

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/17/03466/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Construction and operation of a Reserve Power Plant and associated infrastructure
<b>NAME OF APPLICANT:</b>	Mr Davies
<b>ADDRESS:</b>	Land To The East Of Fire Station, Green Lane, Bishop Auckland
<b>ELECTORAL DIVISION:</b>	Shildon and Dene Valley
<b>CASE OFFICER:</b>	Chris Shields, Senior Planning Officer, 03000 261394 <a href="mailto:chris.shields@durham.gov.uk">chris.shields@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### Site

1. The application site measures 2ha in area and is located to the south of Bishop Auckland at Fylands Bridge. The site is currently a field used for grazing and is situated immediately to the east of Bishop Auckland Fire Station. The site is accessed from the A688 (Fylands Drive) to the west via an adopted road serving this site, the fire station and the electrical substation to the west. Greenlane Traveller site is located to the south of the site
2. The nearest residential properties to the site are located approximately 60m to the north on Sharnbrow View and 100m to the south on Green Lane Traveller site. There are no heritage assets within the vicinity of the site and the site is not within any ecological or landscape designations. There are no public rights of way within or adjacent to the site. The site is within a Coalfield High Risk Development Area.

### Proposal

3. The proposed development is for the installation and operation of a Reserve Power Plant (RPP) that would generate, store and deliver electrical power to the Grid. The facility would provide balancing services to National Grid to ensure the future security of the country's electricity supply. The development would consist of 10 gas generator sets and 7 transformers, battery storage units, gas kiosk, substation compound and associated cabins, oil storage containers, underground cabling, perimeter fencing and CCTV, acoustic barriers and internal service road.
4. The gas generators would be housed within containers measuring 3.4m wide, 13.5m in length and with a height of 3.4m. Additional equipment would be mounted to the containers, including the exhaust flues which would have a total height from the ground of 7m. The battery containers would measure 2.6m by 16.2m with a height of 2.7m. The gas kiosk would measure 4m by 2.5m with a height of 2.5m. The switchroom

would measure 12m by 3.2m with a height of 3.7m. The oil storage container would measure 4.2m by 2m with a height of 1.9m.

5. The proposed development would provide 20MW of gas generated power and up to 20MWh of battery power. The batteries would be able to provide instant electricity to the grid when demand is required, however, during longer periods of demand the gas engines can be operated.
6. The generator sets would be fuelled by gas that would be fed to site by pipeline from the nearby gas main located in the highway verge at the junction of Fylands Drive and Green Lane. The batteries would be charged with power from the gas engines when there is no demand from the grid.
7. The generator engines would consist of 2MW units and can comprise a general arrangement of 2 generators for each transformer plus two more for the batteries. The generators would be located within individual modular acoustic enclosures, which are constructed of galvanised steel protected by polyester powder coated paint.
8. The proposed development would operate for approximately 3,500 hours per year, which is 40% of the total hours in a year. The generators would operate whenever called upon by the National Grid but as electrical demand is greatest in the morning and early evening this is when the facility would be most likely to be delivering power to the grid. The generator sets would also operate to recharge the batteries as necessary.
9. The proposed compound would be secured by up to a 3.5m high acoustic barrier and 2.4m paladin perimeter fencing, infra-red (non-visible at night), inward facing pole mounted CCTV cameras (2.5m in height) would also be provided at appropriate intervals along the proposed boundary fence.
10. The facility has been positioned centrally within the site in order to maximise distance from the nearest residential properties. Soil resources would be stripped from the development area and retained on site to form a noise attenuation bund to the closest receptors to the north and west. The bund would measure 1.75m high but would also have an additional close boarded timber acoustic fence situated on top of the bund at a height of 1.25m – 1.75m, giving a total acoustic barrier of 3.5m to the north and west. A 3m acoustic barrier would also be provided to the south and east boundaries.
11. This application is being reported to the County Planning Committee as it is classed as a major development.

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## **PLANNING HISTORY**

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12. The site is undeveloped and has no planning history.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable

development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.

