

<b>DETERMINATION OF APPLICATION UNDER DELEGATED POWERS REPORT OF DIRECTOR OF ECONOMIC GROWTH AND DEVELOPMENT</b>
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|--|---|------|------------|
| 1. Case Officer Signature                |  | Date | 04.01.2019 |
| 2. Principal Planning Officer            |  | Date | 04.01.2019 |
| 3. Planning Development Services Manager |   | Date |            |
- \*Required for refusals

**Application No:** 18/2079/FUL  
**Date:** 2 January 2019  
**Case Officer:** Elaine Atkinson  
**Proposal:** 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.  
**Location:** Land to the East of Cowpen Bewley Road, Saltholme, Billingham  
**Site Visit Date:** 20 September 2018  
**Expiry Date:** 7 January 2018

**RECOMMENDATION**

That planning application 18/2079/FUL be approved subject to the following conditions and informatives;

**Time Limit**

- 01 The development hereby permitted shall be begun before the expiration of Three years from the date of this permission.

Reason: By virtue of the provision of Section 91 of the Town and Country Planning Act 1990 (as amended).

**Approved Plans**

- 02 The development hereby approved shall be in accordance with the following approved plan(s);

Plan Reference Number	Date on Plan
GP_CC_01 REV A	6 September 2018
GP_CUL_01	6 September 2018
GP_EG_03	6 September 2018
GP_HPGC_01	6 September 2018
GP_HPGC_01	6 September 2018
GP_OHLP_01	6 September 2018
GP_SPC_01	6 September 2018
GP_PF_02	6 September 2018
SL195_L_X_ELEV_1	6 September 2018
SL195_L_1-VEH	6 September 2018
SL195_L_X_LP_2	6 September 2018
GP_132KVSS_1 REV A	18 September 2018
PREM364-GEN-0000-0001 B	18 September 2018
SL195_L_X_ELEV_4	18 September 2018
SL195_L_X_MP_3.V3	3 December 2018
SL195_L_X_MP_1.V2	3 December 2018
SK001_REV D	3 December 2018

Reason: To define the consent.

**Materials and Colours**

03 Prior to the commencement of development precise details of the colours and finishes for all buildings, fixed plant and machinery shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity of the area

**Levels**

04 Notwithstanding the submitted information; prior to the commencement of works, full details of the existing and proposed site levels and finished floor levels shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area and to ensure that the development does not increase flooding on or off site.

**Sustainable Surface Water Drainage Scheme**

05 The development hereby approved shall not be commenced on site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- I. Detailed design of the surface water management system (for each phase of development);
- II. A build programme and timetable for the provision of the critical surface water drainage infrastructure;
- III. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- IV. Details of adoption responsibilities.

Reason: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

**Ecology**

06 The development shall be carried out in accordance with the recommendations set out at Section 5 of the Ecological Survey carried out by Naturally Wild (Ref SE-18-02) dated August 2018 and the Habitats Risk Assessment (Project Number: SEC8481) dated 18 December 2018

Reason: To ensure that the development does not have an adverse impact on protected species and wildlife and in accordance with the National Planning Policy Framework and Core Strategy Policy CS10.

**Construction Environmental Management Plan (CEMP)**

07 Prior to the commencement works a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall provide details of how construction works are to be undertaken in the interests of protecting the ecology features in the area. Works shall only be carried out in accordance with the approved CEMP.

Reason: To ensure that the development does not have an adverse impact on protected species and wildlife in accordance with the National Planning Policy Framework and Core Strategy Policy CS10.

**Habitat Management, Mitigation and Enhancement Plan (HMMEP)**

08 Prior to the commencement of development, a Habitat Management, Mitigation and Enhancement Plan (HMMEP) shall be submitted to and approved in writing by the Local Planning Authority. The Biodiversity enhancement measures set out in the approved plan shall be implemented and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not have an adverse impact on protected species and wildlife and to provide biodiversity enhancements in accordance with the National Planning Policy Framework and Core Strategy Policy CS10.

**Landscaping Softworks**

09 No development shall commence until full details of Soft Landscaping has been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following:

- (i) Commencement of the development;
- (ii) or agreed phases;
- (iii) or prior to the occupation of any part of the development;

and the development shall not be brought into use until the scheme has been completed to the satisfaction of the Local Planning Authority.

Reason: To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhances bio diversity.

**Maintenance Softworks**

10 No development shall commence until full details of proposed soft landscape management has been submitted to and approved in writing by the Local Planning Authority. The soft landscape management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas/ retained vegetation, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved plan prior to the occupation of the:

- (i) Development;
- (ii) or approved phases.

Any vegetation within a period of 5 years from the date of from the date of completion of the total works that is dying, damaged, diseased or in the opinion of the local planning authority is failing to thrive shall be replaced by the same species of a size at least equal to that of the adjacent successful planting in the next planting season.

Landscape maintenance shall be detailed for the initial 5 year establishment from date of completion of the total scheme regardless of any phased development period followed by a long-term management plan for a period of 20 years. The landscape management plan shall be carried out as approved

Reason: To ensure satisfactory landscaping to improve the appearance of the site in the interests of visual amenity.

**Assessment of a heritage asset through a programme of archaeological works**

11. A) No development shall commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- 1. The programme and methodology of site investigation and recording
- 2. The programme for post investigation assessment

3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
  6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- B) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).
- C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To determine the presence and significance of any heritage assets within the site.

#### **Construction Traffic Management Plan**

12. Work shall be undertaken in accordance with the submitted Construction Traffic Management Plan accompanying the application; dated September 2018 (Project Ref: Saltholme South CTMP) unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety and to ensure the free flow of traffic.

#### **Noise**

13. The mitigation measures as identified in the noise assessment accompanying the application (Report JAT10500-REPT-07-RO dated 4<sup>th</sup> September 2018) shall be implemented in full and retained for the life of the development

Reason: To ensure the area is protected from noise pollution in accordance with local policy and the National Planning Policy Framework.

#### **Decommissioning of the plant**

- 14 In the event that the gas generators and battery storage are inoperative for a period of 12 months or longer the development hereby approved shall be removed and the site restored to green field within 18 months from the time at which it became inoperative.

Reason: In the interests of visual amenity and pollution prevention.

#### **Unexpected land Contamination**

15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, works must be halted on that part of the site affected by the unexpected contamination and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken to the extent specified by the Local Planning Authority prior to resumption of the works. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted in writing and approval by the Local Planning Authority.

Reason: To ensure the proper restoration of the site and to accord with guidance contained within Stockton on Tees Core Strategy Policy 10 (CS10) - Environmental protection and enhancement

#### **INFORMATIVES**

##### **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 seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

**Informative: Health and Safety**

A toxic refuge shall be provided for any construction teams working in the area and provisions are made for early warning of the workers e.g. providing contact details to pipeline operators / Falck emergency services. For further information please contact the Emergency Planning Unit.

SABIC/INEOS should be consulted should any work within 50 metres of their pipeline be undertaken as this would require our approval prior to work commencing.

**BACKGROUND**

On April 2012, the Planning Inspectorate became the government agency responsible for operating the planning process for Nationally Significant Infrastructure Projects (NSIPs) which are major infrastructure projects which require a type of consent known as 'development consent' under procedures governed by the Planning Act 2008. The Act sets out thresholds above which certain types of major infrastructure projects are considered to be nationally significant and require development consent.

