

**Part Land East And Adj To Roundabout At Junction
Of Bicester Road
Launton**

19/00163/F

Case Officer: George Smith

Applicant: Powersun Ltd - Mr I Brent-Smith

Proposal: Erection of accommodation building and associated ancillary external works to accommodate gas fuelled demand response electric generation facility to support the National Grid

Ward: Launton And Otmoor

Councillors: Cllr Tim Hallchurch
Cllr Simon Holland
Cllr David Hughes

Reason for referral: Cllr Hughes called in the application to be considered by the Planning Committee

Committee Date: 18/04/2019

Expiry Date: 02/04/2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

Planning consent is sought for the erection of an accommodation building and associated infrastructure which would accommodate gas fuelled demand response electric generation units. The building itself would be built to a height of 7.5m and constructed using metal cladded sheets. The footprint of the main building would be approximately 33.5m x 13m. Associated infrastructure includes an access track and parking area, a gas kiosk and 5 additional structures to the east of the building

Consultations

The following consultees have raised **objections** to the application:

- Launton Parish Council

The following consultees have raised **no objections** to the application:

- OCC Highways, CDC Ecology, CDC Environmental Health, Environment Agency

No other third party representations have been received, either of objection or support.

Planning Policy and Constraints

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity

- Highway safety
- Flood Risk
- Ecology impact

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. Adverse visual harm, impacting on the rural and agricultural setting, without sufficient justification.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located on existing agricultural land, forming part of a field. The field is bound by dense hedgerows. The field has an existing access off a roundabout which serves the A4421 and which links Bicester to the village of Launton. The site has a narrow strip of land which leads from the existing field access, past an existing tree and to the larger proportion of the site. Ground levels are relatively flat in this part of the field.

2. CONSTRAINTS

- 2.1. The western part of the application site falls within Flood Zones 2 and 3. A public footpath (272/15/20) runs to the west of the site. The Kingfisher is identified as a protected and notable species within close proximity to the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applicant seeks planning consent for the erection of an electric generation facility which is to support of the National Grid. The site would be accessed via the existing field access off the roundabout serving the A4421. The building which houses the electric generation units would be 7.5m high at ridge with a dual pitched roof and made of metal clad sheeting. The walls are to be finished in a "Bottle Green" colour with the roof a "Willow Green" colour. The building would be 33.5m x 13m (d x w),
- 3.2. The building is designed to accommodate:
 - 5x1Mw generators
 - Battery storage units
 - Transformers
 - Cooling Plant
 - Self-bunded waste oil tank
 - Self-bunded clean oil tank

- WPD sub-station

3.3. The proposal would also include a gas kiosk and an additional 5 structures sited to the east of the main building which would reach a maximum height of 1.8m. There is no reference to these buildings within the applications drawings or Design and Access Statement as to their purpose.

4. RELEVANT PLANNING HISTORY

4.1. There is no planning history directly relevant to the proposal.

5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to this proposal

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 08.03.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. LAUNTON PARISH COUNCIL: **Objects** on loss of visual amenity in a countryside setting, failing to comply with Policy ESD10 and ESD13 of the CLP 2031. Building is unsympathetic with and to the surrounding countryside. Would open potential for development in this field. Field should be protected in order to prevent future coalescence between the village and Bicester. Building too tall for this setting and poorly designed, with no visual mitigation. Would be visible from Bicester Road. No limits on the operation of the building so could be permanent. Concerns with noise and air pollution. No detail on CO2 emissions, or carbon recovery.

CONSULTEES

7.3. BICESTER DELIVERY TEAM: **Comments** that the application would contribute to serving an important need for the electricity infrastructure, however that need is not urgent or an emergency and should be borne in mind when considering the application.

7.4. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of access and turning areas and car parking provision.

7.5. CDC ECOLOGY: **No objections** subject to a biodiversity scheme being submitted.

7.6. CDC ENVIRONMENTAL HEALTH: **No objections**

7.7. ENVIRONMENT AGENCY: **No objections** subject to development being carried out in accordance with the FRA and mitigation measures being carried out.