14. In accordance with Paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below. The following elements of the NPPF are considered relevant to this proposal;
15. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
17. *Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
18. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality, flood risk and coastal change, and noise.

<https://www.gov.uk/government/collections/planning-practice-guidance>

## LOCAL PLAN POLICY:

Wear Valley District Local Plan (2007) (WVDLP)

20. *Policy GD1 – General Development Criteria.* All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
21. *Policy T1 – General Policy – Highways.* All developments which generate additional traffic will be required to fulfil Policy GD1 and provide adequate access to the developments; not exceed the capacity of the local road network; and be capable of access by public transport networks.
22. *Policy I2 – New Industrial Allocations.* Sets out land at listed sites, including Fylands, which is allocated for employment uses and the specific type of development that is expected.
23. *Policy I3 – Business/Office Sites.* Provides criteria for the types of development that would not be acceptable on sites allocated for business or office use.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Wear Valley Local Plan)*

## RELEVANT EMERGING POLICY:

24. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

25. *Highway Authority* – Raise no objection advising that the site access road could accommodate all anticipated vehicular flows.
26. *Environment Agency* – Initially objected due to the proposed annual operating hours for the plant being beyond that which would receive an Environmental Permit. Following discussion with the applicant the Environment Agency reassessed the category of permit that the plant would require and withdrew the objection, stating that the development would now require a Medium Combustion Plant Directive permit and also requested that a condition be imposed requiring that the development be carried out in accordance with the submitted Flood Risk Assessment.

27. *Drainage and Coastal Protection* – Raise no objection provided that outstanding design information relating to surface water management is provided prior to development commencing.
28. *Coal Authority* – Has objected to the proposal as the submitted Coal Mining Risk Assessment does not provide details of mitigation measures. The applicant has subsequently provided agreement to carry out mitigation measures, as necessary but the Coal Authority have not, as yet, responded to the reconsultation.

#### **INTERNAL CONSULTEE RESPONSES:**

29. *Archaeology* – Raise no objection.
30. *Environment, Health & Consumer Protection (Land Contamination)* – No objections are raised. Officers advise that due to the proposed structures on site not having shallow or deep foundations the risk from any mine gas causing issues to the site is low and there is no requirement for a contaminated land condition.
31. *Environment, Health & Consumer Protection (Noise Action Team)* – Raise no objections subject to a condition being imposed that ensures the noise mitigation works proposed are carried out on site.
32. *Environment, Health & Consumer Protection (Air Quality)* – Raise no objections noting that the maximum modelled level of carbon monoxide at nearest residential dwellings is well below 10% of the short term air quality objective. Advice is also provided on the requirement for an Environmental Permit.
33. *Landscape* – No objections are raised and it has been agreed that a landscaping scheme would be agreed through condition that would include 16 heavy standard trees to strengthen the northern boundary of the site.
34. *Ecology* – No objections are raised although a condition is requested to secure a habitat creation and management plan for biodiversity enhancement on site.

#### **PUBLIC RESPONSES:**

35. The application has been advertised by means of individual notification letters, site notice and press notice. Two letters of objection have been received from neighbouring residents. The issues raised include noise, traffic from construction and maintenance of the development, impact on wildlife and ecology, potential pollution of the watercourse, impacts of health from emissions and dust, devaluation of properties, loss of greenbelt and increase in flooding to waterways. It is also suggested that the development should be located on South Church Industrial Estate.

#### **APPLICANTS STATEMENT:**

36. The National Grid experiences large fluctuations of electricity demand throughout the day and throughout different times of the year. During periods of high demand, the National Grid aim to increase supply to maintain a 20% margin which is essential in seeking to eliminate, as far as possible, the risk of power shortages and blackouts, when there is an unexpected change in demand, or a sudden loss of supply. Historically, conventional power stations could be operated with some certainty. However, as the UK moves towards a more environmentally sustainable energy supply system, with an increase in renewable energy sources, there is an increased risk of electricity supply fluctuations, depending on prevailing weather conditions, and therefore an increased need for Reserve Power Plants (RPP).

