

Committee Report

Application No:	DC/19/00997/FUL
Case Officer	Joanne Munton
Date Application Valid	24 September 2019
Applicant Site:	Arlington Energy Infrastructure Land On North Side Of Lead Road (Penny Hill)
Ward:	Crawcrook And Greenside
Proposal:	Variation of conditions 8 (approved plans) and 10 (noise) of application DC/18/01009/FUL (amended and additional details received 15.11.2019).
Recommendation: Application Type	MINDED TO GRANT TEMPORARY PERMISSION Full Application

1.0 The Application:**1.1 BACKGROUND**

The principle of the proposed development has been established through the granting of planning application DC/18/01009/FUL for a temporary period of 25 years. The approval considered issues of Green Belt, visual amenity, residential amenity, air quality, highway safety and parking, ecology and ground conditions.

1.2 Through the consideration of very special circumstances and the imposition of conditions, the development was considered acceptable in all regards and the temporary permission was granted following a referral response from the Secretary of State confirming that they did not wish to call in the application.

1.3 The latest planning application seeks the variation of Conditions 8 (approved plans) and 10 (noise level) of DC/18/01009/FUL. In terms of condition 8, this would be to allow amendments to the proposed layout and elevations, as listed below and shown on submitted plans:

- Removal of the acoustic fence;
- Removal of the CCTV Columns;
- Reduction from 40no. gas generator units to 16no.;
- Reduction from 10no. transformer units to 1no. auxiliary transformer;
- Reduction of the Distribution Network Operator's (DNO) compound;
- Amendment to control room adjacent to 66kV compound to meet DNO requirements;
- Amendment to switchgear building to meet DNO requirements;
- Amendment to welfare cabin to include generator control room and LV room;
- Amendment to the gas governor specifications to meet DNO requirements;
- Inclusion of 2no. neutral earthing resistor (NER) units; and

- Inclusion of 1no. lighting columns to meet DNO requirements within the DNO compound.

1.4 In terms of condition 10, the amended wording would take into account the proposed amendments to the location and number of plant on site, removal of the acoustic fence, the updated British Standards, and clarification of the requirements during night time hours.

1.5 Based on the above, it is considered necessary to consider the application in regard to changes in site circumstance, planning policy and any implication with regard to the amendment of the planning conditions.

1.6 PLANNING HISTORY

DC/18/01009/FUL - Construction of gas powered standby generation plant (as amended 11.01.2019) – Granted Temporary Permission (25 years) - 07.03.2019

2.0 Consultation Responses:

Coal Authority	No objection
Northern Electric Distribution Ltd	No response received (at the time of writing)
Campaign To Protect Rural England	No response received (at the time of writing)
Environment Agency	No response received (at the time of writing)
National Grid Property Holding Ltd	No response received (at the time of writing)
Northern Gas Networks	No objection
Tyne And Wear Fire And Rescue Service	No response received (at the time of writing)
CE Electric UK	No response received (at the time of writing)

3.0 Representations:

Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

No representations have been received.

4.0 Policies:

NPPG National Planning Practice Guidance

NPPF National Planning Policy Framework

CS1 Spatial Strategy for Sustainable Growth

CS13 Transport

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS16 Climate Change

CS18 Green Infrastructure/Natural Environment

CS19 Green Belt

DC1C Landform, landscape and after-use

DC1D Protected Species

DC1E Planting and Screening

DC1H Pollution

DC1P Contamination, derelict land, stability

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV44 Wood/Tree/Hedge Protection/Enhancement

ENV46 The Durham Biodiversity Action Plan

ENV47 Wildlife Habitats

ENV51 Wildlife Corridors

ENV54 Dev on Land Affected by Contamination

ENV61 New Noise-Generating Developments

5.0 Assessment of the Proposal:

5.1 POLICY BACKGROUND/SITE CIRCUMSTANCES

There have been no significant changes to National or Local policy or site circumstances following the granting of application DC/18/01009/FUL in March.