In terms of Generating stations, the Act states that a development would be considered an NSIP if;

- (a) it is in England or Wales,
- (b) it is not an offshore generating station, and
- (c) its capacity is more than 50 megawatts.

There are two applications for the same site under consideration (Applications 18/2079/FUL and 18/2082/FUL); and initial concerns were raised by the case officer that the schemes should be considered as NSIPs. The applicant supplied a Counsel's opinion to confirm that the 2 plant proposal is not an NSIP and further advice was sought from the Planning Inspectorate and the Council's own Legal Team.

The Planning Inspectorate confirmed that they do not have the power to give a legally binding interpretation on whether the two potential gas fired power facilities would be classed as a NSIP/DCO project. Only the Courts can ultimately determine the interpretation of legislation, and to date there has been no case law on this point and it will be for the developer who wants to construct the generating station(s) to decide whether or not to apply for development consent, taking their own legal advice which they can rely on and referred the Council to the legislation.

On considering the submitted information and the Counsel's opinion, the Local Authority Chief Solicitor has confirmed that if the two plants (of 49.99MW each) come in as separate applications, do not share infrastructure and are wholly independent of each other (other than the connection to the same sub-station) then the local planning authority should accept them as applications under the Town and Country Planning Act.

**ENVIRONMENTAL IMPACT ASSESSMENT**

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 set out criteria where EIA is mandatory and those where an EIA may be required. The Proposed Development falls within Schedule 2. Where development is listed under Schedule 2, the need for EIA is dependent on the likelihood of significant environmental effects arising from factors including the nature, size and location of the development.

The Planning Statement and the accompanying detailed environmental reports provide information on the key environmental issues associated with the Proposed Development. Although the Development falls within Schedule 2, it is not considered that the nature, scale or location of the Proposed Development is such that it is likely to give rise to significant environmental effects.

This conclusion has been based on the environmental reports undertaken in support of the application and on this basis, it is concluded that the Proposed Development does not constitute 'EIA Development'.

**NEED FOR THE DEVELOPMENT**

## **APPENDIX 1**

The submitted information states that the UK electricity network faces tough challenges to deliver the Government's target of reducing carbon emissions. Much of this will be achieved through decommissioning carbon intensive plants and concentrating on the delivery of low carbon generation such as wind and solar.

Flexible generation has largely been provided by diesel peakers (which are expensive to run and polluting), smaller less-efficient gas peakers (though less polluting) and keeping older CCGT's on standby (which is expensive). Gas turbines, the technology used for the big gas plant (such as CCGTs and OCGTs), is not well suited to this flexible, stop/start generation. By contrast gas reciprocating engines are highly suited to this pattern of use are becoming more efficient and can potentially match the bigger plant on lower emissions. National Grid's Future Energy Scenarios Report released in July 2018 estimates a need for 1.5-7GW's of gas reciprocating engines in the next 11 or so years - the equivalent of between 30 and 140 additional (50MW) plant like the one as proposed

The role of flexible power generating plants in meeting the UK's energy requirements was recognised recently by an Inspector in an appeal decision at Hilcote in Bolsover District Council. This appeal considered proposals for a 14 MW flexible power generation plant outside of a settlement boundary in the open countryside (APP/R1010/W/17/3172633).

This facility is required to compliment the mix of electricity generation, frequency support and to meet the Government's objective of maintaining a reliable electricity supply. Once operational, the new flexible and reliable project will have the ability to respond rapidly to the short-term variations related to local demand and fluctuations in the output from renewable energy sources. Statera Energy Limited has identified that the Application Site is located within an area that requires additional backup capabilities to meet peak demand and can provide critical ancillary services at a strategic substation and important area of the grid network. Through discussions with the local Distribution Network Operator (DNO) a firm offer for capacity within the local distribution network has been received for this facility.

### **SELECTION CRITERIA**

The key selection criteria applied to this type of project, which needs to be close to GSP or BSP substations, are;

- Viable gas connection on to the National Transmission System (NTS) pipe
- Electrical capacity to export electricity without creating large voltage swings
- Land that is both suitable and available to be developed with a willing landowner.

### **SITE AND SURROUNDINGS**

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 the Saltholme Electricity Sub Station. 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.

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**

Planning permission is sought for the provision of a gas fired generating facility for the generation of 49.99MW of electricity to facilitate regional distribution during generation shortfall and to meet peak supply demands.

The proposed development comprises five 10MW engines enclosed in a sound insulated cell. The main building measures approximately 37 metres x 28 metres x 9.5 metres high, the exhaust gases are vented out the side and are processed to meet environmental standards before being

## APPENDIX 1

vented out of five flues which will be up to 15 m high from ground floor level. When the engines are running they are cooled by an array of external fans. The fans are mounted on a metal frame which allows cool air to be drawn up into the fans. Electrical switchgear and controls are enclosed in the building. Each engines block feeds electricity to a substation from where an underground electrical connection will be made into the existing substation. There will be a simple low-level pipe connection into the existing high-pressure gas main, enclosed within a compound. The gas will be fed to a second compound which houses equipment to reduce the pressure of the gas and meter its use.

A SUD scheme is proposed and access to the site is from the A1185.

The facility will cover periods when there is a shortage of generation and peaks in demand and provide ancillary services to National Grid to help it manage both frequency and voltage on the Grid system. The facility 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 station 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 system stress event, where National Grid may require the facility to step-in and support in an emergency situation.

As a gas-powered facility, the development will not require the delivery of fuel. The site will generally be unmanned but will undergo routine maintenance on a weekly basis. As such the facility will have very limited traffic. As the facility will be unstaffed, permanent operational lighting is not required, other than some lighting for security and maintenance purposes when engineers are working on site in low light. In addition to the 2.5m high mesh security fence, a closed-circuit television (CCTV) system shall be provided to monitor the perimeter fence.

The construction period is anticipated to last 6 months with a workforce of up to 20 personnel, although this may peak initially at up to 40 personnel during the early ground works phases.

### **PLANNING POLICY**

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 Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan. 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**

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:

- i. 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
- ii. 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 80 highlights the Government's commitment to ensure the planning system supports economic growth and productivity *'This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.'*

Paragraph 148 emphasises the key role that the planning system in taking a proactive approach to ensure local planning authorities help increase and *'support the transition to a low carbon energy future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure'*.

Paragraph 180 states *'Planning policies and decisions should also ensure that new development is appropriate for its location considering 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:*

- 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;*
- 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*
- limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.'*

Paragraph 5 of the NPPF states *'National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.'* As such the Overarching National Policy Statement for Energy (EN-1) is a material consideration which must be considered in the determination of this planning application.

