

NOTICE  
OF  
MEETING

**MAIDENHEAD DEVELOPMENT  
MANAGEMENT COMMITTEE**

will meet on

**WEDNESDAY, 17TH NOVEMBER, 2021**

**At 7.00 pm**

by

**COUNCIL CHAMBER - TOWN HALL, MAIDENHEAD, ON [RBWM YOUTUBE](#)**

TO: MEMBERS OF THE MAIDENHEAD DEVELOPMENT MANAGEMENT COMMITTEE

COUNCILLORS PHIL HASELER (CHAIRMAN), ROSS MCWILLIAMS (VICE-CHAIRMAN), JOHN BALDWIN, GURPREET BHANGRA, MANDY BRAR, GERRY CLARK, GEOFF HILL, JOSHUA REYNOLDS AND LEO WALTERS

SUBSTITUTE MEMBERS

COUNCILLORS CLIVE BASKERVILLE, STUART CARROLL, DEL CAMPO, ANDREW JOHNSON, GREG JONES, GURCH SINGH, DONNA STIMSON, CHRIS TARGOWSKI AND HELEN TAYLOR

Karen Shepherd – Head of Governance - Issued: 9 November 2021

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at [www.rbwm.gov.uk](http://www.rbwm.gov.uk) or contact the Panel Administrator **Shilpa Manek** 01628 796310

**Recording of Meetings** – In line with the council's commitment to transparency the Part I (public) section of the virtual meeting will be streamed live and recorded via Zoom. By participating in the meeting by audio and/or video, you are giving consent to being recorded and acknowledge that the recording will be in the public domain. If you have any questions regarding the council's policy, please speak to Democratic Services or Legal representative at the meeting.

## AGENDA

### PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES FOR ABSENCE</u>  To receive any apologies for absence.	
2.	<u>DECLARATIONS OF INTEREST</u>  To receive any declarations of interest.	5 - 8
3.	<u>MINUTES OF THE MEETINGS HELD ON 20 OCTOBER 2021 AND 8 NOVEMBER 2021</u>  To approve the minutes of the meetings held on 20 October 2021 and 8 November 2021 as a true and accurate record.	9 - 12
4.	<u>20/00714/FULL - LAND TO THE SOUTH WEST OF HOWE LANE FARM, HOWE LANE, PALEY STREET, MAIDENHEAD</u>  <i>PROPSAL: Development of a gas fired electricity generating facility, incorporating engine house, ammonia tank, four 15m high flues, office, gas pressure reduction and electricity sub-station buildings, 2.5m high security fencing, entrance gates, vehicular access, parking and associated landscaping.</i>  <b>RECOMMENDATION: Refused</b>  <b>APPLICANT: Miss Cassie</b>  <b>MEMBER CALL-IN: N/A</b>  <b>EXPIRY DATE: 17 June 2020</b>	13 - 54
5.	<u>20/00715/FULL - LAND TO THE SOUTH WEST OF HOWE LANE FARM, HOWE LANE, PALEY STREET, MAIDENHEAD</u>  <i>PROPOSAL: Development of a gas fired electricity generating facility, incorporating engine house, ammonia tank, four 15m high flues, office, gas pressure reduction and electricity sub-station buildings, 2.5m high security fencing, entrance gates, vehicular access, parking and associated landscaping.</i>  <b>RECOMMENDATION: Refuse</b>  <b>APPLICANT: Miss Cassie</b>  <b>MEMBER CALL-IN: N/A</b>  <b>EXPIRY DATE: 17 June 2020</b>	55 - 96

6.	<p><u>21/02866/FULL - LAND TO THE SOUTH OF 18 TO 20 AND OPEN SPACE TO THE SOUTH OF RAY MILL ROAD EAST, MAIDENHEAD</u></p> <p><i>PROPOSAL: Erection of 80 dwellings together with landscaping, the provision of open space and related facilities, associated engineering works and access to Ray Mill Road East.</i></p> <p><b>RECOMMENDATION: Refused</b></p> <p><b>APPLICANT: Cala Homes (Thames) Ltd and RBWM</b></p> <p><b>MEMBER CALL-IN: N/A</b></p> <p><b>EXPIRY DATE: 20 December 2021</b></p>	97 - 134
7.	<p><u>PLANNING APPEALS RECEIVED AND PLANNING DECISION REPORT</u></p> <p>Committee Members to note report.</p>	135 - 136

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## **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

In accordance with the requirements of the Local Government (Access to Information) Act 1985, each item on this report includes a list of Background Papers that have been relied on to a material extent in the formulation of the report and recommendation. The list of Background Papers will normally include relevant previous planning decisions, replies to formal consultations and relevant letter of representation received from local societies, and members of the public. For ease of reference, the total number of letters received from members of the public will normally be listed as a single Background Paper, although a distinction will be made where contrary views are expressed. Any replies to consultations that are not received by the time the report goes to print will be recorded as "Comments Awaited".

The list will not include published documents such as the Town and Country Planning Acts and associated legislation, Department of the Environment Circulars, the Berkshire Structure Plan, Statutory Local Plans or other forms of Supplementary Planning Guidance, as the instructions, advice and policies contained within these documents are common to the determination of all planning applications. Any reference to any of these documents will be made as necessary under the heading "Remarks".

## **STATEMENT OF THE HUMAN RIGHTS ACT 1998**

The Human Rights Act 1998 was brought into force in this country on 2nd October 2000, and it will now, subject to certain exceptions, be directly unlawful for a public authority to act in a way which is incompatible with a Convention right. In particular, Article 8 (respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of property) apply to planning decisions. When a planning decision is to be made however, there is further provision that a public authority must take into account the public interest. In the vast majority of cases existing planning law has for many years demanded a balancing exercise between private rights and public interest, and therefore much of this authority's decision making will continue to take into account this balance.

The Human Rights Act will not be referred to in the Officer's report for individual applications beyond this general statement, unless there are exceptional circumstances which demand more careful and sensitive consideration of Human Rights issues.

## MEMBERS' GUIDE TO DECLARING INTERESTS AT MEETINGS

### Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a Disclosable Pecuniary Interest (DPI) or Other Registerable Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

Any Member with concerns about the nature of their interest should consult the Monitoring Officer in advance of the meeting.

### Non-participation in case of Disclosable Pecuniary Interest (DPI)

Where a matter arises at a meeting which directly relates to one of your DPIs (summary below, further details set out in Table 1 of the Members' Code of Conduct) you must disclose the interest, **not participate in any discussion or vote on the matter and must not remain in the room** unless you have been granted a dispensation. If it is a 'sensitive interest' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted by the Monitoring Officer in limited circumstances, to enable you to participate and vote on a matter in which you have a DPI.

Where you have a DPI on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

*DPIs (relating to the Member or their partner) include:*

- *Any employment, office, trade, profession or vocation carried on for profit or gain.*
- *Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses*
- *Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.*
- *Any beneficial interest in land within the area of the council.*
- *Any licence to occupy land in the area of the council for a month or longer.*
- *Any tenancy where the landlord is the council, and the tenant is a body in which the relevant person has a beneficial interest in the securities of.*
- *Any beneficial interest in securities of a body where:*
  - a) that body has a place of business or land in the area of the council, and*
  - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.*

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

### Disclosure of Other Registerable Interests

Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (summary below and as set out in Table 2 of the Members Code of Conduct), you must disclose the interest. **You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive

interest' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest.

*Other Registerable Interests (relating to the Member or their partner):*

*You have an interest in any business of your authority where it relates to or is likely to affect:*

- a) *any body of which you are in general control or management and to which you are nominated or appointed by your authority*
- b) *any body*
  - (i) exercising functions of a public nature*
  - (ii) directed to charitable purposes or*

*one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)*

### **Disclosure of Non- Registerable Interests**

Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a DPI) or a financial interest or well-being of a relative or close associate, you must disclose the interest. **You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (agreed in advance by the Monitoring Officer) you do not have to disclose the nature of the interest.

Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a friend, relative, close associate; or
- c. a body included in those you need to disclose under DPIs as set out in Table 1 of the Members' code of Conduct

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

Where a matter **affects** your financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

**You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (agreed in advance by the Monitoring Officer, you do not have to disclose the nature of the interest.

### **Other declarations**

Members may wish to declare at the beginning of the meeting any other information they feel should be in the public domain in relation to an item on the agenda; such Member statements will be included in the minutes for transparency.

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# Agenda Item 3

## MAIDENHEAD DEVELOPMENT MANAGEMENT COMMITTEE

WEDNESDAY, 20 OCTOBER 2021

PRESENT: Councillors Phil Haseler (Chairman), Ross McWilliams (Vice-Chairman), John Baldwin, Gurpreet Bhangra, Mandy Brar, Gerry Clark, Geoff Hill, Joshua Reynolds and Leo Walters

Also in attendance: Councillors Andrew Johnson and Gurch Singh

Officers: Helena Stevenson, Shilpa Manek, Sian Saadeh and Antonia Liu

### APOLOGIES FOR ABSENCE

Apologies had been received from registered speaker Councillor Maureen Hunt, whose comments would be incorporated in Councillor Andrew Johnson's speech.

### DECLARATIONS OF INTEREST

All Members had received a high level of emails in support and against the application. However, all Members were attending with an open mind.

Councillor Baldwin and Bhangra had visited the site and spoken with residents. They were attending the meeting with an open mind.

### MINUTES OF THE MEETING HELD ON 15 SEPTEMBER 2021

**RESOLVED UNANIMOUSLY: that the minutes of the meeting held on 15 September 2021 were a true and accurate record.**

This was proposed by Councillor Bhangra and seconded by Councillor Clark.

### 20/01779/OUT - BERKSHIRE COLLEGE OF AGRICULTURE, BURCHETTS GREEN ROAD, BURCHETTS GREEN, MAIDENHEAD, SL6 6QR

A motion was put forward by Councillor Hill to approve the application as per Officers recommendation in the Panel Update. This was seconded by Councillor Reynolds.

The Officers recommendation was as follows:

It is recommended the Committee Authorises the Head of Planning:

1. To grant planning permission on the satisfactory completion of an undertaken to secure the money raised from the development to be used to complete a schedule of works that relate to the heritage assets at BCA and appear necessary for their on-going maintenance, set out in the Condition Survey, in line with an approved Conservation Management Plan, and affordable housing set out in Section 9 of this report, and with the conditions listed in section 13 of this report.

2. To refuse planning permission if an undertaking to secure the money raised from the development to be used to complete a schedule of works that relate to the heritage assets at BCA and appear necessary for their on-going maintenance, set out in the Condition Survey, in line with an approved Conservation Management Plan, and affordable housing set out in Section 9 of this report has not been satisfactorily completed.

A named vote was taken.

<b>20/01779/OUT - BERKSHIRE COLLEGE OF AGRICULTURE, BURCHETTS GREEN ROAD, BURCHETTS GREEN, MAIDENHEAD, SL6 6QR (Motion)</b>	
Councillor Phil Haseler	For
Councillor Ross McWilliams	For
Councillor John Baldwin	For
Councillor Gurpreet Bhangra	For
Councillor Mandy Brar	Abstain
Councillor Gerry Clark	For
Councillor Geoffrey Hill	For
Councillor Joshua Reynolds	For
Councillor Leo Walters	For
<b>Carried</b>	

**RESOLVED: that the application be permitted as above, as per the Officers recommendation.**

The Panel were addressed by Mr Martyn Cook, Objector, Hurley Parish Councillor Marion Armson, Ms Anne Entwistle, Applicant and Councillor Andrew Johnson, Ward Councillor.

PLANNING APPEALS RECEIVED AND PLANNING DECISION REPORT

The report was noted by the Panel.

The meeting, which began at 7.00 pm, finished at 8.35 pm

CHAIRMAN.....

DATE.....

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## MAIDENHEAD DEVELOPMENT MANAGEMENT COMMITTEE

MONDAY, 8 NOVEMBER 2021

PRESENT: Councillors Phil Haseler (Chairman), Ross McWilliams (Vice-Chairman), John Baldwin, Gurpreet Bhangra, Mandy Brar, Gerry Clark, Geoff Hill, Joshua Reynolds and Leo Walters

Also in attendance: Councillor Samantha Rayner

Officers: Shilpa Manek, Adrien Waite, Tim Chapman and Jane Cryer

### APOLOGIES FOR ABSENCE

No apologies for absence were received.

### DECLARATIONS OF INTEREST

All Committee Members had visited site and were attending the meeting with an open mind.

### 21/02245/FULL - BRAY STUDIOS DOWN PLACE WATER OAKLEY - WINDSOR – SL4 5UG

A motion was put forward by Councillor Hill to approve the application, as per Officers recommendation, subject to the Chairman of the Committee working in consultation with the Head of Planning and subject to the Secretary of State not resolving to call in the application to grant planning permission with the conditions listed in Section 2.11 of the panel update report, and on satisfactory completion of a legal undertaking to secure the infrastructure in Section 10 covering the following:

- Carbon Offset contribution
- Economic Measures, including:
  - Implementation of the Employment and Skills Plan
  - Commitment to join the Visit Windsor Partnership for three years
  - Partial funding for the provision of a RBWM Film Officer for three years
  - Membership fees for RBWM to join the Berkshire Film Office for three years.
- Travel Plan
- Transport Improvements including:
  - Necessary highways improvements under S32/S278
  - Contribution towards the Borough's emerging strategy secure highway infrastructure, and improvements to walking, cycling and public transport service improvements across the A308 corridor
  - Monitoring

This was seconded by Councillor Baldwin.

A named vote was taken.

<b>21/02245/FULL - Bray Studios Down Place Water Oakley - Windsor - SL4 5UG (Motion)</b>	
Councillor Phil Haseler	For

Councillor Ross McWilliams	For
Councillor John Baldwin	For
Councillor Gurpreet Bhangra	For
Councillor Mandy Brar	Against
Councillor Gerry Clark	For
Councillor Geoffrey Hill	For
Councillor Joshua Reynolds	Against
Councillor Leo Walters	For
<b>Carried</b>	

**RESOLVED: that the application be permitted, as per Officers recommendation and all points above from the panel update.**

The Committee was addressed by Mr Andrew Hall, Objector, Parish Councillor Nicola Marsh, Bray, Mr Oliver Bell, Applicant and Councillor Samantha Rayner.

The meeting, which began at 7.00 pm, finished at 8.00 pm

CHAIRMAN.....

DATE.....

