant Observed Adverse Effect Level	
Noticeable and disruptive	The noise causes a material change in behaviour and/or attitude, eg avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Noticeable and very disruptive	Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, eg regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, eg auditory and non-auditory	Unacceptable Adverse Effect	Prevent

What factors are relevant to identifying areas of tranquility?

There are no precise rules, but for an area to be protected for its tranquility it is likely to be relatively undisturbed by noise from human caused sources that undermine the intrinsic character of the area. Such areas are likely to be already valued for their tranquility, including the ability to perceive and enjoy the natural soundscape, and are quite likely to be seen as special for other reasons including their landscape.

### **Local Planning Policy**

28. The following planning policies are considered to be relevant to the consideration of this application.

#### Strategic Development Strategy Policy 1 (SD1) - Presumption in favour of Sustainable Development

1. In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

3. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise - taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;
- or,
- Specific policies in that Framework indicate that development should be restricted.

#### Strategic Development Strategy Policy 2 (SD2) - Strategic Development Needs Other Development Needs

7. Where other needs are identified, new developments will be encouraged to meet that need in the most sustainable locations having regard to relevant policies within the Local Plan.

#### Strategic Development Strategy Policy 4 (SD4) - Economic Growth Strategy

1. Economic development needs will be directed to appropriate locations within the Borough to ensure the delivery of sustainable economic growth.

5. Economic growth proposals which attract significant numbers of people will be permitted in the vicinity of a hazardous installation only where there is no significant threat to public safety.

#### Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:

- a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;

- b. Landscape character of the area, including the contribution made by existing trees and landscaping;
  - c. Need to protect and enhance ecological and green infrastructure networks and assets;
  - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
  - e. Privacy and amenity of all existing and future occupants of land and buildings;
  - f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;
  - g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
  - h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.
2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.
4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.

#### Economic Growth Policy 4 (EG4) - Seal Sands, North Tees and Billingham

2. Development proposals in the North Tees and Seal Sands area will recognise the cumulative importance for bird species associated with the Teesmouth and Cleveland Coast SPA and Ramsar site. Appropriate development proposals will be encouraged at locations within the limits to development where:
- a. If necessary, land has been identified to provide appropriate strategic mitigation; or
  - b. The applicant can demonstrate that the proposed development, in-combination with other proposals, will not adversely impact the Teesmouth & Cleveland Coast SPA and Ramsar site.

#### Natural, Built and Historic Environment Policy 4 (ENV4) - Reducing and Mitigating Flood Risk

1. All new development will be directed towards areas of the lowest flood risk to minimise the risk of flooding from all sources, and will mitigate any such risk through design and implementing sustainable drainage (SuDS) principles.

#### Natural, Built and Historic Environment Policy 5 (ENV) - Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity

1. The Council will protect and enhance the biodiversity and geological resources within the Borough. Development proposals will be supported where they enhance nature conservation and management, preserve the character of the natural environment and maximise opportunities for biodiversity and geological conservation particularly in or adjacent to Biodiversity Opportunity Areas in the River Tees Corridor, Teesmouth and Central Farmland Landscape Areas.
4. Sites designated for nature or geological conservation will be protected and, where appropriate enhanced, taking into account the following hierarchy and considerations:
- a. Internationally designated sites - Development that is not directly connected with or necessary to the management of the site, but which is likely to have a significant effect on any internationally designated site, irrespective of its location and when considered both alone and in combination with other plans and projects, will be subject to an Appropriate Assessment. Development requiring Appropriate Assessment will only be allowed where:

- i. It can be determined through Appropriate Assessment, taking into account mitigation, the proposal would not result in adverse effects on the site's integrity, either alone or in combination with other plans or projects; or
  - ii. as a last resort, where, in light of negative Appropriate Assessment there are no alternatives and the development is of overriding public interest, appropriate compensatory measures must be secured.
- b. Nationally designated sites - Development that is likely to have an adverse effect on a site, including broader impacts on the national network of Sites of Special Scientific Interest (SSSI) and combined effects with other development, will not normally be allowed. Where an adverse effect on the site's notified interest features is likely, a development will only be allowed where:
- i. the benefits of the development, at this site, clearly outweigh both any adverse impact on the sites notified interest features, and any broader impacts on the national network of SSSI's;
  - ii. no reasonable alternatives are available; and
  - iii. mitigation, or where necessary compensation, is provided for the impact.
- c. Locally designated sites: Development that would have an adverse effect on a site(s) will not be permitted unless the benefits of the development clearly outweigh the harm to the conservation interest of the site and no reasonable alternatives are available. All options should be explored for retaining the most valuable parts of the sites interest as part of the development proposal with particular consideration given to conserving irreplaceable features or habitats, and those that cannot readily be recreated within a reasonably short timescale, for example ancient woodland and geological formations. Where development on a site is approved, mitigation or where necessary, compensatory measures, will be required in order to make development acceptable in planning terms.

#### Natural, Built and Historic Environment Policy 7 (ENV7) - Ground, Air, Water, Noise and Light Pollution

1. All development proposals that may cause groundwater, surface water, air (including odour), noise or light pollution either individually or cumulatively will be required to incorporate measures as appropriate to prevent or reduce their pollution so as not to cause unacceptable impacts on the living conditions of all existing and potential future occupants of land and buildings, the character and appearance of the surrounding area and the environment.
3. Where development has the potential to lead to significant pollution either individually or cumulatively, proposals should be accompanied by a full and detailed assessment of the likely impacts. Development will not be permitted when it is considered that unacceptable effects will be imposed on human health, or the environment, taking into account the cumulative effects of other proposed or existing sources of pollution in the vicinity. Development will only be approved where suitable mitigation can be achieved that would bring pollution within acceptable levels.

#### **MATERIAL PLANNING CONSIDERATIONS**

29. The principle of development has been established on this site and approval given in January 2019 for the two peaking plants and therefore this report will concentrate on the variation of condition 13 in relation to noise.

#### **Impact on residential receptors**

30. Objections have been raised regarding the potential noise impact on the residents at Cowpen Bewley, both from a single facility and the cumulative impact

Impact from operation of one peaking plant;

31. A noise assessment has been submitted and assumes the worst case scenario. The results show that with one plant running the noise rating level will increase by 3dB above background noise levels.

Cumulative Impact with both peaking plants running;

32. The noise assessment shows that with both plants running at full capacity the noise rating level will increase by 5dB above background noise levels.

Assessment;

33. The report has been prepared by Noise and vibration specialists from RPS Group, and the Councils Environmental Health Team have assessed the findings and confirm that any change of 5dB and below would not be significant and would result in "No observed adverse effect" level which in accordance with the National Planning Policy Guidance would not result in specific mitigation measures to be implemented. The relevant noise contour maps can be found at Appendices 4 and 5.
34. It should be noted that queries were raised over the accuracy of the reports and who assesses the submitted information in Stockton Borough Council. In this instance the report was assessed by an Environmental Health Officer who has a Post Graduate Diploma in Acoustics, taught Acoustics at Teesside University and has over 15 years' experience with Noise reports.
35. Queries have been raised over Environmental Health's comments; "i.e. *what exactly is a good distance, and on what technical basis is this relevant*". In response, the distance between the plant and the closest property is over 100 metres, the effect of noise diminishes over distance especially over soft ground like fields etc. Wind, speed and direction can affect noise between source and receptor, like distance, and as the location of the houses is not downwind (Prevailing winds are from the South West) from the plant the noise will not be increased. The noise report does state that the wind direction changed when they were doing their monitoring at Cowpen which is why they have used the day-time noise rather than the heightened Background Levels (which would then show no noise affect from the plant).
36. In addition, queries have been raised over the EHO comments "*There is a benefit in numbers of these plant and there are already 2 in operation in Haverton Hill which are a similar distance up wind and they have not caused any issues*", querying what has the benefit in numbers of these plant got to do with the noise levels in this report and are they exactly the same with respect to noise output? In response the EHO states "Electricity demand will increase over time as it has with the existing grid and the more plant there are, will mean that the National Grid is more stable long term. There are other Plant in the area which have a smaller output and they can take a small share of the demand peaks and this is a medium plant for longer or more significant peak requirements. The small plant have been located closer to residential premises and have raised no issues regarding noise". Nonetheless it is considered that the reports accompanying this application have demonstrated that there would be no adverse impact.
37. Whilst acknowledging the objections and the change in plant increasing noise impacts, this in itself would not be a reason for refusal unless adverse effects would occur. The report demonstrates that this is not the case. However to ensure that these levels are not exceeded a condition has been recommended and appropriate mitigation is put in place should any adverse impacts occur due to the increase in noise.