### **Overarching National Policy Statement for Energy (EN-1) (NSIPs)**

Paragraph 2.2.20 of EN-1 states; *"It is critical that the UK continues to have secure and reliable supplies of electricity as we make the transition to a low carbon economy. To manage the risks to achieving security of supply we need sufficient electricity capacity (including a greater proportion of low carbon generation) to meet demand at all times. Electricity cannot be stored so demand for it must be simultaneously and continuously met by its supply. This requires a safety margin of spare capacity to accommodate unforeseen fluctuations in supply or demand."*

Paragraph 3.3.29 of EN-1 supports the development of decentralised electricity generation facilities: *"The Government would like to see decentralised and community energy systems such as micro-generation make a much greater contribution to our targets on reducing carbon emissions and increasing energy security from current levels of these systems. These technologies could lead to some reduction in demand on the main generation and transmission system."*

EN-1 recognises that a flexible approach to energy generation is required to provide backup supply for intermittent renewable energy. Paragraph 3.3.11 states; *"...the more renewable generating capacity we have the more generation capacity we will require overall, to provide back-up at times when the availability of intermittent renewable sources is low. If fossil fuel plant remains the most cost-effective means of providing such back-up, particularly at short notice, it is possible that even when the UK's electricity supply is almost entirely decarbonised we may still need fossil fuel power stations for short periods when renewable output is too low to meet demand, for example when there is little wind."*



Paragraph 3.6.1 continues to state that; *'Fossil fuel power stations play a vital role in providing reliable electricity supplies: they can be operated flexibly in response to changes in supply and demand, and provide diversity in our energy mix. They will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy, and Government policy is that they must be constructed, and operated, in line with increasingly demanding climate change goals.'*

EN-1 recognises that the increasing reliance on renewable energy sources with Paragraph 3.3.12 stating that *'we need more total electricity capacity than we have now, with a larger proportion being built only or mainly to perform back-up functions.'*

### **Local Planning Policy**

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

#### Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel

3. The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide. Further guidance will be set out in a new Supplementary Planning Document.

#### Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

7. Where suitable proposals come forward for medium to small scale renewable energy generation, which meet the criteria set out in Policy 40 of the Regional Spatial Strategy, these will be supported. Broad locations for renewable energy generation may be identified in the Regeneration Development Plan Document.

8. Additionally, in designing new development, proposals will:

- \_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;
- \_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;
- \_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;
- \_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

#### Core Strategy Policy 10 (CS10) Environmental Protection and Enhancement

1. In taking forward development in the plan area, particularly along the river corridor, in the North Tees Pools and Seal Sands areas, proposals will need to demonstrate that there will be no adverse impact on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site, or other European sites, either alone or in combination with other plans, programmes and projects. Any proposed mitigation measures must meet the requirements of the Habitats Regulations.

2. Development throughout the Borough and particularly in the Billingham, Saltholme and Seal Sands area, will be integrated with the protection and enhancement of biodiversity, geodiversity and landscape.

4. The integrity of designated sites will be protected and enhanced, and the biodiversity and geodiversity of sites of local interest improved in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation, ODPM Circular 06/2005 (also known as DEFRA Circular 01/2005) and the Habitats Regulations.

9. New development will be directed towards areas of low flood risk, that is Flood Zone 1, as identified by the Borough's Strategic Flood Risk Assessment (SFRA). In considering sites elsewhere, the sequential and exceptions tests will be applied, as set out in Planning Policy Statement 25: Development and Flood Risk, and applicants will be expected to carry out a flood risk assessment.

10. When redevelopment of previously developed land is proposed, assessments will be required to establish:

- \_ the risks associated with previous contaminative uses;
- \_ the biodiversity and geological conservation value; and
- \_ the advantages of bringing land back into more beneficial use.

**Saved Policy EN13 of the adopted Stockton on Tees Local Plan**

Development outside the limits to development may be permitted where:

- (i) It is necessary for a farming or forestry operation; or
  - (ii) It falls within policies EN20 (reuse of buildings) or Tour 4 (Hotel conversions); or
- In all the remaining cases and provided that it does not harm the character or appearance of the countryside; where:
- (iii) It contributes to the diversification of the rural economy; or
  - (iv) It is for sport or recreation; or
  - (v) It is a small scale facility for tourism.

**Saved Policy EN39 of the adopted Stockton on Tees Local Plan**

The expansion of existing industrial or commercial undertakings in the vicinity of hazardous installations will normally be permitted if it can be shown that additional people and buildings will not be placed at unacceptable risk because of the proximity of the installation.

**Saved Policy EN4 of the adopted Stockton on Tees Local Plan**

Development which is likely to have an adverse effect upon sites of nature conservation importance will only be permitted if:-

- (i) There is no alternative available site or practicable approach; and
- (ii) Any impact on the sites nature conservation value is kept to a minimum.

Where development is permitted the council will consider the use of conditions and/or planning obligations to provide appropriate compensatory measures.

**Emerging Local Planning Policy**

The emerging Local Plan has been the subject of independent examination and the Inspectors Report on the examination has now been received. The inspectors report identifies that the emerging Local Plan (subject to recommended Main Modifications) is sound, legally compliant and capable of adoption. In accordance with NPPF paragraph 48 it is considered that policies within the emerging Local Plan can be afforded significant weight and the relevant policies are as detailed below;

- Policy SD1 - Presumption in favour of Sustainable Development
- Policy SD2 – Strategic Development Needs
- Policy SD4 - Economic Growth Strategy
- Policy SD5 –Environment and Climate Change Strategy
- Policy SD8 – Sustainable Design Principles
- Policy EG4 – Seal Sands, North Tees and Billingham
- Policy ENV 2: Renewable and Low Carbon Energy Generation
- Policy ENV 3 – Decentralised Energy Generation and Supply
- Policy ENV4 - Reducing and Mitigating Flood Risk
- Policy ENV5 – Preserve, protect and enhance biodiversity and geodiversity
- Policy ENV6 – Green Infrastructure, ecological networks and open space
- Policy ENV7 – Ground, Air, Water, Noise and Light Pollution
- Policy HE2 – Conserving and Enhancing Stockton’s Heritage Assets

**CONSULTATIONS**

The relevant Consultations were notified and any comments received are set out below:-

**Highways Transport & Design Manager**

Highways Comments: The site will be access from the A1185, as shown on drawing SL195\_L\_1\_VEH, and the proposed site access arrangements are considered to be suitable for both the construction and operational phases of the proposed development. Should the application be approved a condition should be attached securing compliance with the submitted

CTMP. Subject to the required controlling condition, in relation to the CTMP, the Highways, Transport and Design Manager has no highways objection to the proposed development.

Landscape & Visual Comments: A landscape and visual appraisal has been produced, the results of which are acceptable in terms of landscape and visual impacts. It is considered that the landscape setting can absorb the proposed development and there may be some positive impacts in terms of an increase in native tree and shrub planting. It should be ensured that any materials and colours used for structures within the development are visually recessive to minimise visual impact.

A planting scheme is proposed to screen the development. Fully detailed proposals for all soft landscape works, should be provided, including details of landscaping within the attenuation ponds. A landscape maintenance scheme which also be required to ensure the long term retention and good health of landscaped areas. However, this information can be controlled by condition, and the suggested wording is included below. Subject to the required conditions, the Highways, Transport and Design Manager has no Landscape and Visual objection to the proposed development.

Flood Risk Management: The applicant has provided sufficient information to satisfy the Local Lead Flood Authority that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. However the applicant has not provided a detailed design for the management of surface water runoff from the proposed development and this information should be secured by condition.

#### The Environment Agency

Environment Agency Position - Having assessed the supporting information I can advise that we have no objections to the proposed development however more detailed consideration is required and parallel tracking of the planning and permitting applications is recommended.