37. RPPs are a simple and reliable way of providing relatively large amounts of electricity to the distribution network in a very short space of time. And therefore, the proposed development will be part of a network to ensure there is sufficient electricity available on the Grid as the UK increases its renewable energy generation and makes the transition to a lower carbon energy supply system.
38. The proposed site is located next to an existing substation, into which the RPP will connect. The proposed development will operate for approximately 3,500 hours per year, which is 40% of the total hours in a year. The generators will operate whenever called upon by National Grid.
39. The scale and mass of the RPP is much smaller than that of the adjacent fire station and the application site is designated as a new industrial allocation for a business park use. However, since the adoption of the Local Plan in 1997, only the fire station has been developed on part of the designation. As the application site has been vacant for 20 years it is clear that marketability for offices and research development on the site has not been attractive.
40. The environmental assessments that have been undertaken, especially noise and air quality, demonstrate that the proposed facility (with mitigation) will not have adverse effects on identified receptors. Furthermore, key landscape features will be retained and managed and enhanced as part of the proposal such as boundary trees and hedgerows.
41. As the majority of the application site will continue to have a permeable surface, there will be limited impact on the site's hydrology.
42. Given the relatively small scale of the proposal there will be no adverse effect on visual amenity or local landscape. The proposal will increase biodiversity of the site from the existing conditions through the provision of a low maintenance grassland and additional tree and scrub planting rather than arable crops.
43. The proposed facility will use an existing access from the public highway. Traffic generation will be minimal once operational as the facility is autonomously operated, requiring only weekly maintenance visits.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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44. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, landscape, access and traffic, residential amenity, flooding and drainage, ecology and other issues.

## Principle of Development

45. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Wear Valley District Local Plan (WVDLP) remains a statutory component of the development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
46. The WVDLP was adopted in 1997 and was intended to cover the period to 2006. However, NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.
47. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):
  - approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
    - i. 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; or
    - ii. specific policies in this Framework indicate development should be restricted.
48. The key policies for the determination of this application are WVDLP Policies I2 (New Industrial Allocations) and I3 (Business/Office Sites). The site is allocated within the WVDLP as being suitable for Business Park. WVDLP Policy I3 sets out uses that would be considered inappropriate on a Business Park site and these include B2, B8, retail uses, scrapyards, mineral storage, car sales, petrol sales and lorry parks. The proposed use for the siting of generators and batteries would be classed as sui generis and therefore would not conflict with Policy I3. The consideration therefore falls to whether a sui generis use is acceptable on the Business Park allocation. Objectors have stated that the proposal would lead to the loss of Green Belt land. Whilst the site is currently green field it is allocated for employment use and therefore the principle of developing the land has already been established and it is just the specific type of development that needs to be considered. For clarity there is no Green Belt designation in Bishop Auckland.
49. WVDLP Policy I2 is considered to be partially consistent with the NPPF as many of the sites allocated for employment use by this policy have been recommended for deallocation through the Employment Land Review (ELR) 2012 due to a lack of interest in the land from business. The ELR forms part of the evidence base for local plan drafting purposes.
50. The Fylands business park allocation is assessed with the ELR (2012) as being poor with the commentary noting that site constitutes a green field that has remained undeveloped bar a new fire station. Despite its location within Bishop Auckland it has not been attractive in bringing in employment uses onto the site. The site may be suitable for light industrial uses however there are flood risk issues.

51. The only development that has actually occurred on the Fylands business park site to date is the construction of Bishop Auckland Fire Station, and there was no development at all within the Plan period to 2006.
52. The proposed development is designed around the areas of the allocated land with the potential to flood and makes full use of the remaining space adjacent to fire station. The recommendation in the ELR (2012) to deallocate the site is a clear indication that other business is unlikely to take up the site and, as set out in Paragraph 22 of the NPPF, the site should not be protected indefinitely from alternative uses. Notwithstanding this, the proposal would not conflict with WVDLP Policies I2 or I3 and is considered to be acceptable in principle.