- 5.2 The applicant has confirmed that the amended scheme would have the same capacity as that currently approved (40MW).
- 5.3 In terms of the proposed amendments to site layout and elevations, whilst the amended scheme would result in elements higher above ground level (eg. from previously approved generators at approximately 4.5m high to proposed approximately 6.5m high), overall the site would be more compact/less spread out. It is considered that the proposal in this regard would not affect the conclusions of the original assessment.
- 5.4 The applicant has also submitted an updated Air Quality Assessment; officers concur with the methodology used and the conclusions of the assessment, and the proposed amendments to the plant are considered to be acceptable in this regard.
- 5.5 Further, condition 10 of temporary permission DC/18/01009/FUL requires the following:

The noise rating level from the operation of the plant hereby approved shall not exceed the daytime background noise level, as measured at the façade of any noise sensitive receptor identified in section 5.4 of the Acoustic Report Rev D dated 19.09.2018. The measurements and assessment shall be made in accordance with BS4142:2014 Methods for rating and assessing industrial and commercial sound.

Reason

To safeguard the amenities of nearby sensitive receptors in accordance with policy CS14 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV61 of the Unitary Development Plan.

- 5.6 The applicant has proposed the following amended wording:

The noise rating level from the operation of the plant hereby approved shall not exceed the typical daytime background noise level, as measured at the façade of any noise-sensitive receptor, existing at the time of the granting of planning permission, when assessed in accordance with the methodology set out in BS 4142:2014:+A1:2019 Methods for rating and assessing industrial and commercial sound. Night time operation (23:00 - 07:00) of the facility will be limited to emergency situations as defined by the National Grid.

Reason

To safeguard the amenities of nearby sensitive receptors in accordance with policy CS14 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV61 of the Unitary Development Plan.

- 5.7 Whilst this is considered to be generally acceptable, for clarity, it is recommended that the condition wording be amended to the following:

The noise rating level from the operation of the plant hereby approved shall not exceed the typical daytime background noise level, as measured at the façade of any noise-sensitive receptor, existing at the time of the granting of planning permission (identified in section 4 of the Noise Assessment ref 19-132 dated 12.09.2019), when assessed in accordance with the methodology set out in BS 4142:2014:+A1:2019 Methods for rating and assessing industrial and commercial sound. Night time operation (23:00 - 07:00) of the facility will be limited to emergency situations as defined by the National Grid.

Reason

To safeguard the amenities of nearby sensitive receptors in accordance with policy CS14 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV61 of the Unitary Development Plan.

- 5.8 Although the acoustic fence is proposed to be removed, this condition would still require the development to not exceed typical daytime background noise levels at noise sensitive receptors in any event. Additionally, the condition would clarify when night time operation could take place, thus ensuring noise at night time would be kept to a minimum. It is also noted that the British Standard has been updated since the granting of the original permission; however, the update does not include significant changes that would affect the assessment of the noise levels.

5.9 CONDITIONS

The current application, given it would grant a new planning consent, allows an opportunity to re-consider the conditions and obligations attached to permission DC/18/01009/FUL.

- 5.10 The applicant has submitted further details relating to Condition 1 (Construction Method Statement), Condition 3 (material finishes) and Condition 5 (lighting details).

- 5.11 Condition 1 of permission DC/18/01009/FUL requires:

No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority.

The Statement shall provide for:

- 1. The parking of vehicles of site operatives and visitors;*
- 2. A Construction Traffic Management Plan which includes further details of the management of vehicles arriving at and leaving the site during construction;*
- 3. Storage of plant and materials used in constructing the development;*
- 4. The erection and maintenance of security hoarding;*
- 5. Wheel washing facilities;*
- 6. Measures to control the emission of dust and dirt during construction; and*
- 7. A scheme for recycling/disposing of waste resulting from construction works.*

Reason

To safeguard the amenities of nearby sensitive receptors and to safeguard highway safety and in accordance with policies CS13 and CS14 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV61 of the Unitary Development Plan.

Pre-commencement reason

To ensure that construction details can be approved prior to on-site works thereby avoiding any abortive work and preventing harm to nearby sensitive receptors due to uncontrolled construction and harm to highway safety which could otherwise occur.