Environmental Permitting Advice – We don't have enough information to know if the proposed development can meet our requirements to prevent, minimise and/or control pollution. Where we identify significant or complex permitting issues we will normally recommend parallel tracking of the permit and planning applications, allowing resolution of complex permitting issues at the same time as decision making for the planning process. *"The proposed development is for a Gas Fired Electricity Generating Facility with the ability to generate up to 49.99 MW of electricity. A low carbon flexible generating facility using gas reciprocating engines. The facility will generate electricity principally for the regional distribution network in times of generation shortfall and/or high demand. The proposed development comprises a Gas Fired Electricity Generating Facility made up of five 10 MW engines enclosed in a sound insulated encasement or building. The exhaust gases are processed to meet stringent environmental standards before being vented out of five flues which will be up to 15 m high."* The above states this is a 49.99MWe plant. The MWe figure is the electrical *output* of the plant therefore the net thermal *input* of the plant is greater than the 50MWth threshold definition of an IED Chapter II plant. Chapter II plant must comply with EPR1.01 emission limit values until the Medium Combustion Plant Directive is implemented. However, as the proposed plant aggregates to >50MWth the EA will also require a full BAT assessment to be provided with their bespoke Environmental Permit (EP) application. This shall cover, but not be limited to, the following issues: the chosen number of running hours, the choice of engines rather than CCGT, consideration of the use of SCR, plant efficiency, the choice of noisy/energy consuming air cooling, justification for not aggregating the flues, installing an ID fan and increasing stack height to aide dispersion. If the BAT assessment shows that a stack height of greater than 15m is required then this planning permission would have to be varied. To save the applicant time and money we therefore recommend the Applicant includes the BAT assessment with their planning permission application.

The Air Quality modelling submitted with the planning permission application was based on 2,750 operating hrs pa. We have defined "peaking plant" as those operating between 500 and 1,500 hours per annum (hpa), with mid merit 1,500-4,000 hpa and base loading >4,000 hpa, we may therefore limit the operational hours of this plant, within the environmental permit. To justify an increase of operating hours to greater than 1,500 pa, the applicant will have to complete the detailed data sheet which has already been provided to Statera and submit it with alongside their EP application. We are minded the state that we are considering applying BReF-AELs to new

engines operating >1,500 hours pa and therefore the applicant should consider this when deciding on their choice of technology.

The Newcastle windrose used in the air quality modelling shows a predominant wind direction from the west. This does not accurately reflect local conditions which are for a principal wind direction from the SW and a smaller peak from the NE. Although this may not greatly affect the modelling results, the EP application will need to provide and use accurate weather data.

The stack height sensitivity study does not demonstrate that a 15m stack is the optimal height. The hourly-mean NO<sub>2</sub> concentrations would be halved by a 5m increase in stack height. I recommend the Applicant considers aggregating the stacks into one, taller windshield to aide dispersion and further reduce the impact on sensitive receptors. The planning permission could be varied to increase the stack height, incase the EP permitting process requires a taller stack.

### **Ecology Advice – To Applicant**

We recommend the Applicant proposes a project to provide a net gain habitat improvement in the local area. The ecology report recommends restricting the dates for site clearance to avoid any impact on the local habitats. This may be considered to be a mitigation measure under the Sweetman judgement. The Applicant may require further legal advice. The in-combination air impact assessment provided by the Applicant does not include the proposed Tees CCPP at Wilton, the new Energy from Waste plant near Saltholme or the new MGT biomass plant at Tees Dock plant therefore a full review of proposed plants within a 10km screening distance and a review of the environmental impact assessment, is required. The proposal is located on an area of land that drains to Cowpen Marsh via Holme Fleet, a small discrete body of water that is currently not routinely monitored for the purposes of WFD classification. The area drains ultimately to the Tees Estuary via Greatham Creek. There are opportunities for the developer to support the Tees Estuary Partnership in delivering environmental improvements in the area as mitigation or compensation for any loss of biodiversity resulting from the development. The EA is willing to discuss such opportunities if the developer wishes.

**Flood Risk Advice** The main development is within Flood Zone 1 and is classed as 'Essential Infrastructure'. We have assessed the submitted application and we do not consider it to have an increased risk of on or off-site flooding, we therefore have no objection to this development. Although the main development is within Flood Zone 1, some elements are within flood zones 2 and 3 such as the underground pipe connection and access track. From our understanding of the proposals there will be no ground raising for the creation/improvement of the access track. If our understanding is incorrect and the proposal include ground raising within flood zones 2 and 3, we request to be reconsulted.

Updated Comments: The EA find the 15m stack height acceptable for the current scheme. I think there was some concern from the agent that even though we didn't object to the development it wasn't clear that we found the current proposal acceptable. We still advise that the 15m height may require to be amended once further assessments have been undertaken through the permitting process.

### Environmental Health Unit

I have checked the documentation provided and have found no grounds for objection in principle to the development. I do not think that conditions need to be imposed from an Environmental Health perspective as long as the mitigation methods provided in the noise report are followed.

### Contaminated Land Officer

No objections – unexpected land contamination condition will be acceptable.

### 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.

European sites – Teesmouth and Cleveland Coast Special Protection Area (SPA) and potential SPA (pSPA) and Ramsar site and proposed Ramsar site

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species

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Regulations 2017, as amended (the 'Habitats Regulations'). The cabling for the application site is partly within the Teesmouth and Cleveland Coast pSPA, and the development site is in close proximity to the Teesmouth and Cleveland Coast SPA and pSPA which is a European site. The site is also listed as the Teesmouth and Cleveland Coast Ramsar site and proposed Ramsar site.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natural England notes that the HRA has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

**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.

Natural England offers the following additional advice:

**Landscape** - Paragraph 170a of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

**Best and most versatile agricultural land and soils** - Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply the requirements of the NPPF. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in Natural England's Technical Information Note 049.

Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

**Protected Species** - Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

**Local sites and priority habitats and species** - You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 170a and 174a of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geo-conservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural

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Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found here<sup>4</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found on website

Ancient woodland and veteran trees - You should consider any impacts on ancient woodland and veteran trees in line with paragraph 175c of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland/veteran trees where they form part of a SSSI or in exceptional circumstances.

Environmental enhancement - Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 102d, 118a, 170d, 174b and 175d of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 175a of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you may wish to consider off site measures, including sites for biodiversity offsetting. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Access and Recreation: Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails: Paragraph 98 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty: Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available.

Highways England

No objection

PADHI Health & Safety Executive

Does not advise against development

Tees Archaeology

The applicant has provided an archaeological desk based assessment, and a geophysical survey of the northern part of the site. These demonstrate that there has been medieval ridge and furrow on the site, and that there is potential for the survival of archaeological remains from earlier periods. The desk based assessment recommends that archaeological trial trenching is carried out. I support this recommendation, which will enable an assessment of the impact of the proposal on the significance of any archaeological deposits (NPPF para 189). The trial trenching should be carried out prior to determination. I would be happy to give further advice on this matter.

Updated Comments: I spoke to the applicant yesterday regarding these two applications, and I understand that the applicant has not yet carried out the pre-determination trial trenching recommended in my comments of 17 Sep 2018. I appreciate that there is a major time constraint on this application, and I am therefore happy for the trial trenching to be carried out under condition. If further archaeological work is required, this can also be carried out under the same condition. The trial trenching can be secured by means of a model planning condition, which is derived from a model recommended to the Planning Inspectorate by the Association of Local Government Archaeology Officers.