Agenda Item 4

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD**  
**PLANNING COMMITTEE**

**MAIDENHEAD DEVELOPMENT CONTROL PANEL**

17 November 2021

Item: 1

<b>Application No.:</b>	20/00714/FULL
<b>Location:</b>	Land To The South West of Howe Lane Farm Howe Lane Paley Street Maidenhead
<b>Proposal:</b>	Development of a gas fired electricity generating facility, incorporating engine house, ammonia tank, four 15m high flues, office, gas pressure reduction and electricity sub-station buildings, 2.5m high security fencing, entrance gates, vehicular access, parking and associated landscaping.
<b>Applicant:</b>	Miss Cassie
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	Shottesbrooke Parish/Hurley And Walthams
<b>If you have a question about this report, please contact:</b> Antonia Liu on 01628 796034 or at antonia.liu@rbwm.gov.uk	

**1. SUMMARY**

- 1.1 Through the use of fossil fuels, the proposed development would result in carbon emissions which contributes towards climate change. However, this does not automatically render the scheme unacceptable as national policy for energy is that to ensure security of supply, a diverse mix of all types of power generation, including fossil fuel generation is required. Furthermore, the proposal is for a flexible peaking plant to ensure resilience in energy supply when there is high demand as renewable energy can be intermittent and fossil fuel generation can be brought online quickly and shut down when demand is low. Therefore, national policy confirms that that fossil fuel power stations play and will continue to play an important role in providing reliable electricity supplies, and policy is that they must be constructed and operated in line with climate change goals. With the intention to operate using a 20% volume weighted blend of hydrogen as a fuel gas, which would lower emissions in comparison to no blend of hydrogen by approximately 8%, there is policy support for the proposed development in this respect.
- 1.2 The proposed development is inappropriate development in the Green Belt, would cause harm to the openness of the Green Belt and be contrary to one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment. There is also other harm in respect of its unsustainable location and highway safety, harm to the character of the site and its locality, the loss of the best and most versatile agricultural land.
- 1.3 The proposed development is put forward a case for Very Special Circumstances based on the public benefit in respect of energy security and support of the use renewable energy and decarbonisation in the transition period, and support of the use and deployment of renewable energy; the lack of other reasonably available alternative sites; and economic benefits. However, the in the overall balancing exercise for establishing VSC, it is not considered that the identified harm is clearly outweighed by other considerations, and therefore VSC has not been demonstrated to justify the development in the Green Belt.

<b>It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 13 of this report):</b>	
<b>1.</b>	The proposal represents inappropriate development in Green Belt, which is by definition harmful to the Green Belt, and would harm actual openness of the Green Belt and conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. No Very Special Circumstances have been demonstrated that clearly outweighs the harm to the Green Belt and any other harm.
<b>2.</b>	Due to its siting, scale, form, mass, design, features and materials, the proposed development would be a substantial and prominent development which would be urban

	and industrial in appearance, contrary to the rural and open character of the site and surrounds.
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## **2. REASON FOR PANEL DETERMINATION**

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

## **3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 3.1 The site is an irregular in shape, measuring approximately 4.4ha, and comprises of an arable field.
- 3.2 The M4, which runs approximately north-south, forms the western boundary of the western-section of the application site while to the north lies Great Wood. Great Wood is a semi-natural woodland which is dissected by the M4. The main woodland extent is situated on the western side of the motorway. To the south the arable field continues, while to the east is a native hedgerow and beyond the hedgerow is another arable field.
- 3.3 A strip of land, which forms part of the application site, links the western-section with Howe Lane, while another strip of land runs parallel to Howe Lane to an area to the south. This southern section of the application site measures approximately 0.4ha and is sited approximately 35m to the north of the roundabout intersection between Howe Lane and Drift Road. To the south of this section of the application site is a high pressure gas pipe.
- 3.4 In between the western and southern section of the application site is another area of land measuring approximately 0.25ha, to the north of The Cut. An overhead electricity line runs through the northern section this part of the application site. The Cut and overhead electricity line run approximately southwest-northeast. This central area is linked to the western section of the application site and Howe Lane by strips of land.
- 3.5 The wider area is predominately arable fields and woodland with intermittent farmsteads and settlements. Paley Street lies approximately 500m to the north, White Waltham lies approximately 1.2km to the northwest of the site, Shurlock Row lies approximately 2.5km to the southwest.

## **4. KEY CONSTRAINTS**

- 4.1 The entire site lies within Green Belt. Except for the north-west corner, the site lies in Flood Zone 2. Great Wood is designated as ancient woodland and a local wildlife site.

## **5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY**

### **The Proposed Development**

- 5.1 The proposed development is for a gas fired electricity generating facility with associated infrastructure and landscaping. It is intended to operate as a peaking plant for the purposes of supplying electricity to the National Grid as and when required.
- 5.2 The proposed development includes four 12.5MW gas reciprocating engines enclosed in a mono pitch roof building (the engine house). The engine house measures approximately 13m in height which slopes down to 9.5m in height and on the roof slope are 4 air outlets modules. The engine house is frame-clad with sound insulating green corrugated cladding on the walls and insulated light grey panels on the roof. The gas reciprocating engines are connected to a radiator and 4 x 15m high exhaust stacks, which are external to the engine house. To the west of the engine house, radiator and exhaust stacks are 2x hydrogen production containers and control kiosk, and a heat recovery water tank and kiosk. To the east of the engine house, radiator and exhaust stacks are an ammonia / urea tank, two engine oil tanks and water tank. To the south-west is a site office measuring approximately 3.5m in height at the roof ridge, 18.3m in length x 9.7m in width containing an office, lockers and storage area, break out room, WC and shower. Around

this main compound is a perimeter fence comprising of a 2.5m high weld mesh fence with steel posts finished in mid-dark green colour and cranked top supporting three strands of barbed wire being the maximum height of the perimeter fence to 3m. A concrete crash barrier around 1m in height is proposed along the west (M4) side of the compound.

- 5.3 To the south of the engine house, radiator and exhaust stacks, a gas pressure reduction and metering station is proposed. A new underground gas connection would connect the gas pressure reduction and metering station and a detached gas compound which is proposed approximately 290m south-east of the main compound, adjacent to Howe Lane and to the north of roundabout junction with Drift Road. At the gas compound the new underground pipe will connect into the existing high-pressure gas main, enclosed within the compound. The above ground pipework will have a maximum height of 2.1m, while the telemetry kiosk measures approximately 2.6m in height x 2.5m in width x 3m in length. A satellite dish sits on top of the telemetry kiosk, which is approximately 1.6m in height. A 2.5m high weldmesh fence and hedge made up of Field Maple, Hawthorne, Hazel and Blackthorn is proposed around the gas compound, and as a detached compound it would have a separate access from Howe Lane.
- 5.4 Also, to the south of the engine house radiator and exhaust stacks, to the west of the gas pressure reduction and metering station, is an electricity substation. A new underground electrical connection is proposed which would connect the electricity substation to an electric point of connection compound which provides a connection to an existing overhead distribution line. The electric compound is sited approximately 63m to the south-east of the main compound. The electric compound includes a control room measuring approximately 5m in height x 4.5m in width x 10m in length, a metering kiosk measuring approximately do 5m in height x 2.5m in width and 2.5m in length, and a Point of Contact (POC) Mast which is approximately 29m in height. Surrounding the electric point of connection compound is a 2.4m high palisade fence.
- 5.5 Storm water attenuation ponds, which are approximately 500mm deep is proposed to the south of the main compound. Enclosing the main compound, gas pressure reduction and metering station, electricity substation, and attenuation pond, is woodland planting along the northern, eastern and southern boundary while along the western boundary is hedge and specimen tree planting.
- 5.6 Access to the main compound, gas pressure reduction and metering station, and electricity substation is proposed from Howe Lane.
- 5.7 The life-span of the development and lease term of the land is 30 years and following decommissioning of the development the intention to restore the site back to agricultural land.
- 5.8 There is a planning application ref: 20/00715/FULL which is pending decision for a further engine house containing four 12.5MW gas reciprocating engines, gas pressure reduction and metering station, electricity substation and storm water attenuation pond to the east of engine house, gas pressure reduction and metering station, and electricity substation proposed under this application. For clarity, the fencing along the boundaries of the main compound, enclosing planting, the access and detached electric point of connection compound and gas compound form part of both proposals.
- 5.9 The applicant has set out the following reasons for two applications:
- Two units rather than one larger unit provides flexibility in funding, capital, market bidding and divestment, and a two plant option creates competitive tension at the design and procurement stage.
  - Smaller generating stations compared to a single generating station of greater than 100MW do not require compliance with the Balancing and Settlement Code (concerning the financial settlement of power entering and existing the National Electricity Transmission System); the Connection and Use of System Code (concerning the contractual arrangements for connection to and use of the transmission system); and the Grid Code (concerning the technical requirements for the planning and use of the National Electricity Transmission System).
  - Each generating station would operate independently of each other.