- 5.12 A Construction Method Statement has been submitted with this current application, and it is considered that the points in the condition above have been addressed and are acceptable.
- 5.13 It is recommended that an additional condition (condition 2) be imposed requiring that at the end of the construction period, the construction compound is removed and the relevant land restored to its previous condition.
- 5.14 Additionally, the condition relating to construction hours (condition 7) is recommended to be amended to better reflect the hours in the submitted Construction Method Statement.
- 5.15 In terms of Condition 3, details of materials have been submitted with this application and it is considered that these are acceptable. It is recommended that the condition wording be amended to require compliance with the approved details.
- 5.16 Condition 5 of permission DC/18/01009/FUL requires:

Prior to the development hereby approved being brought into use for the first time, details of any external lighting shall be submitted to and approved in writing by the local planning authority.

Reason

In order to safeguard the character and appearance of the countryside, in the interest of the residential amenity of surrounding residents and to prevent harm to local wildlife in accordance with policies CS14, CS15 and CS18 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV46 of the Unitary Development Plan

- 5.17 Lighting details have been submitted with this application. There would be one lighting column approximately 6m high located at the eastern end of the application site, which would be manually operated and only on during service and fault conditions (expected not to exceed 5 days per year). There would also be lighting mounted above doorways with Passive Infrared Sensors (PIR) (ie. activated by motion sensors), which could also be manually operated if required during maintenance or emergency situations. The lighting details are considered to be acceptable and it is recommended that a condition be imposed (condition 4) requiring compliance with the approved scheme.
- 5.18 All remaining conditions (ie. other than those recommended to be amended above and their respective compliance conditions where required) should be reattached to the new consent without modification.
- 5.19 REFERRAL TO SECRETARY OF STATE
The Town and Country Planning (Consultation) (England) Direction 2009 sets out the applicable criteria and arrangements that must be followed for consulting the Secretary of State once the local planning authority has resolved to grant planning permission for certain types of development that are set out in paragraphs 3-8 of the Direction.
- 5.20 The purpose of the Direction is to give the Secretary of State an opportunity to consider using the power to 'call in' an application under section 77 of the Town and Country Planning Act 1990. The use of the call-in power requires that the decision be taken by the Secretary of State rather than the local planning authority.
- 5.21 Paragraph 4 of the Direction states that "Green Belt development" means development which consists of or includes inappropriate development on land allocated as Green Belt in an adopted local plan, unitary development plan or development plan document and which consists of or includes:
- (a) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
 - (b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.
- 5.22 Paragraph 11 of the Direction stipulates that where a Local Planning authority is required to consult the Secretary of State, it shall not grant planning

permission on the application until the expiry of a 21-day period after the Secretary of State acknowledges receipt of the referral.

- 5.23 Granting this application would result in a new permission and it is therefore recommended that the application be referred to the Secretary of State, in accordance with the requirements of The Town and Country Planning (Consultation) (England) Direction 2009 on the basis that the proposal would have a significant impact on the openness of the Green Belt.

6.0 CONCLUSION

- 6.1 Following full consideration of policies contained in the Council's Unitary Development Plan, the CSUSP, national planning policy and all other material planning considerations it is considered that the proposed amendments to the relevant conditions would be acceptable and it is recommended that the development should be granted planning permission for a temporary period of 25 years, subject to conditions.

7.0 Recommendation:

Minded to GRANT a temporary planning permission (for 25 years from the date of this permission), subject to confirmation of no objections from outstanding external consultees, planning conditions and referral of the application to the Secretary of State, and that the Service Director of Communities and Environment be authorised to add, vary and amend the planning conditions as necessary:

1

The approved Construction Method Statement (ref 1898-R001 dated September 2019 and including plans 21330B-0206 rev P6, 21330B-0205 rev P6, 21330B-0204 rev P6) shall be adhered to throughout the construction period for the development.

For the avoidance of doubt, HGVs and LGVs shall turn in the main construction compound only, as shown on plans 21330B-0207 rev P1 and 21330B-0206 rev P6.

