

Committee Report

Item No: 6B

Reference: DC/21/00357

Case Officer: Lynda Bacon

Ward: Lavenham.

Ward Member/s: Cllr Clive Arthey, Cllr Margaret Maybury

RECOMMENDATION – GRANT PLANNING PERMISSION WITH CONDITIONS

Description of Development

Planning Application - Erection of plant and machinery for development and operation of a standby energy generation facility (resubmission of withdrawn application DC/20/02035)

Location

Land north east of Church Field Road, Chilton Industrial Estate, Chilton Sudbury Suffolk

Expiry Date: 03/09/2021

Application Type: FUL - Full Planning Application

Development Type: Minor All Other

Applicant: Balance Power Projects Ltd

Agent: Mr Robert Gandy

Parish: Chilton

Site Area: 0.18ha

Density of Development:

Details of Previous Committee / Resolutions and any member site visit: None

Has a Committee Call In request been received from a Council Member: Yes

Has the application been subject to Pre-Application Advice: Yes, in connection with previous withdrawn application DC/20/02035.

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason:

The Head of Economy considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council, the extent and planning substance of comments received from third parties, the nature of the proposed use and the district-wide implications.

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PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

The Adopted Development Plan for Babergh District Council comprises the Babergh Local Plan (Alteration No2) 2006 Written Statement with associated Proposals Maps and the Babergh Core Strategy 2014.

The following are considered the most relevant to the determination of this proposal

Babergh Core Strategy 2014:

- CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
- CS03 - Strategy for Growth and Development
- CS04 - Chilton Woods Strategic Land Allocation and Strategy for Sudbury / Great Cornard
- CS13 - Renewable / Low Carbon Energy
- CS15 - Implementing Sustainable Development

Babergh Local Plan Alteration No.2 (2006):

- CN01 - Design Standards
- EM02 - General Employment Areas - Existing and New Allocations
- CP02 - Chilton Cemetery
- TP15 - Parking Standards - New Development

Draft Joint Local Plan Submission Document. 2021 (Reg 22):

- SP05 – Employment Land
- SP09 – Enhancement and Management of the Environment
- SP10 – Climate Change
- LP12 - Employment Development
- LP13 - Safeguarding Economic Opportunities
- LP17 - Environmental Protection
- LP18 - Biodiversity & Geodiversity
- LP19 – Landscape
- LP21 - The Historic Environment
- LP25 - Sustainable Construction and Design
- LP26 - Design and Residential Amenity
- LP27 - Energy Sources, Storage and Distribution
- LP33 - Managing Infrastructure Provision

Now that the Draft Joint Local Plan has reached Reg 22 stage (Submission) it begins to carry some weight as a material planning consideration. In part that weight depends upon the nature of and degree of conflict over issues that are to be explored at the Examination.

The National Planning Policy Framework (NPPF):

The National Planning Policy Framework (NPPF) 2021 contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the development plan unless

material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-taking purposes.

Particularly relevant elements of the NPPF include:

Section 2: Achieving Sustainable Development

Section 4: Decision Making

Section 6: Building a Strong, Competitive Economy

Section 11: Making Effective Use of Land

Section 12: Achieving Well-Designed Places

Section 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change

Section 15: Conserving and Enhancing the Natural Environment.

Section 16: Conserving and Enhancing the Historic Environment.

Other Considerations:

Suffolk County Council- Suffolk's Guidance for Parking (2014 updated 2019)

BMSDC 'Open for Business' Economic Strategy 2018

The National Planning Practice Guidance (NPPG) provides guidance and advice on procedure rather than explicit policy; however, it has been taken into account in reaching the recommendation made on this application.

Neighbourhood Plan Status

This application site is in the Chilton Neighbourhood Plan Area. The CNP area was designated in 2017 and has not materially advanced.

Consultations and Representations

During the course of the application Consultation responses and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

Town/Parish Council

Chilton Parish Council

19 April 2021: We refer you to the detailed objections contained in our letter of 28th February 2021. In summary we maintain those objections for the reasons therein stated and for the additional reasons set out (summarised) below.

Applicant has failed to accurately deal with several of the objections and concerns expressed both by Consultees and members of the public.

St Mary Church is listed Grade 1 listed, not Grade II. The heritage officer considered only the visual impact of the proposed development on the significance of the church and failed to consider the synergistic impacts i.e. the cumulative impacts also of the noise, light and air pollution.

Light pollution remains undealt with and the noise assessment is lacking.

Construction management should not be dealt with by condition.

Commend the recommendation of refusal on sustainability grounds from the environmental management officer.

28 February 2021: Chilton Parish Council objects to this application for the reasons set out below in more detail. We therefore recommend that Babergh District Council refuse planning permission.