- Each generating station would be owned and operated by separate Special Purpose Vehicle, which has in place separate leases from the relevant landowner, and separate planning applications to include the necessary connection arrangements that allows each generating station to operate independently, make connections to the existing gas and electrical infrastructure and for access.

### **Nationally Significant Infrastructure Project (NSIP)**

- 5.10 A NSIP is defined in the Planning Act 2008 (as amended) and includes the construction or extension of a generating station if it is in England, does not generate electricity from wind, is not an offshore generating station and its capacity is more than 50MW. The question falls to whether the proposed development submitted under 20/00714/FULL, in conjunction with the proposed submitted under 20/00715/FULL, would trigger the NSPI definition.
- 5.11 For a NSIP, the Planning Act 2008 (as amended) sets out a streamlined decision-making process for such development, with applications submitted to the Planning Inspectorate who determines, whether the application meets the standard to be excepted for examination. The Planning Inspectorate then has up to 6 months to carry out the examination before preparing a report to the Secretary of State, including a recommendation. The Secretary of State then makes a decision on whether to grant or refuse a development consent order (DCO). It would be a criminal offence under section 160 of the Planning Act 2008 (as amended) to carry out the development of an NSIP without a DCO.
- 5.12 The construction or extension of energy generation station that does not meet the criteria of a NSIP can be assessed and determined under the Town and Country Planning Act 1990 (as amended).
- 5.13 The issue turns on whether the 50MW threshold set out in the Planning Act 2008 (as amended) is exceeded or not, which would be the case if the two energy generating stations were treated as constituting one generating station.
- 5.14 In this case, each unit is unable to generate more than 50MW, and the functional independence of each generating station is a key factor in determining whether or not the proposed development can be properly regarded as separate developments, and therefore below the threshold set by the Planning Act 2008. Each generating station can and would operate independently of each other as there is no functional dependency between the two units other than sharing an access, point of connection at the electricity substation and entry point to the Gas National Transmission System. There would be some overlap between the development proposed in each application, as set out above, but each application is self-contained and therefore capable of being implemented and brought into operation independently (whilst also allowing both of the energy generating stations to be development and operated alongside one another). The fact that two proposed schemes are near to each other, driven by the same locational considerations (the grid capacity and the National Transmission Systems) or submission by the same developer does not indicate that they ought to be regarded as one generating station.
- 5.15 On this basis, the view is that each generating station ought to be regarded as separate generating station and so the proposed development should be regarded as falling below the threshold set by the Planning Act 2008 (as amended) and therefore can be registered and determined under the Town and Country Planning Act 1990 (as amended).

### **Planning History**

- 5.16 Relevant planning history is as follows:

<b>Reference</b>	<b>Description of Works</b>	<b>Decision and Date</b>
01/37285/OUT	Motorway Service Area to serve the west bound carriageway of the M4 Motorway	Appealed for non-determination, called in by Secretary of State - 31.08.2001



## 6. DEVELOPMENT PLAN

### 6.1 Adopted Royal Borough Local Plan (2003)

The main Development Plan policies applying to the site are:

Issue	Adopted Local Plan Policy
Green Belt	GB1, GB2
Archaeology	ARCH3, ARCH4
Environmental Protection	NAP3, NAP4
Character and Appearance of Area	DG1
Highways	P4, T5
Trees	N6
Flood Risk	F1

### 6.2 Adopted Hurley and the Waltham's Neighbourhood Plan (HWNP) (2015-2030)

Issue	Neighbourhood Plan Policy
Sustainable Development	Env1
Climate Change, Flood and Water Management	Env2
Character and Appearance	Gen2
Good Vehicle Traffic	T1, T2

## 7. MATERIAL PLANNING CONSIDERATIONS

### 7.1 National Planning Policy Framework Sections (NPPF) (2021)

Section 2 – Achieving Sustainable Development

Section 4 – Decision Making

Section 9 – Promoting Sustainable Transport

Section 12 – Achieving Well Designed Places

Section 13 – Protecting the Green Belt

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

#### National Policy Statement (NPS) for Energy

### 7.2 NPS EN-1: Overarching National Policy Statement

NPS EN-2: Fossil fuel electricity generation

NPS EN-3: Renewable electricity generation (both onshore and offshore)

NPS EN-4: Gas supply infrastructure and gas and oil pipelines

NPS EN-5: The electricity transmission and distribution network

NPS EN-6: Nuclear electricity generation

### 7.3 The NPS documents sets out Government policy for delivery of major energy projects, which is defined in the Planning Act 2008 as a generating station with a capacity of more than 50MW. However, the NPS documents states that they likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended), the extent of which will be on a case by case basis.

7.4 This document was published in October 2019 and seeks to illustrate how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools. The focus of the design guide is on layout, form, scale, appearance, landscape, materials and detailing. It further highlights ten characteristics help which work together to create its physical character, these are context, identify, built forms, movement, nature, public spaces, uses, homes and buildings, resources and life span.

7.5 **Borough Local Plan: Submission Version (BLPSV) (2017) and Borough Local Plan: Submission Version Proposed Changes (BLPSVPC) (2019)**

Issue	BLPSV	BLPSVPC Policy
Climate Change	N/A	SP2
Green Belt	SP1, SP5	SP1, QP5
Character and Appearance	SP2, SP3	QP1, QP3
Sustainable Transport	IF2	IF2
Ecology	NR3	NR2
Trees	NR2	NR3
Flood risk and Waterways	NR1	NR1
Environmental Protection	EP1, EP2, EP3, EP4, EP5	EP1, EP2, EP3, EP4, EP5

Paragraph 48 of the NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to:

- a) *the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) *the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. The plan and its supporting documents, including all representations received, was submitted to the Secretary of State for independent examination in January 2018. In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV. Public consultation ran from 1 November to 15 December 2019. All representations received were reviewed by the Council before the Proposed Changes were submitted to the Inspector. The Examination was resumed in late 2020 and the Inspector's post hearings advice letter was received in March 2021. The consultation on the main modification to the BLPSV ran from 19 July to 5 September 2021.

The BLPSV together with the Proposed Changes are material considerations for decision-making. The weight to be given to each of the emerging policies and allocations will depend on an assessment against the criteria set out in paragraph 48 of the NPPF. This assessment is set out in detail, where relevant, in Section 9 of this report.

7.6 **Supplementary Planning Documents**

- Interpretation of Policy F1
- Interpretation of Policy NAP4
- Landscape Character Assessment
- Borough Wide Design Guide

7.7 **Other Local Strategies or Publications**

- RBWM Parking Strategy
- RBWM Environment and Climate Strategy

## 7.8 Bracknell Forest Council Core Strategy

Issue	Core Strategy Policies
Transport	CS23
Transport and New Development	CS24

## 8. CONSULTATIONS CARRIED OUT

### Comments from interested parties

6 neighbours were notified directly of the application. A notice advertising the application was erected at the site on 16.04.2020. The application was advertised in a local paper distributed in the borough on 02.04.2020. Re-consultation was undertaken on 21.09.2021 with the consultation period closing on the 19.10.2021.

1 letter supporting the application has been received, summarised as:

Comment	Where in the report this is considered
Flexible power generation need as back up to wind and solar.	Section 9(i)
VSC for Green Belt location exists as site needs to be close to the National Gas Transmission System for the input of gas, and close to the High Voltage national grid system into which power will be fed.	Section 9(xii)
Emission of CO2 and other pollutants are much lower than other methods utilising hydrocarbon, and air emissions are controlled via scrubber systems technology and will be kept below current legal limits.	Section 9(v)
M4 would must much of the noise, and plant will be insulated for noise	Section 9(v)
Plant is automated with only maintenance crew required, so keeping vehicle numbers to single digits	Section 9(viii)
Similar plants like this have been built and in safe operation in other parts of the UK	Each application is determined on its own merits.