## Landscape

53. Paragraph 109 sets out key areas for conserving and enhancing the natural environment. This is reflected in WVDLP Policy GD1, which seeks to resist development that would have a significant adverse impact on the character of the landscape and promotes the restoration or enhancement of the landscape where possible.
54. The application site is located on the southern edge of the developed area of Bishop Auckland with the River Gaunless acting as a natural barrier between the town and the open countryside beyond to the south. The site is currently a green field used informally for grazing of horses. It is bounded to the south by a low embankment for the Barnard Castle & Bishop Auckland railway, which has a hedgerow for most of its length. To the north the site is screened by the structure planting on the southern edge of the Bishop Auckland bypass and an internal hedgerow at approximately 1m in height. The site is fully screened to the west by the fire station and although there are no viewpoints of the site from the east the site is distantly screened by a small area of woodland.
55. The design and appearance of the development would be entirely utilitarian with most elements housed within containers, kiosks or cabins. Full details of colours and finishes would be agreed through condition.
56. The proposal would incorporate a 3m high security fence around the periphery of the developed area. Immediately within the security fence there would be a 1.75m high soil screening mound (1 in 3 slope) around the north, east and west sides of the gas generators with a 1.25 – 1.75m high acoustic fence on top. The generator containers would therefore be fully screened from views to the north apart from the exhaust.
57. A landscape assessment showing potential visual receptors and mitigation plan proposing tree planting on the northern boundary have been submitted in support of the application. Landscape officers have considered the proposal and requested that the hedgerow to the site be managed to a height of 2.5m and that the tree planting on the northern boundary be increased from 7 to 16 contained within an 8m wide by 35m long stock proof enclosure.
58. Subject to a condition requiring the submission of a landscaping scheme it is considered that the proposal would have minimal harm to the landscape and would deliver some improvements to the site. The proposal would therefore accord with WVDLP Policy GD1 and Part 11 of the NPPF. Policy GD1 is considered to be consistent with the NPPF and therefore afforded full weight.

## Access and Traffic

59. Paragraph 32 of the NPPF states plans and decisions should take account of whether: opportunities for sustainable transport modes have been taken up; safe and suitable access can be achieved; improvements can be undertaken to limit significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. WVDLP Policy T1 requires developments generating additional traffic to provide adequate access, not exceed the capacity of the local road network and be capable of access by public transport networks. The requirements of Policy T1 are largely mirrored in the criteria set out in Policy GD1. Policy T1 is considered to be partially consistent with the NPPF as it does not set out the requirement for a Transport Statement or Transport Assessment and the NPPF only seeks to restrict development that would result in a severe transport impact and so is afforded some weight in the decision making process. Policy GD1 is considered consistent with the NPPF in this respect and therefore afforded full weight.
60. The proposed site is served by an adopted highway leading from the A688, and which serves the Community Fire Station. This route is used for both emergency and non-emergency movements. The A688 junction has a 'ghost island' right turn arrangement where right turning vehicles exiting the A688 may wait. The access would be used for construction of the facility and ongoing maintenance. Traffic generated by construction would consist of approximately 93 deliveries, at a typical rate of 2 or less deliveries per day. This would result in 4 HGV movements per day (2 in and 2 out) plus private vehicles for construction workers.
61. Local residents objecting to the proposal have stated that traffic from the development would interfere with emergency vehicles from the fire station and that traffic levels are already severe in the area.
62. Highways Officers have considered the proposal and commented that the proposed facility will likely have very modest vehicular flows once operational and the access road can accommodate all anticipated related movements. In addition, there are several bus stops within 500m of the site, should the workforce wish to utilise public transport.
63. Whilst the development would generate a degree of construction traffic it is relatively small for the size of the site with a negligible daily flow. Following the construction the site would be unmanned and would only be attended occasionally for maintenance purposes. A condition is recommended to ensure that vehicles accessing the site are adequately cleaned before leaving to ensure that debris is not carried onto the public highway. Subject to this condition the proposal is considered to accord with WVDLP Policies GD1 and T1 and Part 4 of the NPPF.