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031)

- PSD1: Presumption in Favour of Sustainable Development
- BSC 9: Public Services and Utilities
- ESD 1: Mitigating and Adapting to Climate Change
- ESD 2: Energy Hierarchy and Allowable Solutions
- ESD 5: Renewable Energy
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C31: Compatibility of proposals in residential areas

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8.4. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future

taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Flood Risk
- Ecology impact

Principle of Development

- 9.2. Government guidance contained within the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.3. Policy PSD1 contained within the CLP 2031 echoes the NPPF’s requirements for ‘sustainable development’ and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.4. Both the NPPF and Environmentally Sustainable Development policies of the CLP 2031 (notably ESD 1, ESD 2 and ESD 4) look to support the need for a transition to low carbon electricity generation. Policy BSC 9 further indicates the Council’s support for development proposals which involve new or improvements to public services/utilities.
- 9.5. Saved Policy C8 of the CLP 1996 seeks to restrict sporadic development within the open countryside. So whilst this proposal would not strictly accord with this policy and the development in the open countryside is not desirable, development in this case could be acceptable should there be an essential need for the compound or in the case where material harm in other respects is limited.
- 9.6. The applicant identifies that the proposal would look to support other forms of renewable energy production, such as wind and solar photovoltaic electricity generation and would look to temporarily support the existing local electricity grid in

times of peak demand and when there is an energy gap. Both the NPPF and Environmentally, Sustainable Development policies of the Cherwell Local Plan (2011-2031) Part 1 (notably ESD 1, ESD 2 and ESD 4) look to support the need for a transition to low carbon electricity generation. Policy BSC 9 of the Local Plan further indicates the Council's support for development proposals which involve new or improvements to public services/utilities.

- 9.7. Officers note that in the applicant's Flood Risk Assessment, the proposed development is identified as being "*less vulnerable*" in flood risk terms. The applicant thereby avoids classifying the site as being "*essential infrastructure*", which includes "*Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations.*" In this regard, the applicant is therefore not making the case that the facility would constitute essential utility infrastructure.
- 9.8. It has not been demonstrated in this case that the electric generation facility is essential in supporting the National Grid. The application would contribute to serving an important need for the electricity infrastructure, but that need is not urgent or an emergency.
- 9.9. This needs to be weighed in the balance. Overall, however, the principle of development could be acceptable in this case, subject to other material planning considerations, in particular its visual impact on the site and surrounding area. These are discussed below.

Design, and impact on the character of the area:

Policy context

- 9.10. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.11. These aims are also echoed within Policy ESD15 of the CLP 2031 which in part looks to promote and support development of a high standard which delivers buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions and also support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity. Additionally, this policy states that new development will be expected to complement and enhance the character of its context through sensitive siting and layout and that new development proposals should contribute positively to an area's character and identity and respect local topography and landscape features.
- 9.12. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the rural or urban context of that development.
- 9.13. Policy ESD13 of the Cherwell Local Plan 2011 – 2031 Part 1 states that development will be expected to respect and enhance local landscape character and proposals will not be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features or be inconsistent with local character.

Assessment

- 9.14. The site is located immediately to the east of the Bicester ring road (A4421) and thus linked closely to the industrial estate in the east of Bicester. Furthermore, the allocated site Bicester 11 (employment land to the north east of Bicester) is to the north of the site.

- 9.15. However, the parcel of land subject to this application forms part of a wider agricultural field. The electricity generation facility would change the appearance of the site and given its height and footprint would be clearly visible in the wider area. The change of use of this existing section of agricultural land is substantial, with the development by its very nature being industrial in appearance.
- 9.16. Having regard to its proposed use, and its size and scale, the proposed building would have a significant impact both to the field and its immediate surrounds and to the wider landscape, particularly bearing mind its close proximity to a well-used A-Road and a footpath immediately to the west of the site.
- 9.17. Whilst it is appreciated that the building is designed to be of similar appearance to a typical agricultural building (i.e. scale, materials), the function of the building is not one of agriculture and its day-to-day activity would not serve any agricultural need. This would be apparent given the building's proliferation of fenestration that is not of an agricultural nature, the proposed chimneys and vents, the other operational development not contained within the building (additional subsidiary structures i.e. the gas kiosk and 5 structures to the east of the building) and the activity that would take place outside of the building within the application site.
- 9.18. The creation of a new access track and area of hardstanding is considered to cause additional harm to this pleasant and rural agricultural field.
- 9.19. Overall, the proposal is considered to cause significant and demonstrable harm by virtue of the visual prominence of the proposed building and its associated hardstanding, in this existing rural agricultural field, which has a pleasant, undeveloped character. The proposal would therefore fail to comply with Policies ESD13 and ESD15 of the CLP 2031, Saved Policy C8 of the CLP 1996 and relevant paragraphs of the NPPF.