Northern Gas Networks

We object to your planning application. We object to the planning application on the grounds that the protection given to our plant may be diminished by the works you intend to carry out. There are specific building proximity distances for individual pipelines, which are dependent on pre-defined risk levels and the type of development.

Sabic UK Petrochemicals Ltd

The proposed access route falls within the middle consultation zone of the pipeline, I would advise that in terms of the safety and integrity of the pipeline I would advise that SABIC/INEOS is consulted should any work within 50 metres be carried out as this would require our approval prior to work commencing. Recommend the HSE is consulted.

Cleveland Emergency Planning Unit

Having reviewed the associated documentation I can confirm Cleveland Emergency Planning Unit has no objections to the proposals however would like to make the following comment:

Major Accident Hazard Pipelines: The proposed development sits within the Emergency Planning Distance of a number of different pipelines which are classed by the Health and Safety Executive as Major Accident Hazard Pipelines under the Pipeline safety Regulations.

It is recommended that prior to commencement of any construction within the area both the operators of the pipelines and the owners of the Teesside Linklines (above ground corridor through which most of the pipelines run) are given chance to comment to ensure safety of their pipelines. The Major Accident Hazard Pipeline operators within the area in addition to those who have already provided comment are:

- CF Fertilisers UK Limited
- Lucite International
- Sembcorp Utilities

Based on the above I would also suggest a toxic refuge is provided for any construction teams working in the area and that provisions are made for early warning of the workers e.g. providing contact details to pipeline operators / Falck emergency services.

National Grid

National Grid has no objections to the above proposal which is in close proximity to a High Voltage Transmission Overhead Line – Gas Pipeline, Underground Electricity Cable, Overhead Electricity Line, Electricity Substation Site, Electricity Tower

### Teesmouth Bird Club

The actual footprint of the plant itself is a small proportion of the total area designated in the plans submitted. Further, the site is adjacent to, and, in places, is within an area proposed in an extension to the SPA and SSSI. (NE's consultation document of 31/07/18 which displays present and proposed extensions to the Teesmouth and Cleveland Coast SPA and local SSSI sites).

Stockton's new local plan is nearing its emergence and Main Modifications (MM) are presently out for comment. MM 33, p68, para 6.27, has relevance here, along with ENV 5 policy statement. These considerations, along with mitigation and biodiversity enhancement objectives in the present NPPF, surely require that appropriate mitigation measures should be a stated requirement, should the application be approved by Planning.

In keeping with the general habitat of wet grassland and shallow water bodies in the North Tees Estuary, there is an opportunity to replicate and improve the southern sector of this area. Water availability is an acknowledged scarcity in the area, but earlier Google Earth maps of the area show the presence of wet land. The current perception of dryness is largely a feature of the recent very dry summer. If there are no practical options to create useful benefits towards on-site mitigation, then the option of habitat off-setting requires consideration. Whichever option is chosen, there will be a need for ongoing management and its associated costs.

In recent years the grassland element of this site has become important for wild geese, particularly as winter grazing. Large numbers of different species are involved – particularly Whitefronted Geese - a Red Category species. Plant construction and operation should ensure minimal disturbance. Any water management and associated cattle grazing should reflect the requirements of these birds. How these measures are agreed, implemented and funded are matters for the applicant and land owner and outwith the scope of the club's comment.

Updated Comments: The bird club wishes to make the following comments having been just made aware (21/12/18) of the recently notified Habitats Regulation Assessment (HRA), submitted to Stockton Planning. This document, as regards the avian aspects of the application, has, as its main thrust, the facts that the site is largely unmanned; unlikely to disturb component species of the SPA / pSPA in its immediate vicinity; total number of birds are usually few and when actually present in any numbers then those geese present are feral or introduced; ample equivalent and alternative habitat is in the vicinity; in terms of functionality of the SPA/pSPA bird use for feeding, is not significant; locally rare breeding passerine species are not considered.

Thanks to the creation of Saltholme reserve the numbers of wintering geese has greatly increased in the estuary, and this population has drawn in even more birds in the last 10 years. Many of these are greylag geese which the HRA has disregarded as merely arising from reintroductions. The possibility that these may be from the migratory, wintering population of Icelandic origin and be truly wild, has not been considered. Coupled with this, there has been a loss of grassland feeding habitat for geese and curlew in the SPA. This has arisen from the EA's creation of Salterns, new Cowpen salt marsh and ephemeral pools north of Saltholme by the brine reservoirs. For the HRA to claim there is ample adjacent feeding habitat close by, is over simplistic.

Although not listed as a species listed as being functionally significant in the SPA/pSPA, yellow wagtails breed in the wet grassland south of the proposed plant and just north of the pipe line bounding Saltholme Reserve. This species has declined steeply as a breeding bird in the county and in 2018, the only evidence the club has of breeding, was in this very location – all this despite RSPB's efforts on their reserve. The importance of this small wet area is self-evident and the habitat should be protected and managed appropriately. The applicant states that no mitigation is necessary (HRA clause 8.1), presumably because their lease payments are made to TET, whose charitable objectives are concerned with environmental and biodiversification conservation. There are some requirements for mitigation which should become part of any planning consent. These concern management of appropriate cattle grazing and preservation of wetness in the immediate vicinity of the proposed site. The plans for the access road to the site, show it bounded, each side by a cattle proof fence. Access to the southern area for grazing is thus blocked off, and may not take place. The applicant should be required to ensure controlled access is available, either across



the proposed access road or managed via another route to the west of their site – fencing and gating there if required.

The second key element of this area's biodiversity, is wetness. Details of the buried electrical cable to the substation are sparse – other than it will be buried, back filled and have no impact. Whilst this may be the case, scoping details of environmental impacts have not considered the possibility that, post installation, pipelines and service trenches can become unintentional drainage conduits. The possibility is known to exist. The effect upon the wetland could be significant. The applicant should be required to investigate this risk and take appropriate preventative measures.

### The RSPB

Thank you for consulting the RSPB regarding the above detailed planning applications for two identical 49.99MW facilities. These would be situated directly adjacent to each other on land currently leased by the RSPB from Tees Environmental Trust. The proposals sit within the boundary of RSPB Saltholme reserve and in close proximity to habitat that is actively managed for the benefit of wildlife. The RSPB is in the early stages of discussions with the developer to ensure that the development is suitable for the site; that there is a full understanding of its potential impacts and that the development leads to no damage to important sites or wildlife. Whether the development proceeds is dependent upon both planning consent and the RSPB's satisfaction that it meets our internal standards.

The RSPB considers that insufficient information has been submitted to-date in support of the planning applications to allow for a rigorous assessment of the suitability of the proposal and its potential impacts. Details of further information required are provided below. We will be sharing these with the developer and their consultants. Both proposals are considered in-combination.