In summary we are of the view that:

- a) The application is contrary to policies EM02 and EM24 of the Core Strategy 2014. It constitutes sui generis development outside the plan led process.
- b) Climate change and reduction of greenhouses gases: The development is contrary to BDC policies on climate change and sustainable development and should therefore be refused. Policies CS13 to CS15 form a suite of local plan policies adopted by BDC to reduce greenhouse gas emissions. CS15 lists 19 separate criteria required to constitute sustainable development. This proposed development does not reduce greenhouse gases - quite the contrary -it uses fossil fuels to produce them on a substantial scale so thereby breaches several of the criteria. As BDC adheres to these policies it should refuse permission otherwise it will grant permission contrary to development plan policies.
- c) The development will cause harm to heritage assets contrary to policy CN01 and CN06 of the Local Plan 2006, policy CS4B and CS15 of the Core Strategy 2014, paragraph 196 to 197 of the NPPF and section 66 (1) of the Planning (Listed Building and Conservation Area) Act 1990.
- d) land to the east of St Mary Church is allocated for use as a new cemetery (CP02). The noise, air and light pollution from this proposed development is inconsistent with a cemetery which should be a tranquil and dignified place.
- e) Negative Impact on Amenity: the development will have a negative impact on worshippers at and visitors to St Mary Church and the churchyard, nearby residential premises and on office and retail premises both on existing residents and office/ retail workers and future residents of another proposed development through its visual impact, emissions of carbon dioxide and noise. There will also be significant adverse impact through noise and dust during the construction process of which no details are provided. These adverse impacts will also be experienced by walkers and cyclists using the nearby network of footpaths and restrictive byways. Covid 19 is not an excuse for failing to carry out the required surveys
- f) The Applicant has failed to demonstrate that an adequate investigation into noise impacts has been carried out on or around the site nor adequate mitigation for such harmful impacts.
- g) The applicant has failed to carry out any prior consultation with this Parish council as recommended in the NPPF.
- h) The applicant has failed to provide a landscape character and visual assessment of the impacts of the proposed development.
- i) The applicant has failed to demonstrate that an adequate arboricultural survey has been carried out in accordance with BS 5837:2012 nor adequate mitigation for the loss of trees nor adequate protection for the trees in the tree belt behind the site.
- j) Air quality: The application fails to protect air quality and to reduce carbon dioxide as required by European and National Legislation. Instead to the contrary it produces CO2 emissions and fine particles which cause a deterioration in the air quality.

In arriving at our recommendation, as this development is proposed for the next 25 years which would go into the next Plan period, we also had regard to the emerging joint local plan and its evidence base. This plan is now at a relatively advanced stage (pre-submission (regulation 19) draft). As such the draft policies carry moderate weight. We refer you to SP10 (climate change) LP 21 (historic environment) LP 25 sustainable construction and design, LP 27 (energy sources and distribution).

Sudbury Town Council

Approve.

National Consultee

The Environment Agency

Have reviewed the application as submitted and have no objections.

The thermal rating of the four proposed generators is such that the facility will be classed as a Medium Combustion Plant (MCP) under the Environmental Permitting Regulations. As a result, the facility will require an environmental permit from the Environment Agency before operating.

It is noted that the planning application seeks to enable a maximum permitted operating hours of 2,500 hours per annum to enable the operator to respond to periods of increased demand, if required. This will mean the facility is classified as a Specified Generator. A Specified Generator is an MCP that generates electricity for more than 50 hours per annum.

Historic England

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

Natural England

No objection. Advisory comments offered.

County Council Responses

Archaeological Service

No response received; consultation period has now expired.

Highways

The County Council as Highway Authority recommends that any permission should include standard highway conditions to secure visibility, access, drainage and construction management.

Fire & Rescue

The plans have been inspected by the Water Officer and advisory comments are offered to the applicant in relation to access and firefighting facilities and water supplies.

Public Rights of Way

No response received; consultation period has now expired.

Internal Consultee Responses

Ecology - Place Services

No objection subject to securing biodiversity mitigation and enhancement measures.

Heritage Team

The issues of Heritage Team concern focus on the impacts of the proposed development on the significance of the fine Grade I listed C15th and C16th flint and red brick church to the north.

The site is one of the last green spaces in what is otherwise a very denuded area, almost entirely filled with industrial units, hardstanding and vehicles. The list description for the church states that 'the church stands about 500m south of Chilton Hall in isolation, completely surrounded by agricultural land.' However, whilst the land to the north and east remains agricultural, the land to its south and west has since been almost completely built upon. There is a clear line of development along the north eastern side of Churchfield Road, just south of the church, which now defines the edge of the agricultural land beyond it. This agricultural land continues to play a positive role in the setting - and therefore the significance - of the church. The industrial land to the south and west however does not. Despite the occasional undeveloped parcels of land within the industrial estate, they do not contribute to the significance of the church. The site the subject of this proposal is one such parcel of land, located in between two industrial units on the north side of the road.

The form and scale of the proposed facility is within keeping with its industrial location. In terms of its massing and floor area it is appropriate to its context. Its overall height reflects the scale of buildings located nearby. It is visually quite unattractive and will contribute nothing positive to the setting of the church. Crucially however, by filling the gap and slotting into the existing grain it will not further damage the setting of the church. Therefore, I cannot object to the proposed development. No conditions are necessary.

Environmental Health – Noise/Odour/Light/Smoke

I have had regard to the letter from Enzygo Ltd, dated 28th May 2021.

I note the date and time of the noise survey has been clarified and I would agree that this would be representative of a working day in the area.