A petition of 1400 signatures objecting to the proposal based on impact on openness, landscape, noise, lighting, air pollution and local wildlife was received, and 144 letters were received objecting to the application (multiple representations from same author has been counted as 1 representation), summarised as:

Comment	Where in the report this is considered
Development is not for a renewable scheme, resulting in harm to the climate and contributing to climate change. No justification in terms of the national strategy, which is to move away from fossil fuels. There are better alternatives to peaking plant to support intermittent renewable.	Section 9(i)  The Local Planning Authority has a duty to assess and determine the application put before us.

Inappropriate development in the Green Belt; harm to its openness; conflict with purposes of including land within Green Belt, including safeguarding the countryside from encroachment and loss of gap between Bracknell and Maidenhead; no very special circumstances demonstrated.	Section 9(ii)
Need comes from London / Southampton area, energy will serve London / Southampton, not Maidenhead or surrounds and so all harm but no benefit to the Borough. Alternative sites where demand is available.	Section 9(xii)
Criteria used in sequential site search not robust as proximity to gas line and grid are commercially attractive, not essential.	Section 9(xii)
Due to scale, form, height, design, massing, layout and materials the proposal would appear as a large-scale, industrial development which is obtrusive and out of character with open, semi-rural / rural landscape and character of the site and wider area. Landscape and Visual Appraisal inadequate / misrepresentative.	Section 9(ix)
Visual impact exacerbated as sited on flat open area of countryside, increasing prominence and existing / additional planning would not adequately screen development and species chosen are not robust and so would not survive for the life-time of development.	Section 9(ix)
Increase in traffic movements from the operation and construction of the development, in particular on Howe Lane, would result in increase in congestion and air pollution, and would be detrimental to highway safety.	Section 9(v) (viii)
Harm to Great Wood, which is ancient woodland and SSSI, including impact of ammonia and nitrogen dioxide deposits.	With reference to DEFRA 'Magic Map', Great Wood is not designated as an SSSI.  Section 9(vi) (vii)
Risk from ammonia leaks into groundwater and The Cut, which is harmful to aquatic wildlife.	Section 9(iv)
Risk of ammonia to human health.	Section 9(v)
Increase in noise, added to existing noise from M4 and air traffic from Heathrow, would be harmful to residential amenity. Noise survey inadequate / misrepresentative.	Section 9(v)  Noise Assessment has been reviewed by technical Environmental Protection officers who have not raised issues with adequacy or misrepresentation.
Increase in light pollution.	Section 9(v)
Increase in smells.	No specific cause of smell given, and application has been reviewed by technical Environmental Protection officers who do not raise smell as an issue / concern.
Visual overbearing.	Section 9(v)
Increase in flood risk.	Section 9(iii)
Loss of agricultural land.	Section 9(ix)

Harm to archaeology and nearby heritage assets including nearby listed buildings.	Section 9(x)  The nearest Listed Building (Littlefield House) is over 270m away with Great Wood in between. Due to this separation distance and siting of Great Wood, the proposed development is not considered to harm the heritage asset including its setting.
Harm to ecology, inadequate biodiversity enhancements.	Section 9(vii)
No need for two large offices.	Section 9(ii)
Risks from explosion / malfunction.	Not a material planning consideration, but in respect of risk while the development would not come under the Control of Major Accident Hazards 2015 it would be subject to other Health and Safety legislation and Environmental Permit for its the operation.
No details of decommissioning and removal, and restoration after 30 year life-time of development, lack of mechanism for ensuring restoration.	Details of decommissioning, removal and restoration, including schedule for works, can be secured by condition.
Incorrect insufficient consultation of neighbours.	Statutory neighbour / public notification undertaken.
Devaluation of nearby property values.	Not a material planning consideration.

## Consultees

Consultee	Comment	Where in the report this is considered
Arboriculture Officer	<p>Objects to the scheme for the following reasons:</p> <ul style="list-style-type: none"> <li>• Most of the facilities and infrastructure are too close to the existing ancient woodland, trees and hedgerows, and root protection areas are likely to be breached by the proposed access and gas pipe.</li> <li>• Buffer zones may be considered for ancient woodland (minimum of 15m to avoid root damage) but air pollution is likely to extend beyond this distance. Ammonia and nitrogen deposits are one of the greatest threats to ancient woodland in the UK and new development should not lead to further degradation of ancient woodland sites which would be unacceptable.</li> <li>• There would direct loss of some trees along with an approximate 85m section of hedgerow. The hedgerows may meet the criteria as 'important' under the Hedgerows Regulations 1997 and therefore desirable to be retained.</li> </ul>	Section 9(vi), (vii)

	<ul style="list-style-type: none"> <li>Proposed woodland planting would need to be allowed to regenerate into woodland naturally. Recommends direct seeding of seeds collected from the adjacent woodland, but to maintain local genetic diversity, new stock must be brought in from elsewhere.</li> <li>Willow and poplar tree planting to screen the facility are fast growing but have a heightened propensity for branches to fail and so should not be planted within falling distance of critical structures, otherwise there will be pressure to detrimentally prune or fell these trees in future.</li> <li>Populus Canadensis 'Robusta' is non-native and therefore inappropriate.</li> </ul> <p>Should a satisfactory scheme be submitted, then conditions and a S.106 management agreement would be required to ensure the appropriate management of the planted and soft ground areas for the lifetime of the development.</p>	
Bracknell Forest Council	Objects to the scheme as the Highway Authority for a the majority of the route over which construction traffic is proposed to be routed due to lack of consultation by the applicant with Bracknell Forest Council; illogical routing, particularly through northern sections of the route directing construction traffic through residential roads and winding rural roads with poor accident records; timing of deliveries which does not appear to respect defined traffic sensitive time periods; and how vehicles will be marked / labelled as associated with this development in order that vehicles deviating from the agreed routing / timing can be identified. In relation to abnormal loads, these should be borough to the site using temporary construction access from the M4.	Section 9(viii)
Ecology Officer	No comments received.	Section 9(vii)
Emergency Planner	Objects to the scheme as a major incident at the site would be of significant concern due to location adjacent to M4 and under the flightpath of Heathrow Airport. The Fire and Rescue Service would also require further details including access during the building phase plus any roads or areas with restricted room / weight tolerances.  However, if minded to approve recommends conditions relating to the submission and approval of an Emergency Plan for both the construction and operation phase.	Not a material planning issue, but in respect of risk while the development would not come under the Control of Major Accident Hazards 2015 but would be subject to other Health and Safety legislation and Environmental Permit for its the operation.
Environment Agency	No objection subject to conditions relating to the development being carried out in	Section 9(iii). Conditions considered to meet the 6

	accordance with the submitted flood risk assessment; submission and approval of details of the disposal of foul drainage and a construction and operations environmental management plan. Informatives recommended relating to a flood risk activity permit and environmental permit under the Environmental Permitted Regulations (England and Wales) 2016.	statutory tests and if minded to approve the conditions are recommended.
Environmental Protection	No objection subject to conditions relating to scheme for the noise insulation of the plant; hours limited works of repair or maintenance of the plant, machinery or equipment; a site specific Construction Environmental Management Plan; and bunding of tanks. Informatives recommended relating to requirement of relevant permits under Pollution Prevention and Control Regulations and contaminated land.	Section 9(v). Conditions considered to meet the 6 statutory tests and if minded to approve the conditions is recommended.
Berkshire Archaeology	No objection subject to a condition to secure a programme of archaeological works, including a written scheme of investigation.	Section 9(x). Condition considered to meet the 6 statutory tests and if minded to approve the condition is recommended.
Health and Safety Executive	No comments received.	N/A
Highways Consultant and RBWM Highways	No objection subject to condition relating to access constructed as approved, a construction management plan, parking and turning as approved, provision of visibility splays as approved, any gates to be set back at least 18m from the nearside of the edge of the carriageway of the adjoining highway, and the submission of the Special Order or STGO to secure an abnormal load routing plan and agreed actions in relation to the abnormal loads.  Recommended informatives relating to highway licence, damage to footway and verges, damage to the highway and no storage of equipment on the public highway.	Section 9(viii). With the exception of the Condition considered to meet the 6 statutory tests and if minded to approve the conditions are recommended.
Highways England	No objection subject to notification of commencement and conditions relating to the submission and approval of a comprehensive emergency plan; a construction environmental management plan; full details of drainage and its location; full details and location of external lighting; and full details and location of external fencing.	Section 9(viii). Conditions considered to meet the 6 statutory tests and if minded to approve the conditions are recommended.
Lead Local Flood Authority	No objection subject to a condition relating to submission and approval of full details of a surface water drainage scheme based on the approved sustainable drainage strategy.	Section 9(iii)
National Grid	No comments received.	N/A
Natural England	No comment. Lack of comments does not imply that there are no impacts on the	Section 9(vii)