Reason

To safeguard the amenities of nearby sensitive receptors and to safeguard highway safety and in accordance with policies CS13 and CS14 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV61 of the Unitary Development Plan.

2

Within 6 months of the end of the construction period, all items, structures, hardcore and any underground apparatus or concrete shall be removed from the temporary compound (as identified on plans 21330B-0204 P6, 21330B-0205 P6 and 21330B-0206 P6 within the Construction Method Statement (ref 1898-R001 dated September

2019) and the relevant land shall be subsequently restored to its undeveloped state.

Reason

To ensure that upon the end of the construction phase the harm to the Green Belt ceases and the visual amenity of the countryside is restored in accordance with the NPPF, policies CS15 and CS19 of the Core Strategy and Urban Core Plan and saved policy ENV3 of the Unitary Development Plan.

3

The materials used in relation to the development shall be in full accordance with the approved materials, as detailed in Schedule 2 of the covering letter ref 5148/kl dated 24.09.2019.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the area in accordance with the NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

4

The illumination of the external areas shall be in full accordance with the details approved in 'Lighting Details (November 2019)' received 15.11.2019, at all times for the lifetime of the development.

Reason

In order to safeguard the character and appearance of the countryside, in the interest of the residential amenity of surrounding residents and to prevent harm to local wildlife in accordance with policies CS14, CS15 and CS18 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV46 of the Unitary Development Plan.

5

The development to which this permission relates must be commenced not later than 3 years from the date that the original temporary planning permission DC/18/01009/FUL, which was granted on 07.03.2019.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

6

The development shall be carried out in complete accordance with the approved plans and documents as detailed below -

21330B-0201 P8
911-PL-04 Rev 7 dated 10.07.2018
21330B-0301 P7
21330B-0405 P3
21330-0400 P2
21330-0402 P1
21330-0403 P1
21330-0406 P1
21330-0407 P1
21330-0409 P1
21330-0411 P1
21330-0413 P1
21330-0414 P2
21330-0415 P1
CRM.349.008.L.D.001 dated 31.08.2018
CRM.349.008.L.D.002 dated 17.12.2018
CRM.349.008.L.D.003 dated 17.12.2018
CRM.349.008.L.D.004 dated 17.12.2018
J3822/A/1/F4 dated 11.09.2019
CRM.349.008.EC.R.001 dated 05.09.2018
CRM.349.008.GE. R.006.A dated April 2018
Noise Assessment (19-132) Rev 5 dated 12.09.2019

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

7

Unless otherwise approved in writing by the Local Planning Authority, all external works and ancillary operations in connection with the construction of the development, including deliveries to the site, shall be carried out only between 08:00 and 18:00 Monday to Friday and 08:00 to 17:00 on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

Reason

To safeguard the amenities of nearby sensitive receptors in accordance with policy CS14 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV61 of the Unitary Development Plan.

8

The noise rating level from the operation of the plant hereby approved shall not exceed the typical daytime background noise level, as measured at the façade of any noise-sensitive receptor, existing at the time of the granting of planning permission (identified in section 4 of the Noise Assessment ref 19-132 dated 12.09.2019), when assessed in accordance with the methodology set out in BS 4142:2014:+A1:2019 Methods for rating and assessing industrial and commercial sound. Night time operation (23:00 - 07:00) of the facility will be limited to emergency situations as defined by the National Grid.

Reason

To safeguard the amenities of nearby sensitive receptors in accordance with policy CS14 of the Core Strategy and Urban Core Plan and saved policies DC1, DC2 and ENV61 of the Unitary Development Plan.

9

The implementation of the approved landscaping details (shown on plans CRM.349.008.L.D.001 dated 31.08.2018, CRM.349.008.L.D.002 dated 17.12.2018, CRM.349.008.L.D.003 dated 17.12.2018, CRM.349.008.L.D.004 dated 17.12.2018) shall be carried out in the first planting and seeding season (October to March) following the completion of the development, and any trees, shrubs or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason

To ensure that the approved landscaping scheme is completed within a reasonable time scale in the interests of the visual amenity of the area and in accordance with policies CS15 and CS18 of the Core Strategy and Urban Core Plan and saved policies DC1 and ENV3 of the Unitary Development Plan.