## Residential Amenity

64. The nearest residential properties to the site are located approximately 60m to the north on Sharnbrow View and 100m to the south on Green Lane Traveller site. Objections have been received from properties on Green Lane approximately 240m to the west of the site. Issues raised in respect of amenity are noise and harm to health from dust and emissions.
65. Paragraph 120 of the NPPF states that planning decisions should ensure that new development is appropriate for its location, taking into account the effects of pollution on health, general amenity and the potential sensitivity of the area to adverse effects from pollution. WVDLP Policy GD1 requires that development should not be

detrimental to public health and not significantly pollute the environment with dust, noise, emission, outfall or discharges of any kind.

66. The proposed gas generators for the site have the potential to cause pollution through noise and exhaust emissions. The application is therefore supported by air quality and noise assessments. The air quality assessment considers the baseline conditions for the site and provides maximum (worst case) predictions for emission outputs for the site. This is then assessed against local air quality objectives and long and short term impacts on human health. The air quality assessment concludes that impacts due to the operation of the proposed development would be insignificant. Environmental Health officers have considered the proposal and air quality assessment and agree that the development would have an acceptable impact.
67. The noise assessment considers the baseline conditions for the area and provides predictions for the operation of the proposed plant, including generator and battery storage units, transformers and gas kiosk, for the site and construction noise over a period of 4 to 6 months. The assessment considers the impact of the development on the nearest noise sensitive properties and provides a range of mitigation measures for attenuating noise levels from construction and operation of the site. These include containerising the gas generators and providing acoustic fences and mounds around the site. Environmental Health officers have considered the proposal and noise assessment and have stated that the development would be acceptable provided that the mitigation measures set out in the noise assessment are controlled by condition.
68. Subject to the imposition of a condition requiring noise mitigation measures to be implemented on site it is considered that development would accord with amenity protection criteria set out in WVDLP Policy GD1 and Paragraph 120 and Part 11 of the NPPF.

#### Flooding and Drainage

69. Part 10 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 11 of the NPPF takes account of the impact of any development upon the natural environment. WVDLP Policy GD1 seeks to ensure that development is not sited on an identified floodplain or an area at risk from flooding.
70. The application is accompanied by a flood risk assessment (FRA) which identifies that the application site has a minimum ground level of 91m Above Ordnance Datum (AOD) and is located adjacent to the River Gaunless. The area of the site proposed to be developed is all within Flood Zone 1. The FRA identifies that due to the ground level the risk of groundwater flooding from 1 in 100 and 1 in 1000 year flood events would not be significant. Equally, the risk of flooding from surface water flooding is also deemed to be not significant.
71. Local residents have suggested that the proposal could lead to increased flooding and pollution of the watercourse. Drainage and Coastal Protection officers have considered the proposals and although no objections have been raised it is noted that the application does not provide details of surface water management measures and it is requested that these details be secured by condition.
72. The Environment Agency has also raised no objections to the proposal and request that conditions be imposed requiring that the development is carried out in accordance with the submitted FRA and the mitigation measures contained therein; that the topography of the site is not altered and all construction to take place on ground above 91m AOD and only in Flood Zone 1.

73. Subject to the proposed conditions being adhered to, the proposed development would not lead to increased flooding and the site would be out of the floodplain area. The proposal is therefore considered to be in accordance with WVDLP Policy GD1 and Part 10 of the NPPF with regards to flood risk.