Residential amenity

- 9.20. Saved Policy C31 of the CLP 1996 requires that in existing residential areas any development which is not compatible with the residential character of the area, should not cause an unacceptable level of nuisance or visual intrusion. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.21. There are no residential properties within close proximity to the site. A residential care home is located approximately 250m to the northwest, whereas Manor Farm is located approximately 350m to the southeast (also separated by a railway line).
- 9.22. The application is supported by noise and air quality report with proposed mitigation measures. The Council's Environmental Protection Team has assessed the proposals and the submitted report and its recommendations and has no objections in this regard.
- 9.23. Officers see no reason to disagree with this opinion and consider that, given the context of the site the nature of the proposed development and its relationship with surrounding properties, the proposed development would not result in any significant detrimental impacts on residential amenity and is therefore acceptable in this regard.

Highway safety

- 9.24. The Highways Liaison Officer has not raised any objections to this proposal, subject to conditions for access and turning area details to be submitted, together with details of parking. The Officer states that no alterations would be required to the roundabout or this access and therefore the proposal is unlikely to have any adverse impact on the local highway network. Officers see no reason to disagree with this assessment and as such the proposal is acceptable in this regard.

Flooding

- 9.25. Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 states that: *the Council will manage and reduce flood risk in the District through using a sequential approach to development; locating vulnerable developments in areas at lower risk of flooding. Development proposals will be assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG.*
- 9.26. The Environment Agency has been consulted on the application and raised no objections, subject to mitigation measures.
- 9.27. New development should be directed to areas of lower risk of flooding. No evidence has been submitted of a sequential test having been undertaken.
- 9.28. Turning to the exception test and as discussed at paragraph 9.6 of this committee report, the applicant classifies the proposed development as being 'less vulnerable', as set out in Government guidance on flood risk and planning. (Table 2 of the 'Flood Risk Vulnerability Classification' - as detailed at Paragraph: 066 Reference ID: 7-066-20140306 of their guidance). Depending on whether the building is essential national infrastructure, this *type* of facility could be classified as 'essential infrastructure'.
- 9.29. Further, at Table 3 'Flood Risk and Vulnerability and Flood Zone Compatibility', it states that 'less vulnerable developments' should 'not be permitted' in Flood Zone 3b. The proposed electricity facility building is therefore considered to comply with Policy ESD6 of the CLP 2031.
- 9.30. The applicant has submitted an FRA which states that the building itself is in Flood Zone 1. However, the access and a significant amount of the proposed hardstanding is located within Flood Zones 2/3. It is considered that a condition could be attached to any consent given to ensure that the access and parking areas are constructed in porous materials to prevent standing water. The Highways Liaison Officer has confirmed that the use of porous materials would be acceptable in highway safety terms to provide a suitable surface for the proposed activity.
- 9.31. Overall, the proposal is therefore considered acceptable with regard to flood risk.

Ecology Impact

- 9.32. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.33. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.34. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.35. The Ecologist has not objected to the application as submitted, however requests that a biodiversity enhancement scheme in the form of landscaping is conditioned. Officers see no reason to disagree with the assessment of the ecologist, and recommend that the proposal is acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

10.1. The proposal would result in sporadic development in the open countryside and by for the reasons set out in this report would cause significant and demonstrable harm to the rural character and setting of the site, without justification that the generation facility will serve an essential need for national or local infrastructure. The proposal therefore fails to comply with the relevant Development Plan policies and guidance listed at section 8 of this report. There are no other material considerations that outweigh this conflict and the harm caused, and therefore permission should be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

1. The proposed electric generation facility, by virtue of its siting scale, design and proliferation of structures, is considered to result in significant and demonstrable harm to the rural and agricultural nature of the site which would be clearly visible from public views. It has not been demonstrated that this harm is outweighed by any public benefits in serving an essential need for local or national infrastructure or that other less harmful sites have been discounted. The proposal therefore fails to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C8 of the Cherwell Local Plan 1996 and relevant paragraphs the National Planning Policy Framework.

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