BS4142, on which the noise assessment was based, assesses the impact of a 'specific sound' (the sound to be introduced by the development) by subtracting the measured background sound level from the 'rating level' (the predicted sound of the development, plus any penalties for particular characteristics of the noise, such as intermittency). In this case the measured background sound level was 38dBLA90, and the rating level would be 52-54dB LAeq with no penalties and 61-63dB with penalties applied. Either way, this is more than +10dB above the background level and thus, as per BS4142 'an indication of an adverse impact, depending on context' (my underlining).

The letter argues that the penalties given in BS41421 for noticeable characteristics of the new noise source should also be applied to the existing noise climate as this already contains other characteristics (albeit potentially different existing characteristics than that being proposed – examples given in the letter being yard activities and traffic which I would judge to be noticeably different to the likely noise of the power facility). This suggested methodology is not in BS4142, where penalties are only applied to the specific sound (the noise sources being introduced).

Notwithstanding the above, the BS4142 assessment is based on the external environment and my understanding is that the offices do not include specific external amenity space. The indoor noise climate will be more important in this case.

The existing internal noise climate at the offices is predicted 43dB - this is a 'perceptible' increase above the 40dB guidance value given in BS8223) – I am unsure whether this area is zoned for B1 or B2/general industrial use (with potential ancillary B1 use), and this would therefore strongly influence how much weight you would wish to apply to the guidance values in this location. The predicted internal noise climate with the development would be 47dB, which will be a 'perceptible' increase again on the current level, taking it further out of the guidance values range. The question here is one of context in terms of the character of

the area, and the applicant has set out their views on this on page 3 of the letter, which would be a planning judgment.

The letter references the original noise assessment, highlighting that a noise barrier can be installed so as to meet the predicted internal noise levels at the offices, given during the first assessment which is 38dB at ground floor and 40 at first floor respectively. I would suggest that this would secure the internal environment for the adjoining offices and thus a condition to this effect (to include validation, as per my previous response) could be suitable. However, I would request clarification that this predicted noise level would be inclusive of penalties applied, as this is unclear. If you are minded to approve this application then I would be happy to consult further on any condition wording.

Case Officer note – Further to receipt of the above comment, the agent offered a suggested noise levels condition to mitigate sound levels at the façade of the adjacent offices to not exceed 55dB LAeq,1hr. In response, Environmental Protection advise that the condition is to ensure the predicted internal values for the offices, given in the initial noise assessment are met - these being 38dB at ground floor and 40dB at first floor. Assuming a 10dB adjustment for a partially open window this would equate to external levels of 48dB and 50dB respectively. It is therefore recommended that the agents suggested condition is amended to mitigate sound rating levels to not exceed 50dB LAeq,1hr instead.

Environmental Health - Land Contamination

I can confirm that I have no objection to the proposed development from the perspective of land contamination. I would only request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that specified minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Environmental Health - Air Quality

Should the planning authority seek to approve the scheme then we would recommend strongly that the operation is conditioned to limit its operation to 2500 hours per year, which is the basis of the model on which the assessment by AQC was based. It should also be noted that it is not the role of the planning system to seek to condition the development with respect to emissions as this will be dealt with by the Environment Agency at the point of the permit application. We are merely establishing that a development of this nature may be an acceptable use of the land and in this case the fact that the development will not result in an exceedance of LAQM objectives would indicate that the site is suitable for the proposed use.

Environmental Health - Sustainability Issues

My previous responses to this application have been based on the Council's declaration of a Climate Emergency with an aspiration to achieve Carbon neutrality for its own portfolio and to influence other activities in the District to do likewise.

The applicant has provided evidence to show that maximum annual amount of gas to be consumed is approximately equivalent to the demand from two average sized new built properties. The electricity generated will meet the demand of over 22,000 homes for an hour based on using 0.33 kW per hour.

The applicant has provided evidence as to the need for this development in this location at the present time. Also, the necessity for gas-peaking facilities such as this to provide the UK electricity network with sufficient resilience to maintain electricity supply at peak demand until the network is fully decarbonised. This results in the application being for a temporary period of approximately 20-25 years.

Historically the premium provided by the National Grid and the District Network Operator to pay for this peak generation is reviewed every two and five years respectively by those organisations. It will reduce accordingly as the peak demand for fossil fuelled generation reduces and the grid decarbonises. Therefore, the requirement for this sort of development will reduce and eventually disappear.

Therefore, I have no objection to this application. However if Planning does permit, I would suggest a condition linked to a review of the development on a regular basis every five years to ensure that the generation is discontinued when there is no longer a demand for it within the temporary period of 20-25 years suggested.

Economic Development

No response received; consultation period has now expired.

Other Consultees

Sudbury Society Planning Group

The Sudbury Society writes in support of this application on the assumption that the installation will meet noise and pollution standards for this type of installation.

This support is based upon the fact that electricity from renewable sources (chiefly solar and wind) is intermittent and this project is required to cope with demands for power at peak periods to prevent power outages.

The concerns of local interests over issues of noise and pollution should be a condition of any approval.

Suffolk Preservation Society

SPS acknowledge that the setting of the church is seriously compromised by the industrial development to the south and that the proposals are effectively infilling an undeveloped plot within this industrial area. Moreover, the intervisibility between the church and the site is currently limited due to intervening off-site trees.

However, saved local plan policy CP02 sets out plans to extend the churchyard to include the land immediately to the north of the site. This will bring those visiting the churchyard, and therefore experiencing the heritage asset, into very close proximity to the power plant. Acoustic fencing has been proposed between the site and the neighbouring offices but no such installation is proposed between the site and the public footpath to the rear.