## Ecology

74. The presence of protected species is a material consideration, in accordance with Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) and Paragraph 119 of the NPPF. In addition under the requirements of the Conservation of Habitats and Species Regulations 2017 (referred to as the Habitats and Species Regulations hereafter) it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England. Regulation 9(1) of the Conservation of Habitats and Species Regulations requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising their functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species licence from Natural England.
75. Paragraph 109 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible with Paragraph 118 stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. WVDLP Policy GD1 requires that development does not endanger or damage important national and local wildlife habitats or have a detrimental impact on the ecology of the District.
76. A Preliminary Ecological Appraisal has been submitted in support of the application. This appraisal assesses the site to have a negligible ecological value, with no protected species found on the site and none anticipated to be found in the current state of the land. No further ecological surveys were proposed and the appraisal concludes that the proposal is likely to have a negligible ecological impact and therefore there is no requirement to obtain a licence.
77. Local residents have raised concern that the proposal would be harmful to the wildlife and ecology of the area. Ecology officers have considered the proposal and appraisal and whilst agreeing with the negligible impact on protected species they are keen to ensure that the scheme delivers biodiversity enhancement. It has been agreed with the applicant that areas of the site not being developed would be subject to landscaping and planting scheme centred around meadow tussock grassland. This would be delivered through a condition requiring the submission and implementation of a habitat creation and management plan.
78. Subject to the biodiversity enhancements being carried out it is considered that the proposal would create biodiversity enhancement to the site and would therefore accord with WVDLP Policy GD1 and Part 11 of the NPPF.

## Other Issues

79. The site is located within Coal Mining High Risk Development Area. A Coal Mining Risk assessment has been submitted in support of the application and this was assessed by the Coal Authority as being insufficient as it does not provide details of mitigation measures. The applicant has subsequently provided agreement to carry out mitigation measures, as necessary but the Coal Authority have not, as yet, responded to the reconsultation. In order to resolve this issue it is recommended that a condition be

imposed requiring the mitigation measures to be agreed and implemented prior to the commencement of development. Provided that this is carried out the development would accord with Paragraphs 120 and 121 of the NPPF.

80. Local residents have commented that the proposal would impact upon house values. The perceived impact that a development would have upon property values is not a material consideration that should be taken into account when determining a planning application. It has also been suggested that the development should be located on South Church Enterprise Park, however, it is not possible to speculate upon alternative sites and it must only be considered whether the proposed site is acceptable.
81. The proposal is of a type that would be subject to a permit required through the Environmental Permitting (England and Wales) Regulations 2010 which would regulate issues at the site relating to pollution control. There are powers to enforce should this not be complied with. The operator would require a Medium Combustion Plant Directive (MCPD) permit from the Environment Agency, complete with MCPD emission limit values, before operations can commence.

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## **CONCLUSION**

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82. 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.
83. The proposal would make use of an underdeveloped employment allocation in close proximity to an electrical substation. Whilst utilitarian in appearance the proposal would be well screened both visually and acoustically from noise sensitive receptors. In addition, agreement has been sought to provide biodiversity enhancement to the site through the sowing and management of a species rich grassland.
84. It is considered that the proposal would accord with WVDLP Policies GD1 and T1 and would not conflict with Policies I2 and I3. Whilst the ELR has recommended that the Fylands Business Park be deallocated in future development plan documents it is, for now, still designated for industrial/employment uses.
85. The proposal has generated some public interest, with letters of objection and support having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, economic and community benefits.

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## **RECOMMENDATION**

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That the application is **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

- Drawing No. SRE1067/18/02 'Proposed Site Extent'
- Drawing No. SRE1067/18/03 'Proposed Site Layout'
- Drawing No. SRE1067/18/04 'Indicative Gas Kiosk Elevations'
- Drawing No. SRE1067/18/05 'Indicative Transformer Elevations'
- Drawing No. SRE1067/18/06 'Proposed Paladin Security Fence'
- Drawing No. SRE1067/18/07 'Indicative Gas Generator Elevations'
- Drawing No. SRE1067/18/11 'Indicative Lube Oil Storage Container Elevations'
- Drawing No. SRE1067/18/08 'Indicative Switchroom Elevations'
- Drawing No. SRE1067/18/09 'Indicative Battery Container Elevations'
- Drawing No. SRE1067/18/10 'Indicative Battery Component Elevations'
- Drawing No. SRE1067/18/12 'Indicative DNO Substation Elevations'
- Flood Risk Assessment (FRA) October 2017
- Preliminary Ecological Appraisal September 2017
- Noise Impact Assessment for Reserve Power Plant October 2017

*Reason: To define the consent and ensure that a satisfactory form of development is obtained.*

3. The development hereby approved shall not be brought into use until a surface water drainage system has been installed in accordance with details to have been submitted to and approved in writing by the Local Planning Authority.