### **Impact on the Saltholme/SPAs**

38. Whilst not including the assessment in the revised report, the applicant has submitted additional information in relation to the impact of noise on birds associated with the Teesmouth and Cleveland Coast SPA/pSPA. The supporting information states that the revised design is predicted to generate increased average noise levels immediately at source which correlates to increased noise levels within the nearest part of the pSPA, from just over 50dB to just above 55dB. Comparison of these noise levels with the existing noise levels presented in the noise assessment report demonstrates that these are generally within the baseline levels for the wider surrounding area, including for the vast majority of the SPA/pSPA. In terms of how the predicted noise levels may affect birds, 55dB is the level below which the literature says that effects will be low (negligible), hence why predicted noise levels from the original design were deemed to be within acceptable limits. For the revised design however, although the noise levels are predicted to exceed this threshold just within the pSPA boundary, the extent to which those levels are expected to encroach into the proposed designated site is negligible. Despite this, Cutts et al, 2013 state that noise levels between 55-72dB in disturbed areas, such as the industrial setting associated with the consented development, are only likely to have a low level disturbance effect and that even moderate noise effects from regularly occurring noise sources (as that from the proposed facilities would be during operation) are unlikely to occur below 60dB. For the existing SPA noise levels will remain below the 55dB threshold and so are not expected to significantly affect birds within the existing designated site.
39. The information has been considered in full by Natural England and the RSPB who have raised no objections. The modelled contour maps included in the updated noise report show the combined impacts of both developments as creating noise levels of less than 55dB at the ecologically sensitive receptors within the RSPB reserve at Saltholme which is within acceptable limits and accordingly it is considered that the change in the equipment leading to the revised noise assessment will have no likely significant effects on designated and protected areas and the condition as recommended will ensure that the noise levels in the report are monitored and adhered to.
40. Overall it is considered that the submitted noise report is robust, and in accordance with the appropriate British standard and no significant adverse effects will occur from the change in technology.

### **Other matters**

41. Concerns have been raised regarding the number of hours the plant will operate and quite rightly state they can operate 2750 hours continuously. Whilst this is unlikely to happen and the Environment Agency place restrictions on the permit in relation to the maximum operating hours for a peaking plant.
42. Queries have been raised over "BAT" (Best Available Technologies) and forms part of the Environment Agency Process. The NPPF states "the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. The consideration of BAT falls within the Environmental Permitting Process and is not a planning consideration, the Environment Agency confirmed that they have been in discussions with the applicant and early indications show that the proposed technology is extremely efficient but detailed consideration will take place one the permit application has been submitted. The permit will restrict the operating hours and other such matters.

## **CONCLUSION**

43. It is recommended that the application be Approved with Conditions for the reasons specified above.

**Director of Economic Growth and Development**  
**Contact Officer Elaine Atkinson Telephone No 01642 526062**

### **WARD AND WARD COUNCILLORS**

**Ward Billingham East**  
**Ward Councillor(s) Councillor Mick Stoker**  
**Ward Councillor(s) Councillor Evaline Cunningham**

## **IMPLICATIONS**

**Financial Implications:** There are no known financial implications in determining this application

**Environmental Implications:** The proposal relates to a variation of condition application and the impacts are addressed within the report.

**Human Rights Implications:** The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report which has included an assessment of people's representations and a weighting up of the points raised. It is considered that no existing residents would be severely affected by the proposed development sufficient to warrant refusal of the application.

### **Community Safety Implications:**

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report. There are no other notable impacts on community safety recognised within the assessment of the proposed development

### **Background Papers**

National Planning Policy Statement and Guidance  
Stockton on Tees Local Plan Adopted 2019  
Application Files