	natural environment, but only that the application is not likely to result in significant impact on statutory designated nature conservation sites or landscape. Advises that Natural England have published standing advice, or the Council may wish to consult own ecology services for advice.	
Bray Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Inappropriate development in the Green Belt</li> <li>- Even if there is need to ensure electricity supplies, no evidence that the development must take place on this Green Belt site as part of the case for Very Special Circumstances</li> <li>- Non-Green power station, contrary to RBWM's commitment to green energy</li> <li>- Due to scale, density, massing, height, landscape design, layout and materials, harm to the rural character of the area</li> <li>- Harm to Ancient Woodland, which is irreplaceable habitat for wildlife, in particular from Nitrogen Dioxide and Ammonia</li> <li>- Light pollution</li> </ul>	Section 9(i), (ii), (v), (vi) (vii), (ix), (xii).
Shottesbrooke Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Location in Green Belt and insufficient evidence to support a case of Very Special Circumstances</li> <li>- Harm from air pollution, including to Ancient Woodland from pollution</li> <li>- Harm from noise pollution</li> </ul>	Section 9(ii), (v), (vi), (vii), (xii)
Waltham St Lawrence Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Intrusion into the Green Belt</li> <li>- Impact on ancient woodland with protected wildlife</li> <li>- Flood risk</li> <li>- If allowed in the national interest then height should lowered to 14m and special attention paid to emitting noise and external lighting, and tree screening</li> </ul>	Section 9(ii), (iii), (v), (vi), (vii), (ix)
White Waltham Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Inappropriate development in the Green Belt</li> <li>- Even if there is need to ensure electricity supplies, no evidence that the development must take place on this Green Belt site as part of the case for Very Special Circumstances</li> <li>- Non-Green power station, contrary to RBWM's commitment to green energy</li> <li>- Due to scale, density, massing,</li> </ul>	Section 9(i), (ii), (iii), (v), (vi), (vii), (ix)



	<p>height, landscape design, layout and materials, harm to the rural character of the area</p> <ul style="list-style-type: none"> <li>- Harm to Ancient Woodland, which is irreplaceable habitat for wildlife, in particular from Nitrogen Dioxide and Ammonia</li> <li>- Light pollution</li> <li>- Notes objections from Environment Agency and the standing advice given by Natural England</li> </ul>	
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Note: The Lead Local Flood Authority are responsible for the quality of the surface water drainage in typical rainfall events and any pollutants which may typically enter the discharge in those events (e.g. hydrocarbons from cars in car parks). Pollutants reaching water bodies as a by-product (or accidental spill) of commercial / industrial process, such as ammonia, are within the remit of the Environment Agency.

### Others

Group	Comment	Where in the report this is considered
Binfield Badger Group	<p>There is an extensive badger set complex including the main sett and annexes in the woodland adjacent to the site and the most recent survey (July 2019) recorded badger activity. In the absence of a bait marking survey, it is anticipated that the site is also used for foraging.</p> <p>Raises objections due to disruption to foraging. If minded to approve, recommends all-round badger-proof fencing during the operation phase to prevent badgers who may be accustomed to visiting this area from gaining access, and between the setts and the M4 to reduce badger road deaths as badgers may head in a different direction to compensate. Also raises objections to increase in air, light and noise pollution levels, and underground vibrations.</p> <p>Also requests group be contracted if approved is given to make recommendations on best practice during the construction phase.</p>	Section 9(vii)
Woodland Trust	<p>Raises objections due to potential damage and deterioration to ancient woodlands, including Great Wood as a result of ammonia air pollution emissions and nitrogen deposition and harm to semi-natural ecosystems. There should be a buffer of at least 30 between development and Great Wood.</p>	Section 9(vi), (vii)
CPRE: Berkshire	<p>Rises objection as inappropriate development in Green Belt and very special circumstances has not been demonstrated.</p> <p>Development is adjacent to Great Wood, ancient woodland, which is an irreplaceable habitat for wildlife and of historic and landscape value, and nitrogen dioxide and ammonia threats have not been adequately addressed.</p> <p>Unacceptable and visually intrusive impact on local rural environment.</p> <p>Rural roads are unsuitable and unable to sustain large</p>	Section 9(ii), (vi), (vii), (viii), (ix), (xii)

## 9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Green House Gas Emissions (GHG) and Climate Change
- ii Green Belt
- iii Flood Risk
- iv Water Quality
- v Environmental Protection
- vi Trees
- vii Ecology
- viii Highway Safety and Parking
- ix Character and Appearance
- x Archaeology
- xi Loss of Agricultural Land
- xii The Case for Very Special Circumstances

### **i Green House Gas Emissions (GHG) and Climate Change**

9.1 The Paris Agreement demonstrates global agreement that anthropogenic Green House Gas (GHG) emissions are resulting in climate change with damaging consequences for the environment, along with a global responsibility to address climate change. To meet the UK's obligations under the Paris Agreement, the Climate Change Act 2008 (as amended) imposes a duty to ensure that the UK will bring all GHG emissions to net zero by 2050, and to provide a system of carbon budgeting. In terms of local commitments, RBWM declared an environment and climate emergency in June 2019 with aims to ensure the Borough will achieve net zero carbon emissions by 2050. In December 2020 the Council approved the Borough's Environment and Climate Strategy. These are material considerations of significant weight in determining this planning application.

9.2 This is balanced against the role of the planning system to consider the construction of energy infrastructure projects, which the Government has identified as the type of infrastructure needed, against the principles of sustainable development.

9.3 Underpinned by the target to cut GHG emissions by 2050, the overarching National Policy Statement for Energy (EN-1) sets out that the Government needs to ensure that sufficient electricity generating capacity is available to meet maximum peak demand (with safety margin) and to mitigate risks. This objective is a material consideration of significant weight, as resilience in energy provision is important to protect consumer from interruptions to supplies and volatile prices, including vulnerable households and those providing essential services. EN-1 goes on to state that a diverse mix of all types of power generation, including fossil fuel generation, means the UK is not dependent on any one type of generation or one source of fuel or power, ensuring security and thereby resilience of supply. In addition to contributing to diversity of supply, EN-1 acknowledges that fossil fuel generation is particularly suited as a flexible peaking plant to support generation from renewable which can be intermittent, such as the proposed development. The proposed development is intended to only run when there is high demand for

electricity to balance the grid, as fossil fuel generation can be brought online quickly when there is high demand and shut down when demand is low. In this context, EN-1 confirms that fossil fuel power stations play and will continue to play an important role in providing reliable electricity supplies.