Therefore, while changes to the proposed scheme reducing the number of generators and an increase in separation distance to the neighbouring office is welcome, SPS continues to be concerned regarding the lack of acoustic fencing to the north boundary and reduced tree screening in the winter months. These will undoubtedly impact the enjoyment of the PROW and the experience of those visiting the church and are material to the consideration of this application.

Churches Conservation Trust

No response received; consultation period has now expired.

B: Representations

At the time of writing this report at least 84 letters/emails/online comments have been received. It is the officer opinion that this represents 84 objections. A verbal update shall be provided as necessary.

Grounds of objection are summarised below:

Noise pollution

Air pollution

Light pollution

Creates carbon emissions contrary to Suffolk Climate Change Partnership Action Plan

Contrary to UK Government and BMSDC zero-carbon policy

Contrary to NPPF and Policy CS13, CS15

The unmanned facility will not provide employment on a designated employment site

Visual impact

Heritage setting impact (Grade I listed church)

Wildlife impact

Impacts operation of adjacent businesses

Overshadowing and loss of light

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

RELEVANT PLANNING HISTORY

REF: DC/20/02035	Planning Application. Erection of plant and machinery for development and operation of a natural Gas Fired Electricity Reserve Facility (GFERF).	DECISION: WITHDRAWN 21.07.2020
REF: B//00/01310	Construction of new vehicular access and parking area.	DECISION: GRANTED 10.10.2000
REF: B//90/00251	Erection of factory and research and development buildings (Class B1) with associated car parking, construction of vehicular access and vehicle turning areas.	DECISION: GRANTED 02.10.1990
REF: B//92/01333	Erection of workshop for maintenance of coaches and buses with construction of vehicular access and associated parking.	DECISION: REFUSED 05.04.1993

PART THREE – ASSESSMENT OF APPLICATION

1.0. The Site and Surroundings

1.1. The subject land, comprising a vacant 0.18ha plot, is located on the northern side of Churchfield Road within the Chilton Industrial Estate. The estate is on the eastern fringe of Sudbury, approximately 2km to the north-east of the town centre. The site is in an established employment area, designated as a General Employment Area by Saved Policy EM02. The surrounding area includes an industrial estate, mainly made up of industrial, commercial and office units, including warehouse-style retail units. To the north is open countryside, comprising fields in arable use. The

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nearest residential properties are some 500 metres to the south, west and northeast, with the exception of Grange Farm which is some 200 metres to the east.

- 1.2. An 11ha site to the north-west (some 200 metres away at its closest point) is subject to a currently undetermined outline planning application for up to 166 residential dwellings and care home for up to 60 bedrooms (DC/20/01094).
- 1.3. The Grade I listed St Mary's Church is located 50 metres north of the site. The site is not in a Conservation Area and the trees on the site are not protected by a Tree Preservation Order.
- 1.4. A public footpath runs along the north-western boundary. The site is in Flood Zone 1.
- 1.5. The site does not fall within an Air Quality Management Area (AQMA).
- 1.6. The site adjoins land designated by saved Policy CP02 for the Chilton Cemetery extension, the cemetery extension was designated in 1995 but has not yet been developed.

2.0. The Proposal

- 2.1. The application seeks full planning permission for the development of a standby energy generation facility, or 'peaking plant', comprising 3no.containerised electricity generators connected to the mains gas grid. These are located within a secure compound, along with associated infrastructure including electrical switchgear and centralised control room, gas conditioning unit and a battery storage unit, together with a DNO (Distribution Network Operator) building.
- 2.2. The submitted Planning Statement explains that, during peak demand periods for electricity in the area, the facility would be called upon by National Grid to combust natural gas from the mains grid to generate electricity, which is exported to Sudbury Primary, located off the B1115 Waldingfield Road. The facility would only operate when called upon to contribute to balancing the Grid and reducing blackouts/ brownouts. The technology proposed for the combustion plant on site is capable of rapid start up and shut down times - enabling local supply to meet peak demand quickly and to flexibly manage the intermittency associated with renewable forms of generation. Peak demand periods are anticipated to be 07:30 - 09:00 and 16:00 – 20:30, with higher operating hours during the winter months. Maximum permitted operating hours of 2,500 hours per annum are proposed, with the anticipated operational hours of the facility most likely to be around 50 per cent of the maximum.
- 2.3. The submitted Planning Statement goes on to detail the benefits of the proposed development as:

Helping to ensure a constant supply of electricity, even during peak hours or when larger power stations go offline;

Reinforcing local, regional electricity supply, through the DNO (Distribution Network Operator) which will receive the electricity generated and distribute it within the region, where it is most needed;

Providing highly efficient power, as electricity from power balancing facilities is used to supply the local distribution network. As such, transmission losses which may otherwise occur can be largely avoided;

Providing flexibility which is a key advantage of such facilities. The facility would be turned on or off as required, thus reducing wastage when energy is not required; and
Providing a 'dense' form of energy in that the proposed development occupies a very small amount of land, and the land requirement per MW is much lower than other types of energy generation. Therefore, the development represents an efficient use of land.