We consider that the proposal has the potential to impact the following designated sites:

Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site

Teesmouth and Cleveland Coast potential SPA (pSPA) and Ramsar Site

Teesmouth and Cleveland Coast Site of Special Scientific Interest (SSSI)

These sites have year-round interest for both breeding and non-breeding birds. The existing Teesmouth and Cleveland Coast SPA is classified for breeding little tern, passage sandwich tern, non-breeding red knot, passage common redshank in addition to a wintering assemblage of over 20,000 waterbirds. Formal consultation on the proposal to classify the proposed extension of the existing Teesmouth and Cleveland Coast SPA opened on 30th July 2018 and is live at the time of writing. Proposals include adding breeding common tern, breeding pied avocet and non-breeding ruff as new features to the site and include additional wetland areas such as saltmarsh, wet grassland and intertidal areas which are important for other foraging and roosting waterbirds.

The footprint of the proposal is in close proximity to the pSPA, Ramsar and SSSI. In particular, an area known as Pipeline Pools is situated approximately 75 meters to the south. Pipeline Pools has been included within the extension to the protected sites as it is known to support qualifying/notified features. Accordingly, robust assessment is required to ensure that the proposal does not adversely affect the protected sites or their qualifying/notified features.

We consider the submitted Preliminary Ecological Appraisal (PEA) to be limited in scope. We would like to see an improved ecological appraisal which provides sufficient information to allow Stockton Borough Council (as Competent Authority) to undertake a Habitat Regulations Assessment (HRA) (as required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017).

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, requires consideration of the selection criteria for Schedule 2 Environmental Impact Assessment (EIA) development and identification of 'environmental sensitivity'. We note the conclusion of the EIA screening. Specifically that the proposed development does not constitute an EIA development as it is unlikely to give rise to significant environmental effects. We do not consider that sufficient evidence has been submitted to date to allow the Stockton Borough Council to be able to come to this conclusion.

We note the comments submitted in response to the planning application consultations by the Environment Agency (dated 3rd October 2018). Specifically that there are opportunities for the developer to support the Tees Estuary Partnership in delivering environmental improvements in the area as mitigation or compensation for any loss of biodiversity resulting from the development. We also note their recommendation that the applicant proposes a project to provide a net gain to habitat improvement in the local area.

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The RSPB is supportive of (and happy to consider) habitat enhancement proposals and/or those which seek to deliver net gain as required in the National Planning Policy Framework (2018). However, such proposals should make the distinction between (i) mitigation (ii) compensation and (iii) enhancement and be consistent with legal/policy frameworks and proper application of the mitigation hierarchy. Any *mitigation* measures must specifically address predicted impacts on the affected features (habitats and/or species) and/or the ecological functions that they depend upon. Further, the recent European Court of Justice ruling in *People over Wind & Sweetman v Coillte Teoranta C-323/17* requires that mitigation measures cannot be taken into account at the screening stage of a HRA, rather and that these should be considered within an Appropriate Assessment. Regarding impacts to the Teesmouth and Cleveland Coast designated sites, the key issues requiring assessment are:

- Indirect disturbance/displacement by noise or visual disturbance during construction and operation
- Potential loss of habitat by construction or functionally linked feeding habitat
- Impacts upon air quality
- Impacts to bird flight lines
- In-combination impacts

The revised ecological appraisal should be informed by:

- Appropriate breeding bird survey
- Appropriate non-breeding bird surveys
- Vantage point surveys to assess bird flight lines
- Improved disturbance (noise and visual) assessment
- Improved air quality assessment
- Protected species risk assessment and relevant standard surveys
- NERC Act Section 41 priority species surveys

Updated Comments: Thank you for further consulting the RSPB regarding the above detailed planning applications for two identical 49.99MW facilities. This letter is further to our initial response dated 25th October 2018 in which we considered that insufficient information had been submitted to-date in support of the planning applications to allow for a rigorous assessment of the suitability of the proposal and its potential impacts. We have had the opportunity to work with the applicant and review the submitted Habitat Regulations Assessment (HRA) and a letter from the applicant to Natural England dated 18th December. We consider that sufficient information has now been submitted to be able to rule out habitat loss and disturbance impacts to the SPA and SSSI. However, whilst we consider that sufficient evidence has been presented regarding the potential loss of habitat that is functionally linked to the SPA, ongoing bird surveys should continue until the end of the non-breeding season. This will further inform any necessary remedial action which will be covered by the legal agreement between the applicant and Tees Environmental Trust/RSPB. We would also appreciate sight of the following:

. A revised Air Quality Assessment and/or detail of any subsequent correspondence. We understand that sufficient information has been supplied by the applicant to the Environment Agency to address their comments/concerns detailed in their letter dated 3rd October 2018.

. Bird records/reports (and any other biodiversity records). Whilst these have been detailed (and interpreted) in part within the impact assessments, it would be helpful for the reports/records in their entirety to be made available.

We support the production of a Construction Environmental Management Plan (CEMP) and appointment of an Ecological Clerk of Works (ECoW). These should be subject to planning conditions and the CEMP subject to consultation with (and approval by) the RSPB. We had remaining questions regarding the avoidance of impacts from artificial lighting during construction which we consider can be addressed through appropriately designed measures in the CEMP.

NERC 541 Priority Species - We do not agree that sufficient information has been submitted to be able to assess the impacts to NERC Act 541 species. I refer to Section 6 of our 25th October response which deals with the Preliminary Ecological Appraisal. It was our opinion that basing this assessment on habitat suitability alone may not be sufficient for some species and encouraged the applicant to liaise with reserve colleagues to obtain any relevant records/data. However, we consider that our remaining concerns can be addressed through the CEMP and habitat proposals. We provide further detail below.

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NERC S41 Priority Species - Water vole - The wider reserve provides habitat which is known to support a population of water voles. This species and its habitat receive protection under the Wildlife and Countryside Act. Therefore, it will be important to ensure that potential impacts to water vole habitat during construction are recognized and mitigated against. Particular attention should be paid to the area where the proposed underground cabling crosses the ditch system in the Pipeline Pools area. We consider that impacts to water vole can be addressed through appropriately designed surveys and (if necessary) measures undertaken prior to and during construction - to be detailed within the CEMP.

NERC S41 Priority Species - Avian species - The proposal will result in habitat loss/disturbance for breeding 541 bird species and we note that this impact has not been specifically addressed. Natural England's standing advice for local planning authorities to assess the impacts of development on wild birds states that 'where birds are displaced by development, especially Section 41 birds and red and amber listed species, a suitable amount of replacement habitat should be considered.' We note the applicants habitat management/enhancement proposals - please see our further comments on this below.

Peregrine - It is noted that there is an established peregrine territory situated 140m from the proposed development. The applicant states that peregrines may be habituated to a degree of noise due to the industrial nature of the landscape. Whilst this may be true to some extent, if construction starts as planned in April any peregrine nests will already be active. Therefore, as stated within the assessment, it will be important that the CEMP and ECoW ensures compliance with the Wildlife and Countryside Act regarding disturbance to a Schedule 1 species.

Habitat Management, Mitigation and Enhancement Plan (HMMEP) - We consider that impacts to breeding 541 bird species should be addressed through appropriately placed and designed replacement habitat. We note current proposals for habitat enhancement measures to an area of equivalent size to the development footprint, located in fields adjacent to the red line boundary within the farm business tenancy (FBT) land. The location(s), size of area and nature of measures will need to be further discussed and agreed with the planning authority and RSPB. Such measures should normally be in place before any impacts are likely to occur, be of sufficient size to take account of time to maturity/functionality and located sufficiently distant from the proposal or any other potential sources of disturbance. However, we consider that the HMMEP should be designed to deliver measurable net gains for biodiversity. This would be consistent with paragraph 175 (d) of the National Planning Policy Framework. We suggest that the production and agreement of a HMMEP (to the satisfaction of the planning authority and RSPB) is made a condition of planning consent.