- 9.4 Therefore, while EN-1 recognises that carbon emissions from the proposed development can have a significant adverse impact, CO<sub>2</sub> emissions does not automatically render the scheme unacceptable. EN-1 goes so far as to state that individual applications do not need to be assessed in terms of carbon emissions against carbon budgets, and carbon emissions are not a reason to prohibit the consenting of projects. Government policy is that they must be constructed and operated in line with climate change goals. In this respect, in addition to minimising vulnerability and improving resilience, paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate by shaping places that contribute to a radical reduction in GHG emissions.
- 9.5 Carbon Capture and Storage (CCS) is an emerging technology that has the potential to remove carbon emissions of fossil fuel generating stations that would otherwise be released to the atmosphere by up to 90%, which offers the opportunity for fossil fuels to continue to be an important element of diverse and secure energy mix while meeting the Government's decarbonising goals. However, the development of CCS technologies and the necessary supporting chain (capture of carbon, transport, storage) is not yet at a stage for commercial deployment, and the conditions to be carbon capture ready set out in EN-1 and EN-2 only applies to new coal-fired plants which are of a generating capacity at or over 300MW. However, to reduce greenhouse gas emissions the applicant has proposed to ensure the facility is capable of operating using a 20% volume weighted blend of hydrogen as a fuel gas. Hydrogen acts as a chemical energy carrier that can store three times as much energy per units of mass as conventional petrol and when it 'burns' in air, releasing that stored energy, it combines with oxygen to produce water and thereby producing virtually no greenhouse gas emissions. This would lower emissions in comparison to no blend of hydrogen by approximately 8%. There is a 20% limit in the volume weighted blend as full hydrogen turbines are still in development. However, gas turbines are technically capable of burning up to 20% hydrogen without any significant conversion technology or changes to risk associated with natural gas delivery. In addition to full hydrogen turbine technology not yet being available, there are also current limitations in low-carbon hydrogen production; transport and storage with a fully functional GB hydrogen network unlikely to materialise before 2040. As such, due to available and practical approaches, it is considered that the proposed 8% reduction in emissions is a realistic and reasonable commitment to decarbonisation in line with sustainable development, and if minded to approve the use of 20% volume weighted blend of hydrogen as a fuel gas and certification can be secured by condition.
- 9.6 As such, there is policy supports for the proposal. Whether it would do so would be dependent on how the facility would operate, including accordance with the 'rules' referred to in EN-1, but it is reasonable to assume that the proposed facility will be effective in achieving the Government's objectives for energy security and decarbonisation.
- 9.7 In terms of need, the Future Energy Scenarios, which is produced by the National Grid, sets out how much energy is needed and where it would come from for future but credible scenarios. For the gas reciprocating engines, based on all scenarios and taking into account existing and pipeline facilities, the system is predicted to be short of the predicted levels of flexible generation requirement of between 300MW and 22,100MW. In relation to the impact of Covid-19, the National Grid reports that since the first Covid-19 lockdown, average daily electricity demands reduced by around 5-10% compared to 'normal levels', the reasons being less travel, reduced economic activity and change in balance of residential, industrial and commercial demand. However, analysis by the National Grid suggest that the long-term impact on need is likely to be small.

## ii Green Belt

## Whether the Proposals are Appropriate Development in the Green Belt

- 9.8 The entire site lies within the Metropolitan Green Belt and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Local Plan policy GB1 sets out forms of appropriate development in the Green Belt but was prepared in accordance with the cancelled PPG2: Green Belts which has since been replaced by the NPPF. While broadly reflective of current national Green Belt policy at a strategic level, it is more proscriptive and therefore policy GB1 is given less weight. The NPPF is a material consideration of greater weight and it sets out what comprises appropriate development in the Green Belt in paragraph 149 and paragraph 150. As a further material consideration of significant weight, BLPSVPC policy SP1 states that the Green Belt would be protected from inappropriate development in line with Government Policy.
- 9.9 BLPSVPC policy QP5 also states that states that permission will not be given for inappropriate development, as defined in the NPPF, unless very special circumstances are demonstrated, but due to unresolved objections this policy is currently given limited weight for the purposes of this assessment.
- 9.10 With reference to Local Plan Policy GB1 and BLPSVPC policy SP1, paragraph 149 and 150, the proposal does not fall under any of the exceptions to inappropriate development in the Green Belt. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and such development should not be approved expect in Very Special Circumstances (VSC). The applicant has put forward a case for VSC, which is considered in section 9(xii) of this report.

## The Effect on Openness and Purposes of the Green Belt

- 9.11 Local Plan policy GB2(a) states that permission will not be granted for new development within the Green Belt which would have a greater impact on openness of the Green Belt or the purposes of including land within it than existing development on the site. Insofar as assessing the impact of development on the openness of the Green Belt, Local Plan policy GB2(a) is more prescriptive than the NPPF and therefore not given full weight. However, the objective of GB2(a) is consistent with paragraph 137 of the NPPF which makes it clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belt are their openness and their permanence. Paragraph 138 of the NPPF goes on to state that the Green Belt serves 5 purposes: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration by encouraging the recycling of derelict and other urban land. The NPPF is a material consideration of significant weight.
- 9.12 As inappropriate development in the Green Belt the proposal is, by definition, harmful to openness. In terms of actual openness, the NPPG advises that when considering the potential impact of development on actual openness of the Green Belt, openness is capable of having both a spatial and visual aspect, and the permanence and degree of activity likely to be generated should be taken into account.
- 9.13 Located on a site comprising of an open agricultural field where there are currently no buildings within the site, the siting, layout, height, scale, form and amount of the proposed development, as described in section 5 of this report, would unavoidably result in an adverse effect on spatial and visual openness in comparison with the existing situation. The loss of openness would also be experienced from public vantage points from the M4, Howe Lane and at the junction between Howe Lane and Drift Road, although it is acknowledged that views are partly screened by existing trees, hedgerows and other vegetation and thereby localised.
- 9.14 The Landscape and Visual Appraisal (LVA) submitted by the applicant suggests that the visual impact of the proposed development on the Green Belt would be limited due to the existing level of enclosures and it is proposed to undertake woodland planting to increase screening and the reduce visibility of the development. However, it is considered that such mitigation could only reduce the extent to which the decrease in the site's openness can be seen and experienced

from, it cannot increase openness, and there is a limited to what can realistically be screened by planting and there is a point where an increase in planting to increase screening would have an impact on openness in itself. Therefore, it is considered that the harm to openness remains.

- 9.15 The life-span of the proposal is intended to be 30 years. Therefore, the proposal is not permanent, and the site would be restored to agricultural land after this time, which can be conditioned. This would limit the harm but the period of 30 years is not considered to be short-term and, together with the siting, layout, height, scale, form and amount, it is considered that the detrimental impact of the proposed development would still be material.
- 9.16 Turning to the purposes of the Green Belt, objections have been raised on the loss of the gap between Bracknell and Maidenhead, and therefore conflict with the purpose of the Green Belt to prevent neighbouring towns merging into one another. However, due to the scale of development and the distance between the two settlements it is not considered that the proposal would have significant impact on the integrity of the Green Belt in respect of this purpose. However, as the site is open and rural in character despite the urbanising influence of the M4, it is considered that it makes a strong contribution to the countryside. Therefore, its loss as a result of the development would conflict with the purpose of the Green Belt in safeguarding the countryside from encroachment.
- 9.17 With reference to its inappropriateness, harm to openness and conflict with one of the purposes, this harm to the Green Belt is considered further in the case for VSC (section 9(xii)) and the Planning Balance (section 11)

### **iii Flood Risk**

- 9.18 Local Plan policy F1 states that within areas liable to flood, development will not be permitted unless it can be demonstrated that the proposal would not of itself or cumulatively in conjunction with other development impede the flow of flood water, reduce the capacity of the floodplain to store flood water or increase the number of people or properties at risk from flooding. HWNP policy Env2 states that development must not increase flood risk elsewhere. As a material consideration, paragraph 159 of the NPPF requires development to be safe for its lifetime without increasing flood risk elsewhere, however, in the first instance paragraphs 159 of the NPPF requires development to be steered away from areas at highest risk. To accord, the NPPG sets out that a sequential approach (the Sequential Test) is applied. BLPSVPC policy NR1 also requires development to pass the Sequential Test, and development in flood Zone 2 and 3 will only be supported where it has been demonstrated that the development is located and designed to ensure that flood risk from all sources of flooding is acceptable in planning terms, but this policy is currently given limited weight.