- 2.4. The facility would not require any employees, with the National Grid controlling it remotely. The site would be visited on a bi-weekly basis for planned maintenance inspections.
- 2.5. Plant construction would take six months, restricted to 08:00 to 20:00 Monday to Friday and 08:00 to 17:00 Saturday.
- 2.6. The plant is industrial in appearance, featuring steel flues to a maximum height of 6.5 metres.
- 2.7. Perimeter fencing comprises a mix of 1-metre-high post and rail fencing (site frontage), 2.4-metre-high security mesh type steel fencing, 4-metre-high timber fencing and 5.5-metre-high acoustic fencing on the northwest side of the generators in the rear half of the site. The applicant intends to retain as many of the established site boundary trees as possible for screening value. Low earth mounds (up to 1 metre-high) are included, to provide translocation and hibernation areas.
- 2.8. No site lighting is required. Downward pointing access lights will be provided at each module.
- 2.9. A new vehicle access central to the Churchfield Road frontage is proposed, along with two parking spaces on the site for maintenance vehicles.

3.0 Key Issues

- 3.1. The key issues for assessment are as follows:
 - (a) Does the facility represent a sustainable form of development?
 - (b) The impact on the character and appearance of the area,
 - (c) The impact on the setting of the Grade I listed St Mary's Church,
 - (d) The impact of noise and light emissions on neighbouring occupiers and environment,
 - (e) The impact on air quality,
 - (f) The impact on highway safety,
 - (g) The impact on local biodiversity values,
 - (h) The acceptability of establishing a low employment generating use in a designated employment generating area.

4.0 Sustainability

- 4.1. It is acknowledged that the peaking plant would be powered from gas which would create carbon. The applicant has provided additional information in the form of a Briefing Note, which explains:

The proposed development would utilise **17,642 kWh** of gas and generate **7.56MW** of electricity which equates to **887kg** of carbon per hour in operation. An average household in the UK uses between 8,000 and 17,000 kWh of gas per annum or 22 - 46.5 kWh per day. **7.56MW** provides enough electricity for over **22,909 homes** for an hour.

If planning permission were granted it is expected that a suitably-worded planning condition would be attached to the permission limiting the hours of operation to a maximum of **2,500 hours** of peaking per annum. This equates to **2,217,500kg** of carbon per annum. Please note it is highly unlikely that the maximum hours would be utilised.

The application is for a temporary period of around 20-25 years and is fully reversible.

The Briefing Note advises that the carbon created would be very small against the existing carbon emissions (less than 2% of domestic residential heating and car emission) of the District.

- 4.2. The Briefing Note goes on to provide an overview of the policy context for energy generation and, in particular, the UK's energy strategy up to 2050. The Briefing Note refers to the UK Government's Energy White Paper - *Powering Our Net-Zero Future 2020*, which builds on the Prime Minister's Ten Point Plan for a green industrial revolution. The white paper addresses the transformation of our energy system, promoting high-skilled jobs and clean, resilient economic growth, as net-zero emissions by 2050 is delivered. The Briefing Note offers the following commentary:
- 4.3. Page 43 of the White Paper states:
"While we are not planning for any specific technology solution, we can discern some key characteristics of the future generation mix. A low-cost, net-zero consistent system is likely to be composed predominantly of wind and solar. But ensuring the system is also reliable, means intermittent renewables need to be complemented by technologies which provide power, or reduce demand, when the wind is not blowing, or the sun does not shine. Today this includes nuclear, gas with carbon capture and storage and flexibility provided by batteries, demand-side response, interconnectors and **short-term dispatchable generation providing peaking capacity**, which can be flexed as required." (Applicant's emphasis).
- 4.4. Peaking capacity is defined in the White Paper as "Electricity generators that don't normally operate but are ready to do so at times of peak demand or low generation".
- 4.5. Page 44 of the White Paper states:
"By 2050, we expect low-carbon options, such as clean hydrogen and long-duration storage, to satisfy the needs for peaking capacity and ensure security of supply at low cost, likely eliminating the reliance on generation from unabated gas."
- 4.6. The applicant contends that the above clearly suggests that by 2050 (which is the target for a net-zero energy mix) technologies other than gas (which currently provides peaking capacity) will be able to satisfy peaking needs. However, in the interim, gas peaking capacity is required by developments such as that proposed whilst the technology for fully renewable energy sources is developed to a point where they can be solely relied on for a robust energy supply. A proposed 25-year lifespan for this application displays how the facility fits and is necessary as part of the wider UK energy strategy at this point of time.
- 4.7. Page 44 of the White Paper goes on to refer to low-carbon peaking capacity as a means to support the deployment of clean electricity technologies in future systems. The applicant's Briefing Note explains that peak generation such as that proposed is considered low carbon when looking at the cumulative reduction in the wider energy mix; that the implementation of decentralised peaking reduces the need for larger scale gas power plants producing energy in bulk and thus speeds up their decommissioning process and that the reference above to low-carbon peaking in the context of the wider narrative, therefore fully accords with the aims of the UK Government.