*Reason: To prevent the increased risk of flooding from any sources in accordance with the Part 10 of the National Planning Policy Framework.*

4. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) October 2017 / KRS.0297.004.R.001.A / KRS environmental and the following mitigation measures detailed within the FRA:
  - Topography of the site is not to be altered.
  - All construction to take place on ground above 91.0 m Above Ordinance Datum and only in Flood Zone 1.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

*Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is not required and to reduce the risk of flooding to the proposed development and operators in accordance with Wear Valley District Local Plan Policy GD1 and Part 10 of the National Planning Policy Framework.*

5. The development must be carried out in accordance with the noise mitigation measures set out in approved document 'Noise Impact Assessment for Reserve Power Plant October 2017'

*Reason: To ensure residential amenity is protected from noise pollution in accordance with Wear Valley District Local Plan Policy GD1 and Part 11 of the National Planning Policy Framework.*

6. All vehicles leaving the site shall be sufficiently cleaned in order to ensure that mud, dirt, and treated or untreated waste is not transferred onto the public highway.

*Reason: In the interests of residential amenity and highway safety in accordance with the Wear Valley District Local Plan Policy T1 and Part of the National Planning Policy Framework).*

Prior to the commencement of development a scheme of measures sufficient to mitigate the coal mining risk of the site shall be submitted to the Local Planning Authority for approval in writing. The agreed measures shall then be implemented on site prior to the construction of the development hereby approved.

Reason: To ensure that coal mining risk is minimised in accordance with Paragraphs 120 and 121 of the National Planning Policy Framework.

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

*Reason: To ensure the development is carried out in accordance with the approved documents and in the interests of visual amenity (Wear Valley District Local Plan Policy GD1). Required to be pre-commencement in order to assess the appearance of the development.*

8. Prior to the commencement of development a habitat creation and management plan for the site shall be submitted to the Local Planning Authority for approval in writing. The plan shall incorporate the following:

- Seed specification for Meadow Tussock Grassland
- Long term management over the lifetime of the development including cutting on a three year cycle; the site placed into three management compartments with one compartment per annum cut with the arisings removed off site.
- Patches of scrub planting with 'scattered scrub' amounting to approx. 20% of the area.
- Monitoring reports to be submitted at years 1, 2, 5 and 10 to ensure that the habitat creation and management have been delivered effectively.

The approved plan shall then be implemented in the first available planting season following the development being brought into use and complied with thereafter.

*Reason: To provide biodiversity enhancements in accordance with Part 11 of the National Planning Policy Framework. Required to be pre-commencement in order to inform the development of the site.*

9. Prior to commencement of development details of a landscaping scheme shall be submitted to the Local Planning Authority for approval in writing. The approved landscaping scheme shall be implemented on site in the first planting season following the development being brought into use.

*Reason: In order to provide landscape enhancement and screening for the development in accordance with Wear Valley District Local Plan Policy GD1 and Part 11 of the NPPF. Required to be pre-commencement in order to inform the development of the site.*

10. In the event that the gas generators and battery storage are inoperative for a period of 6 months or longer the development hereby approved shall be removed and the site restored to green field.