### Historic England

On the basis of the information available to date, in our view you do not need to notify or consult us on this application under the relevant statutory provisions, details of which are enclosed.

### Northern Powergrid

Northern Powergrid has considered the proposed development in the context of current loading and availability around Saltholme Grid Supply Point, the Stockton Council area and our Northeast licence area. The substation is a good site for new capacity from a network perspective: it currently has ample capacity for the proposed generator (177 MVA available for generation based upon a reverse power flow capability of 240 MVA and a minimum base demand of 62 MVA). This will see a higher utilisation factor of our assets installed at this supply point and, if there was a significant increase in load at primaries served by this Supply Point, it will defer the need to reinforce assets if medium scale generators, as proposed in these 2 applications, are connected. Any non-intermittent generation scheme of a similar size connected at the same place could also have similar benefits to the network.

Looking forward, we think it is very likely that the combination of general development, the mass deployment of electric vehicles and, where appropriate, the electrification of heat will result in the significant new demand growth across the area.

In serving the regions we operate NPg looks to maintain a robust and reliable network while keeping network costs as low as possible; with this in mind we have committed to tender for non-network solutions as an alternative to significant reinforcement work. Where non-network solutions can cost-effectively defer or avoid capital expenditure on the network in the future, we will be utilising them to meet our customer's needs. As such, assets such as these proposed, connected

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to the distribution system will be at a premium - they will allow for increases in demand to be served while deferring, or even avoiding, the need for new network infrastructure (i.e. new lines, cables or substations). The exact timing of this demand increase is impossible to accurately predict, but given the state of technology, central government policy, climate and air quality drivers we are assuming that the mass roll out of electric vehicles will be underway in the next five years and the electrification of heat will follow. The Committee for Climate Change with Imperial College predict the need for 10's of GW of flexible generation even with modest levels of electrification and further wind and solar deployment.

Given the scale of current and potential new demand in the area several plants of this scale could be needed to fully facilitate this kind of local system balancing. Furthermore, combined with storage, flexible plants of this nature will both facilitate the further deployment of renewable and low-carbon energy (solar, district heat and wind) and support the minimisation of system losses (by minimising the need to move power over long distances).

Given the above, we would judge the proposed developments at this location would yield positive contributions to both local and national climate change and air quality objectives though as part of an emerging smart, flexible energy system that supports decarbonisation and can quickly absorb the deployment of zero-emission vehicles. Given the small number of suitable sites available locally and value this type of development could provide, we think this project should be given careful consideration.

Lastly we have worked with developer on a number of projects and view them positively: they have a strong track-record of successfully and professionally delivering projects bringing them to fruition quickly but properly.

**ADVERT EXPIRY DATE:** 11 October 2018

**SITE NOTICE EXPIRY DATE:** 11 October 2018

### **PUBLICITY**

Neighbours were notified and any comments received are below

#### **Cowpen Bewley Residents Association, Dr Hugh Stitt Orchard House**

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.

### **MATERIAL PLANNING CONSIDERATIONS**

The main material considerations in relation to this application are the principle of development; landscape/visual impact, impact on neighbours, ecology, air quality, noise, drainage and flood risk, highways and any other residual matters.

#### **Principle of Development**

The application site is located outside the limits to development where saved policy EN13 restricts development in the interests of protecting the character and appearance of the area. In this case whilst it is recognised that there are elements of both national guidance and the local plan which

## APPENDIX 1

discourage development that does not need a rural location from locating in the countryside; at the same time the proposed site is adjacent to the Saltholme Electricity Grid substation, which the applicant states is essential for the proposed project.

The applicant states that the proposed development is required to compliment the mix of electricity generation and to meet the Government's objective of maintaining a reliable electricity supply. Once operational, the facility will have the ability to respond rapidly to the short term variations related to local demand and fluctuations in the output from renewable energy sources.

The principal selection criteria applied to this type of project which, needs to be close to adequate substations that have the electrical capacity to export, land that was both suitable and available and located in an area that would not present a problem for either noise or air emissions.

On balance it is considered that the scheme has significant benefits which could outweigh any harm and the planning balance regarding this application is that of landscape and visual impact in an open countryside location against the locational need for the siting of the proposals to generate reserve energy in times of high demand.

### Impact on the character and appearance of the area

The proposed development will be located in an open field adjacent to the existing Saltholme Electricity Substation. From close proximity (A1185), Cowpen Bewley Road and the nearest residential area, Cowpen Bewley; the application site will be viewed against the backdrop of the existing substation and associated pylons.

The design and appearance of the development would be entirely utilitarian with most elements housed within containers or cabins. Full details of colours and finishes could be agreed through condition. The applicant has proposed a significant amount of landscaping to the boundaries of the site which will help screen the generator containers and other plant apart from the exhaust stacks.

The Highways Transport and Design Manager has considered the submitted LVIA and raised no objections stating that the landscape setting can absorb the proposed development and confirm that there may be some positive impacts in terms of an increase in native tree and shrub planting which can be controlled by condition.

Taking the submitted LVIA and the comments from the Council's own Landscape Officer into account, whilst the proposal would be contrary to saved Local plan policies and emerging policy in relation to the limits of development, it is considered that in this instance; given the need for the location adjacent to the substation and proximity to the gas pipeline, that the benefits of the proposed development would outweigh any potential harm which can be mitigated through the use of planting. It is considered that whilst this is a development outside the limits, it would not set a precedent for other proposals to 'close the gap' between this area and the nearby industrial and residential areas given the specialist nature of the proposal and the need for the siting in this area close to the existing electricity substation.

### Impact on neighbours

The development is located a sufficient distance from the neighbouring commercial and residential uses so as not to have an impact and therefore is acceptable in this regard.

### Ecology

The application is supported by an Ecological Survey and a Habitat Risk Assessment.

The submitted survey states that the area was found to be of low - moderate ecological value. Based on these findings various recommendations were made in relation to vegetation clearance and Reasonable Avoidance Measures (RAMs) in relation to great crested newt and reptiles (although there is a low potential). Enhancements to the biodiversity of the site are recommended

in the form of bat and bird boxes and the use of native plant species onsite. A condition has been recommended to ensure that the mitigation measures are implemented.

When considering the European site interest, as a competent authority under the provisions of the Habitats Regulations, the local planning authority should have regard for any potential impacts that a plan or project may have in accordance with the requirements which are set out within the Conservation of Habitats and Species Regulations 2017. There are a series of steps and tests which should be followed for plans or projects that could potentially affect a European site commonly referred to as the 'Habitats Regulations Assessment' process. The tests/screening is set out below;

**STEP 1: Is the project or plan directly connected with or necessary to the management of the site? NO**

**STEP 2: Is the proposal likely to have a significant effect on the site(s) of importance?**

An HRA is a process to determine Likely Significant Effect through Stage 1 screening and (where such likely effects are identified) assess whether there are adverse impacts on the integrity of a Natura Site by means of an Appropriate Assessment (Stage 2).