- 4.8. Page 72 of the White Paper refers to gas in the following context:
“Balancing supply and demand become more complex because most renewables are, by their nature, intermittent and generate electricity only when the wind blows or the sun shines. Gas-fired power stations have traditionally provided the flexibility needed to match supply and demand at peak hours, or when renewables output is low. Increasingly, flexibility will come from new, cleaner sources, such as energy storage in batteries, increased interconnected capacity from neighbouring electricity markets, or from consumers using smart technologies to reduce how much energy they use or shift when they use the energy to different times in the day. New forms of flexibility could lower future costs for consumers, by minimising expensive network reinforcement or reducing the need for additional generation, especially peaking capacity which needs to be deployed quickly to meet spikes in demand”.

The applicant contends that the above is again speaking of gas in relation to peaking in a similar way as on page 44 (as above). It is recognised that peaking will eventually come from cleaner alternative sources, but to meet the 2050 targets, technologies need to evolve. Since gas peak standby generation constitutes as ‘low-carbon’ in the wider energy strategy, the proposed development complies with the UK Government’s Energy White Paper approach.

The applicant sums up by advising that the UK Government has accepted the role of energy peaking to facilitate the transition of the UK to a country reliant on low-carbon energy production. As noted, renewable and sustainable energy production methods are intermittent, relying on external factors such as daylight hours or wind. As such, they are reliant on peaking facilities to “top up” energy at times of peak demand. Critically, the Government has clarified that in the future, the peaking facilities will come from renewable sources; however, they have acknowledged the role of low-carbon gas peaking to facilitate this transition. As such, low-carbon gas peaking facilities are considered to be ‘low carbon’, as expressed by the Energy White Paper, because of their role in transitioning to renewable sources.

- 4.9. NPPF paragraph 158 advises:
When determining planning applications for renewable and low carbon development, local planning authorities should:
- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
 - b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Note – the NPPF defines low carbon technologies as those that can help reduce emissions (compared to conventional use of fossil fuels).

- 4.10. The applicant has also referred to the National Policy Statements for Energy (NPSs EN1) and, whilst not relevant to the determination of this application, (it is not for a Nationally Significant Infrastructure Projects or NSIPs) and is currently under review, this somewhat dated document (published in 2011) stresses the importance of back-up capacity to support the transition towards renewable energy.

- 4.11. In terms of adopted local plan policy, on the face of it a gas-powered peaking plant (in isolation of its wider role), conflicts with the aims of Policy CS13 of the Core Strategy (2014), which requires new development to minimise dependence on fossil fuels. This said, policy CS13 also offers support for proposals that include on-site low or zero-carbon technologies.
- 4.13. Policy CS15 is a long, wide-ranging, criteria based policy, setting out how the Council will seek to implement sustainable development in relation to (amongst other things) respecting the landscape and heritage assets; protect or create jobs and sites to strengthen or diversify the local economy; protect and enhance biodiversity; and address climate change through design, adaptation, mitigation and by incorporating or producing sources of renewable or low-carbon energy.
- 4.14. Policy CS13 is consistent with the NPPF and carries full weight, Policy CS15 carries reduced weight because the policy itself does not include the balancing exercise required by paragraph 202 of the NPPF (in relation weighing heritage harm against public benefits). However, as the proposal has been assessed as not harming the setting of St Mary's Church, the balancing exercise is not triggered and therefore the reduction in weight applied to Policy CS15 is slight.
- 4.15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 4.16. In the wider sense, the material considerations against which conflict with Policy CS13 and CS15 should be balanced, is the Government White Paper support for the transition to renewable energy in the longer term, which will allow for a more efficient use of existing energy generation. As observed by the Sustainability Officer, the facility is essentially an interim measure, maintaining electricity supply at peak demand until the network is fully decarbonised in the future, hence the proposal is considered to support the transition to renewable energy production. It is anticipated that the operative life span will be 20-25 years. The Sustainability Officer is of the view that the requirement for the type of development currently proposed will reduce and eventually disappear. On this basis the Sustainability Officer does not object, provided a monitoring condition is attached to any permission granted so as to ensure the generation is discontinued when there is no longer a demand for it within the temporary period. The recommended conditional approach is supported.
- 4.17. For the reasons above, any conflict with Policy CS13 and CS15 is not considered fatal to the application, given the particular nature of the operation proposed and its wider role in the transition to energy from renewable sources.
- 4.18. A further material consideration is the Council's declaration (along with its Suffolk Climate Change Partnership (SCCP) partners) of a Climate Emergency with an aspiration to achieve Carbon neutrality for its own portfolio by 2030 and to influence other activities in the District to do likewise. However, it is important to note that this declaration is afforded limited weight insofar as its aims exceed the requirements of Policy CS13.

5.0. Design and Layout

- 5.1. Saved Policy CN01 states that all new development proposals will be required to be of appropriate scale, form, detailed design and construction materials *for the location*. The subject location is an established industrial estate.

5.2. The design and appearance of the development is, owing to its industrial function, clearly utilitarian. Surrounded by proposed high fencing, and with the built form featuring projecting steel flues, the design would do little to enhance the street-scene. However, the location comprises an established industrial estate with an eclectic mix of buildings and styles; some have a more distinguished appearance, whereas others are clearly industrial buildings and offices that are 'of their time'. In general terms, the industrial and commercial uses of buildings dictate the predominantly large-scale business character of the area. As noted by the Heritage Officer, the form and scale of the facility is in keeping with the industrial location, with its massing and floor area appropriate to its context and its overall height reflecting the scale of nearby buildings. An overtly industrial-looking development in an established industrial setting is an acceptable planning outcome, one consistent with the requirement of saved Policy CN01.