*Reason: In the interests of visual amenity and pollution prevention in accordance with Wear Valley District Local Plan Policy GD1 and Part 11 of the NPPF.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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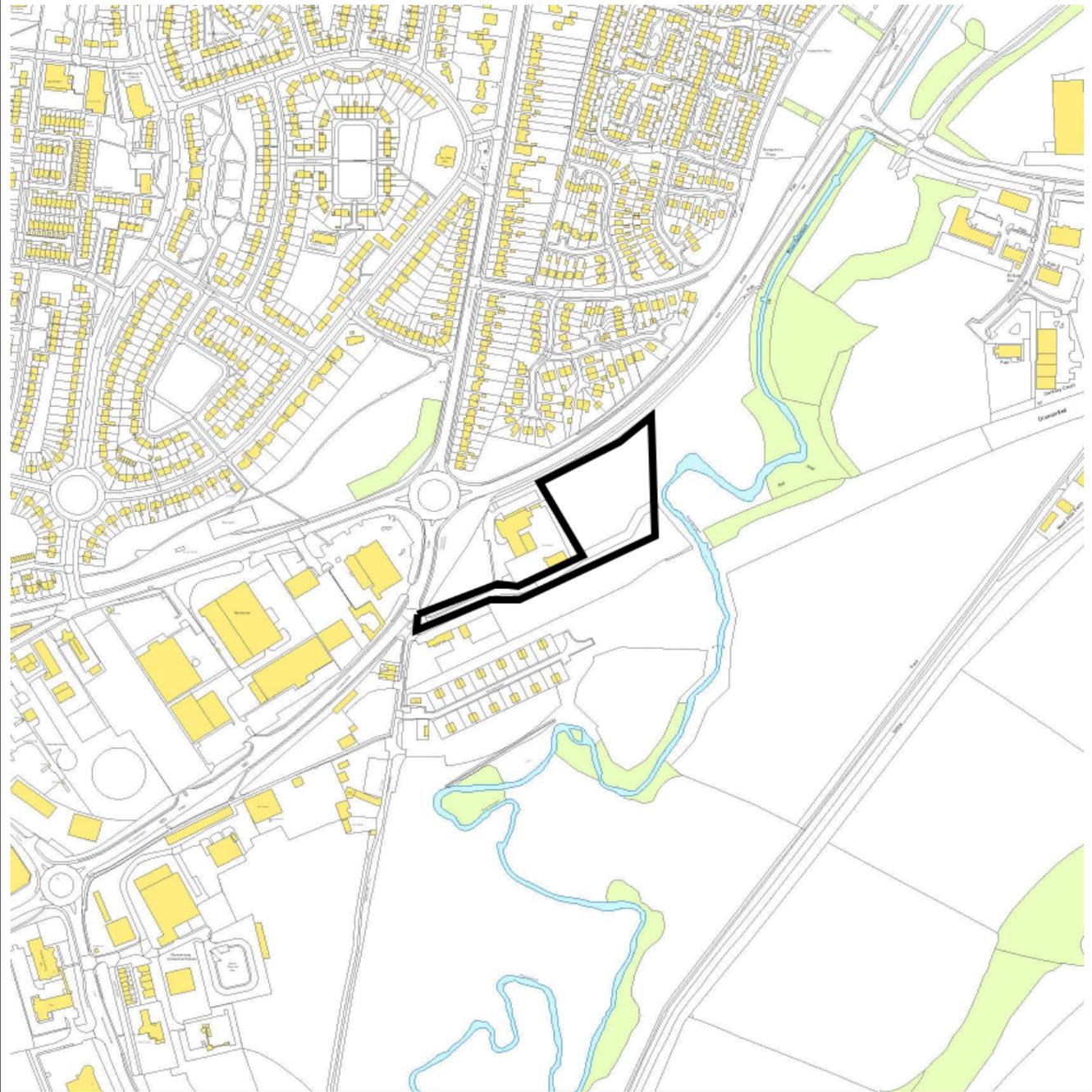
The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance notes.
- Wear Valley District Local Plan 1997.
- Statutory, internal and public consultation responses.



**Planning Services**

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DM/17/03466/FPA

Construction and operation of a Reserve Power Plant and associated infrastructure on land to the east of Fire Station, Green Lane, Bishop Auckland

**Comments**

**Date** January 2018

**Scale** NTS