10

The ecological mitigation measures in Section 5.2 of Ecological Appraisal report CRM.349.008.EC.R.001 dated 05.09.2018 shall be adhered to and carried out in full during any site preparation works and the construction of the development hereby approved.

Reason

In order to avoid harm to breeding birds and reptiles in accordance with policy CS18 of the Core Strategy and Urban Core Plan and saved policies DC1, ENV44, ENV46, ENV47 and ENV51 of the Unitary Development Plan.

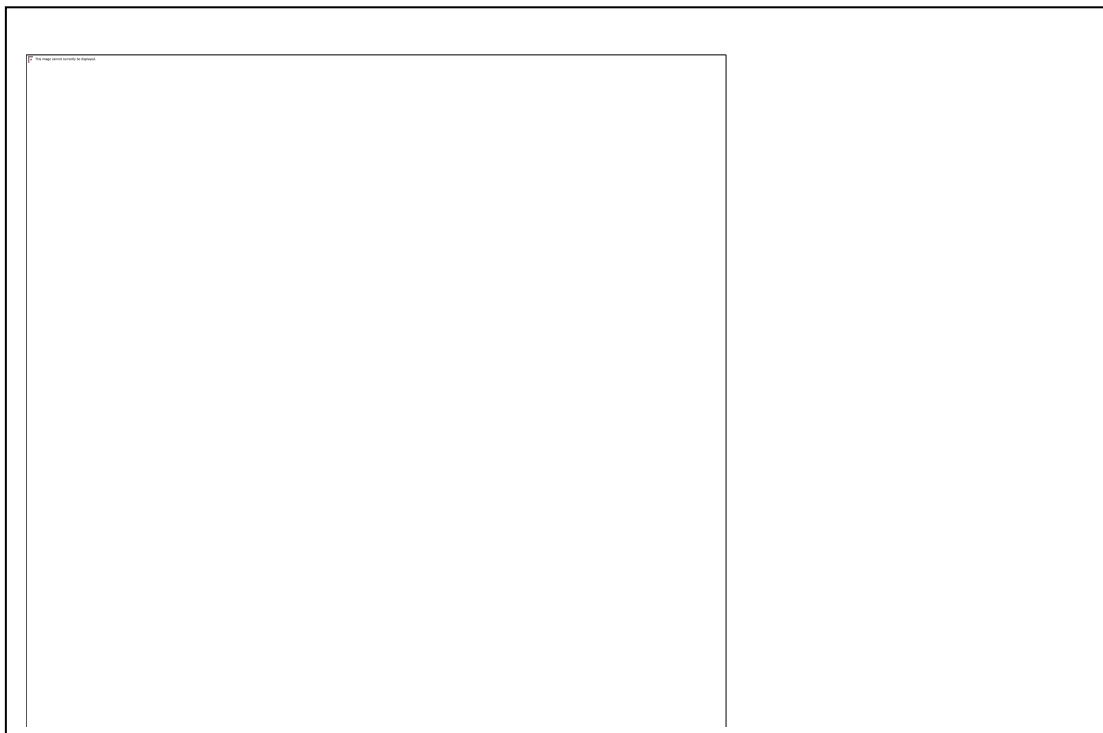
11

Within 25 years of the date of this permission or 6 months of the end of the operational life of the standby generation plant hereby approved

(whichever is soonest) the plant shall be decommissioned, all items, structures, hardcore and any underground apparatus or concrete shall be removed from the site within the red line application site identified on drawing 911-PL-04 Rev 7 dated 10.07.2018 and the land shall be subsequently restored to its undeveloped state in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that upon the end of the operational life of the development the harm to the Green Belt ceases and the visual amenity of the countryside is restored in accordance with the NPPF, policies CS15 and CS19 of the Core Strategy and Urban Core Plan and saved policy ENV3 of the Unitary Development Plan.



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