6.0. Heritage Character

6.1. The site is 50 metres south of the Grade I listed St Mary's Church. The Heritage Officer has considered the potential impact of the development on the church's valued heritage setting. The Heritage Officer is of the view that the subject plot, like other undeveloped plots in the industrial estate, does not contribute to the significance of the church. For this reason, the Heritage Officer concludes that the development will not damage the setting of the church, does not object to the scheme nor suggest any conditions that would otherwise be required to mitigate heritage harm. On this basis, the proposal is not considered to conflict with local or national heritage policies.

6.2. The Sudbury Preservation Society notes the intention to extend the St. Mary's Church churchyard, as signalled through saved Policy CP02. The Society is concerned with the impact of the development on future visitors to the extended churchyard, in particular the lack of acoustic fencing and reduced tree screening (in the winter months) to the site's rear boundary. Given the extent of existing vegetation adjoining the site's rear boundary, the overall size of the cemetery extension in relation to the application site, the intervening public right of way and the intermittent nature of the generators, Officers do not consider it necessary or reasonable to require additional acoustic measures or vegetation screening to the site's rear boundary.

7.0. Noise and Light Emissions

7.1. Several objectors raise concern with the potential for light pollution. The reality is that the facility will emit less light at night than most commercial uses, arguably less than a usual domestic arrangement. As stated in the application, no site lighting is required. The only external lighting involves discrete downward-pointing access lights at each module. The level of illumination from the access lights is unlikely to result in any light pollution that would be of a level considered unreasonable or unacceptable in planning terms. This said, it is important that the access lighting details are submitted to ensure the lighting effects are managed appropriately and a condition is recommended accordingly. This suggested conditional approach is consistent with the advice provided by the Environmental Health Officer.

7.2. The application is supported by an acoustic assessment (Noise Assessment: Sudbury Standby Energy Generation Facility January 2021) based on BS4142, which includes a noise survey undertaken on a working day. The acoustic analysis is predominantly focused on the impact of noise generated by the development on the adjacent office building. The assessment recommends a 5.5-metre-high acoustic barrier in order for the development to provide an acceptable level of amenity for occupiers of the office building. The assessment has been reviewed by the Environmental Health Officer, who agrees with the assessment recommendations. The Officer

considers that the acoustic barrier details, in respect of acoustic performance and construction, should be submitted to Council for approval prior to installation, and that validation of these details, once constructed but prior to the facility becoming fully operational, should also be conditioned. Officers agree and specific wording of such conditions will be agreed with the Environmental Health Officer, should members be minded to grant planning permission.

- 7.3. Officers are confident, subject to the submission of details that are to the satisfaction of Council's technical consultees, that light and noise emissions from the facility will not unacceptably compromise the amenity of neighbouring occupants, either of commercial, industrial or more distant residential premises.

8.0. Air Quality

- 8.1. The application is supported by an Air Quality Assessment that has been reviewed by the Environmental Management Team. The assessment demonstrates that the hourly mean nitrogen dioxide objective will not be exceeded at any relevant receptor, with the impacts of the scheme in relation to short-term concentrations judged to be 'not significant.' In terms of annual mean nitrogen dioxide concentration, the report concludes that the impacts are 'not significant.' The effects on ecological designated sites have been assessed as 'not significant.'
- 8.2. The existing air quality at the development site is generally good according to background maps provided by DEFRA and it is against this background that the impact of the proposed scheme needs to be assessed. It should also be noted that the nearest relevant receptors (as defined by the technical guidance provided by DEFRA) are about 500 metres from the development site – it should be noted that the Local Air Quality Management (LAQM) guidance does not regard offices as relevant receptors unless there are members of the public regularly present and in this case it would seem as though this is not the likely.
- 8.4. The development would naturally, by virtue of its operation, increase air pollution in the area as any development would do, but this in itself should not serve to prevent development. However, the background levels in the area are such that this development is highly unlikely to result in an exceedance of the government objectives either as an hourly mean or an annual mean.
- 8.5. It should also be noted that the detailed control of emissions would be subject to an Environmental Permit for which the Environment Agency is the enforcing authority. The Environment Agency has confirmed that it has reviewed the application and has no objections.
- 8.6. Furthermore Section 187 of the NPPF states that "The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."
- 8.7. It should also be noted that it is not the role of the planning system to seek to condition the development with respect to emissions as this will be dealt with by the Environment Agency at the point of the permit application. The LPA is merely establishing that a development of this nature may be an acceptable use of the land and, in this case, the fact that the development would not result in an exceedance of LAQM objectives would indicate that the site is suitable for the proposed use.

8.8. The Environmental Management Team does not object to the scheme, having regard to the conclusions reached in the Air Quality Assessment, provided the operation is limited to 2500 hours per annum. The condition is supported, noting the applicant has suggested this maximum limit.

9.0. Highway Safety

9.1. The centrally-located vehicle access does not raise any highway safety issues. There would be negligible traffic generated by the development, with only the odd maintenance vehicle frequenting the site. The Highway Authority does not object to the scheme of works. The proposal is highway-safety compliant, with no conflict with the development plan identified.