The Stage 1 Habitat Regulations Assessment which accompanies the application stated that the development has the potential to give rise to significant effects on the qualifying interests of some of the European designated sites identified and therefore adopting the precautionary approach, provided further information to allow an Appropriate Assessment of the project to be completed by the competent authority.

The Appropriate Assessment (Stage 2 HRA) considered the potential for significant impacts arising from the proposed project that would have the potential to adversely affect any European (designated sites of nature conservation interest, particularly with regard to their qualifying interests and conservation objectives. The document considered all impacts and on the basis of the findings the proposed project is not predicted to contravene any of the SPA/pSPA's Conservation Objectives. The HRA therefore concluded, beyond reasonable scientific doubt, that the proposed project will not give rise to significant impacts, either individually or in combination with other plans and projects, in a manner which adversely affects the integrity of any designated site within the Natura 2000 network.

Natural England have considered the submitted documents and confirmed that the proposed development will not have likely significant effects and have no objection to the proposed development. Natural England offers additional standard advice which has been considered and does not pose any additional concerns in relation to the development.

The RSPB agree and consider that sufficient information has now been submitted to be able to rule out habitat loss and disturbance impacts to the SPA and SSSI. However, have requested that bird counts be continued until the end of the non-breeding season to further inform any necessary remedial action which will be covered by the legal agreement between the applicant and Tees Environmental Trust/RSPB (who are the landowners/tenants). Whilst this is noted, this would not be necessary to make the application acceptable, but is in the powers of the RSPB/TET to request this and the request has not been made by the LPA, the RSPB agree with this approach. Copies of documents have been requested and this has been sent to the applicant to action. The RSPB do not agree that sufficient information has been submitted to be able to assess the impacts to NERC Act 541 species. However, consider that concerns can be addressed through provision of a CEMP and a Habitat Management, Mitigation and Enhancement Plan (HMMEP). The need for both to be submitted have been conditioned.

Teesmouth Bird Club, whilst raising no objections have made a number of comments which have been forwarded to the applicant and the landowner for their attention and will form part of the CEMP.

Conclusion: Taking into account the submitted documents and the responses from the Ecology Bodies, it is considered that the proposed development will not have an adverse impact on the

SSSI, SPA and pSPA and the local planning authority adopts the HRA and AA as submitted (Habitats Risk Assessment 18 December 2018 Project Number: SEC8481 by RPS).

### Air Quality

An Air Quality Assessment accompanies the application and states that in the operational-phase, the most important consideration is stack emissions. This assessment predicts that ground-level nitrogen dioxide (NO<sub>2</sub>) concentrations will be within acceptable levels at sensitive receptors and will not give rise to any significant adverse effects. Cumulative air quality impacts are predicted to not result in any significant adverse effects, and no significant effects on sensitive ecological receptors are predicted to occur. The proposed development does not, in air quality terms, conflict with national and local policies. The AQA states that there are no constraints to the development in the context of air quality.

In terms of Air Quality whilst raising no objections, the Environment Agency has confirmed that the air quality modelling shows a predominant wind direction from the west which does not accurately reflect local conditions which are for a principal wind direction from the SW and a smaller peak from the NE. The EA have commented that whilst this may not greatly affect the modelling results, the EP application will need to provide and use accurate weather data.

Whilst the Environment Agency suggest twin tracking the permit and the planning application to ensure pollution can be adequately controlled; this is not feasible for the applicant who is time constrained. Following discussions with the Environment Agency it was confirmed they have no objections to the proposal. Any changes to stack height etc following the assessment of the EP will need further planning consideration and it is not considered that this would be a constraint to the development.

The Environmental Permit will place conditions on the site to control emissions to air (for example a minimum stack height and emission limits) and so, as this will be controlled by another regime, similar conditions should not be requested through the planning process.

### Noise

A noise assessment accompanies the application and confirms that the design of the facility incorporates design mitigation measures to minimise noise levels to the lowest reasonably practicable level and noise is unlikely to result in any adverse impacts.

The report has been considered and no objections raised subject to conditions to ensure that the mitigation measures are adhered to. This condition has been recommended.

### Flood Risk and Drainage

A Flood Risk Assessment (FRA) and Conceptual Drainage Design accompanies the application.

The main development is within Flood Zone 1 and is classed as 'Essential Infrastructure' which will not have an increased risk of on or off-site flooding. Although the main development is within Flood Zone 1, some elements are within flood zones 2 and 3 such as the underground pipe connection and access track. From our understanding of the proposals there will be no ground raising for the creation/improvement of the access track, however for the avoidance of doubt a levels condition has been added to ensure this does not occur without due consideration

The information has been considered by the Environment Agency and the Council's own Flood Risk Management Team who raise no objections subject to conditions which have been recommended.

### Transport

The application site is accessed from the A1185 which has been confirmed as acceptable by the Highways Transport and Design Manager. The site will be generally unstaffed and will not lead to an increase in traffic in the area, however the application is accompanied by a construction management plan which has been considered in full and is acceptable. A condition has been recommended to ensure that the plan is implemented.

### Archaeology and impact on Heritage Assets

Under the Planning (Listed Buildings and Conservation Areas) Act 1990 Local Planning Authorities have a duty to give special attention to the desirability of preserving or enhancing the character or appearance of listed buildings and their settings and the NPPF requires applicants to describe the significance of any heritage assets affected by the proposed development, including any contribution made by their setting. If any harm will be caused as a result of the proposed development, this should be given considerable importance and weight and creates a presumption against the granting of permission.

The application site is located within 1km of the Cowpen Bewley Conservation area and approximately 2.5 metres from the listed transporter bridge. Views of these assets, from and to, would be filtered through trees and hedges and the topography and where visible it is considered that only slight parts of the proposed site would be viewable. It is considered that any harm would be negligible as any views would be seen within the context of the existing substation and electricity transmission lines.

The application is accompanied by a geophysical survey and an Archaeological Desk Based Assessment of the development site which recommends that a series of trial trenches are excavated across the site in order to establish the nature and extent of any archaeological resource present which may be impacted upon.

Tees Archaeology has considered the application and raises no objection subject to a controlling condition.

### Health and Safety Executive.

The HSE does not advise against development but does suggest that the pipeline owners are consulted on the application. Various responses have been received with advice that has been added as informative.

The Gas pipeline was of a concern, however this has been resolved and no objections are now raised. The applicant is in discussions with the pipeline operator to utilise the gas supply.

Teemouth Bird Club have raised no objections but mention the integrity of the pipelines. Each pipeline has an easement and consultations will take place with the pipeline owners before built works commence. This will ensure the integrity of the pipelines are maintained

### Contaminated Land

The contaminated land officer was consulted and raised no objections, however following discussions the unexpected land contamination condition was considered acceptable.

## **CONCLUSION**

Overall it is considered that the proposed development would provide a peaking power generation facility that would support centralised power stations by responding quickly to peak electricity demand. Going forward this would assist in providing a stable and reliable National Grid for both local and national requirements.

The proposal would conflict with policy EN13 and emerging policy in relation to the limits to development, however, in this case as discussed in the main body of the report, the harm would not outweigh the benefits of the development in terms of energy supply and security.

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

### **WARD AND WARD COUNCILLOR**

WARD	Billingham East
Ward Councillor	Councillor Mick Stoker



Ward Councillor

Councillor Evaline Cunningham