9.2. Chilton Parish Council is of the view that construction management should not be dealt with by condition. In other words, these details should form part of the application and be assessed at this stage of the approvals process. Officers do not concur. There is nothing atypical about the site characteristics or broader context (including the local road network) that demands a departure from well-established industry practice, which is to condition construction management details. A standard construction management condition is therefore recommended.

10.0. Biodiversity

10.1. The supporting ecology report (Enzygo Ltd, January 2021) has been reviewed by Place Services, who do not raise an objection subject to the mitigation and enhancement measures recommended in the report being implemented. Mitigation includes translocation of the Common Lizard that is present in the site to an identified receptor area to the north-west of the site, providing an improved habitat space for the reptile population. Further details regarding the translocation scheme are secured by condition as suggested by Place Services. Enhancement measures include landscape planting with native species, bird nest boxes and wildlife refuges in the form of informal deadwood hibernacula at site boundaries. The supporting ecology assessment confirms that the recommended minor enhancements in combination with the outlined mitigation measures will demonstrate an overall net gain for biodiversity.

11.0. Employment Generation

11.1. Many objectors note that the subject development is not an employment generator as it will be largely operated remotely. The employment is limited to occasional maintenance visits by contractors. The site is in a General Employment Area where Saved Policy EM02 supports all employment related development in principle. The policy does not state that non-employment generating industrial uses will not be supported. The text accompanying the policy explains that "Land allocated as General Employment Areas embraces all employment types defined in classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)". Therefore, and in principle, Class B1, B2 or B8 uses would be appropriate here – noting that Class B8 encompasses storage uses, which are typically low employment generators too.

11.2. The submitted Planning Statement explains that, once operational, no staff would be based on site, as the facility will be managed remotely, but the site will be visited on a bi-weekly basis for planned maintenance inspections. Although the development would not provide direct employment, it would indirectly contribute to employment within the development and installation of the equipment used on site. Standby energy generation is a growing sector, and the development would contribute to the continued growth of this sector, and the employment associated with this. In addition, a good

and reliable supply of energy is essential for a strong economy and economic growth. By contributing to a reliable supply of energy, the development would contribute towards long-term economic growth and associated employment. As energy generated by the development would be supplied to the Distribution Network Operator (DNO), the energy would be distributed within the region, and thus contribute to economic growth and employment locally. In the wider sense, the application does not conflict with Policy EM02.

- 11.2. If it were policy that non-employment generating *industrial* uses were to be resisted in industrial areas, perverse planning outcomes would result, as they would have to locate in more sensitive, non-industrial locations. Officers cannot envisage a less sensitive location for the type of industrial use that is proposed than within an established industrial estate. The proposal may be a very low employment generator, if at all; however, this element of the scheme is not fatal to the application.

PART FOUR – CONCLUSION

12.0. Planning Balance and Conclusion

- 12.1. Gas peaking facilities continue to have a critical role to play in the medium term in the UK energy market. This is expressly acknowledged in the UK Government's Energy White Paper: Powering Our Net-Zero Future 2020. The facility is carbon generating; however, it is an interim arrangement, maintaining electricity supply at peak demand only until the energy network is fully decarbonised. The need for the facility will diminish over time and ultimately will disappear. The life span is 20-25 years and it is recommended that this is conditioned accordingly, along with a five-yearly monitoring regime in respect of the continued need for the facility. The Sustainability Officer raises no objection to the scheme provided such conditions are attached to any permission.
- 12.2. In addition to the Sustainability Officer's 'no objection', it is noted that the scheme is not subject to any outright objection from the extensive number of local technical consultees, which include SCC Highway Authority, SCC Ecology, Land Contamination Officer, Environmental Management and Protection Officers, Heritage Officer and the Council's ecology consultant. There is also an absence of objection from national consultees, including the Environment Agency, Historic England and Natural England.
- 12.3. In the absence of consultee objections, it is not appropriate to sustain a line of resistance to the application in respect of the technical matters of noise, light, air quality, highway safety, ecology and heritage. The development's impacts on these matters is deemed low.
- 12.4. The proposal is an industrial operation set within a well-established industrial estate, in a sustainable "edge of town" location and on an undeveloped infill plot. It may not be a high employment generator, but this is not a sufficient reason to withhold planning permission given the particular nature of the development proposed. To locate the facility outside of an industrial estate would likely give rise to significant land-use planning challenges, given the likely heightened sensitivity of alternative locations; issues that are almost entirely avoided at the subject location.
- 12.5. Subject to the imposition of appropriately-worded conditions, the development would result in an acceptable planning outcome, one that sufficiently accords with relevant development plan policies as well as national planning policies. Planning permission is, therefore, recommended.

RECOMMENDATION

That the application be GRANTED planning permission and include the following conditions:

Standard time limit
Approved Plans
Maximum peaking 2,500 hours per annum
Temporary period 25 years
Removal and restoration after use
Five-year demand monitoring
Highways – visibility
Highways – access
Highways – drainage
Construction management
Landscaping
Landscaping implementation
External lighting details
In accordance with Ecology Report
Reptile Method Statement
Landscape and Ecological Management Plan

And the following informative notes as summarised and those as may be deemed necessary:

Proactive working statement
SCC Highways notes
Support for sustainable development principles
Requirement for Licence from the EA