#### Sequential Test

- 9.19 In accordance with the Environment Agency flood maps for planning, the application site lies within Flood Zone 2 (medium probability of flooding) with the exception of the north-west corner which lies in Flood Zone 1. Therefore, only where there are no reasonably available sites wholly in Flood Zone 1 should the suitability of sites that comprise of Flood Zone 2 be considered.
- 9.20 The submitted site-specific flood risk assessment (FRA) acknowledges that most of the site lies in Flood Zone 2 and that acceptability in Flood Zone 2 is subject to passing the sequential test. No sequential assessment was submitted by the applicant to support the application. However, a sequential assessment has been submitted in respect of the Green Belt. Although this does not address flooding specifically, it concludes that there is no other suitable site of the required size in proximity to the high-pressure transmission gas network. In applying the Sequential Test, the NPPG states that a pragmatic approach on identifying alternative sites should be taken and where it would be illogical to suggest alternative site (i.e., which do not reasonably meet the requirements of the development) then it might be impractical to suggest that the alternative site is suitable. As there are no other suitable sites in terms of size and proximity to the high-pressure transmission gas network, this suggests that an alternative site with a lower flood risk is also not available. As such, the proposal is considered to demonstrate that there are no reasonably available sites wholly in Flood Zone 1, and thereby passes the Sequential Test.

### Exception Test

- 9.21 Paragraph 163 of the NPPF states that if it is not possible for development to be located in areas with a lower risk of flooding, the exception test may have to be applied depending on the flood risk vulnerability of the proposed development and flood zone compatibility. In accordance with Table 2: Flood Risk Vulnerability Classification in the NPPG, as power generating facility the proposed development is classed as 'essential infrastructure'. With reference to Table 3: Flood Risk Vulnerability and Flood Zone Compatibility in the NPPG, essential infrastructure in Flood Zone 1 and 2 is deemed to be appropriate development and therefore the exception test is not required.

### Other Tests for Flood Risk

- 9.22 In addition to the requirement set out in Local Plan policy F1 and HWNP policy Env2, when determining any planning application paragraph 167 of the NPPF states that Local Planning Authorities should ensure that flood risk is not increased elsewhere, and development should only be allowed in areas at risk of flooding where it can be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk; the development is appropriately flood resistant and resilient in the event of a flood; it incorporates sustainable drainage systems; any residential risk can be safely managed; and safe access and escape routes are included where appropriate.
- 9.23 The site specific FRA includes hydraulic modelling which shows maximum floodplain levels on the proposed development site and tabulated results from modelling scenarios with the baseline and proposed development, which have been reviewed and approved by the Environment Agency. The modelling indicates that there will be negligible loss of floodplain storage as a result of the development, and therefore it is not considered that the proposed development will impede the flow of flood water, reduce the capacity of the floodplain to store flood water and increase flood risk elsewhere.
- 9.24 Turning to locating the most vulnerable development in area of lowest flood risk, as the majority of the site lies in Flood Zone 2 is it not possible for the development to be wholly or for the most part sited in the section of land in Flood Zone 1 within the site.
- 9.25 In terms of resistance and resilience measures, the model outputs show that during a 1 in 100 year event plus climate change allowance, the southern extent is at risk of flooding. Therefore, it is proposed that the engine house door cills, floor levels and internal equipment is raised to a minimum of around 41.2m AOD above the worst case scenario. Model outputs for the worst case event also indicates that the transformer unit is at risk to flood depths of approximately 0.8m, therefore a bund is proposed as an appropriate resistance and resilience measure. These measures are considered to be acceptable.
- 9.26 In terms of safe access and egress, as the occupation of the development would be limited, it is not considered that securing safe access and egress would be necessary and appropriate in this instance. To address residual risk, it is considered that a Flood Warning Evacuation Plan to be submitted and approved by the Local Planning Authority can be secured by condition if minded to approve.

### Sustainable Drainage

- 9.27 HWNP policy Env2 states the inclusion of sustainable drainage systems as part of new development will be supported. In addition to the requirements for sustainable drainage systems set out in paragraph 167 of the NPPF, paragraph 169 of the NPPF sets out similar requirements for sustainable drainage for major development such as this. Paragraph 169 of the NPPF goes on to state that systems should take into account advice from the Lead Local Flood Authority; have appropriate minimum operational standards; have maintenance arrangements in place for the lifetime of the development; and where possible provide multifunctional benefits. BLPSVPC policy NR1 also requires development to incorporate sustainable drainage systems, but this policy is currently given limited weight.

- 9.28 Undeveloped sites generally rely on natural drainage to absorb and convey rainfall into watercourses, and the effect of development is to generally reduce the permeability of the site. Therefore, a surface water drainage strategy has been submitted to mitigate the impact of the development, which comprises permeable gravel areas, unbound stone access roads and hardstanding, which allows runoff to infiltrate naturally into the underlying geology, and for impermeable buildings surface water runoff would be channelled by gravity gutters and downpipes to an attenuation pond. The pond has been designed to store approximately 148 cubic metres to prevent uncontrolled flooding of the site in extreme rainfall events, and the discharge of surface water from will be controlled to 2.0l/s runoff rates by use of a vortex flow control device fitted to the first upstream manhole from the surface water drainage outfall. The downstream outlet of the pond will include a sump / catchpit for removal of silt and debris. The discharge point will be to the Cut to the south of the development.
- 9.29 The proposed sustainable drainage strategy is acceptable in principle. If minded to approve, full details of the surface water drainage system based on the above strategy to ensure compliance with the non-statutory technical standards for sustainable drainage systems and to ensure that proposed development does is safe from flooding and does not increase flood risk can be secured by condition.

#### **iv Water Quality**

- 9.30 Local Plan policy NAP4 states that the Council will not grant planning permission for development which poses an unacceptable risk to the quality of groundwater and/or which would have a detrimental effect on the quality of surface water, and of a material consideration of significant weight, paragraph 174 of the NPPF states that the planning decisions should prevent new development from contributing to unacceptable levels of water pollution. BLPSVPC policy EP5 also states that development proposals will be supported where it can be demonstrated that proposals will not cause unacceptable harm to the quality of groundwater and surface water, and where it can be demonstrated that adequate and effective remedial measures to remove the potential harm to human health and the environment are successfully mitigated, but this policy is currently given limited weight.
- 9.31 The site is located within a greenfield site over London Clay and so there are no concerns in respect of groundwater quality. In terms of surface water, the Environment Agency originally objected to the proposal on the basis that the applicant had not supplied adequate information to demonstrate that the risks of pollution posed to the surface water quality of the River Cut have been assessed and can be safely managed. The applicant subsequently confirmed that the primary safeguard for surface water quality from any ammonia spillage, which is soluble and toxic to aquatic organisms, or other pollution would be the temporary isolation of the drainage system. The drainage pond will function as a temporary collection of any spillage that might occur and effectively sealing the site in a similar manner to a collection bund. The valve that controls the outflow will be manually shut during any activities involving un-bunded hazardous materials, and the pond will be fully cleaned and reinstated before any drainage recommences. This method to manage pollution risk to surface water quality to the River Cut is considered acceptable in principle.
- 9.32 The applicant also confirmed that an Environmental Management Plan would be prepared and submitted as part of their application to the Environment Agency for an Environmental Permit, which regulates plants that could pollute the air, water or land and a statutory requirement under the Environmental Permitting (England and Wales) Regulations 2016. For a Permit, the Environment Agency would customarily require the Environmental Management Plan to set out full details of the alarm system and procedures for how to seal the surface water drainage pond to prevent outflow and how a contaminated pond is suitably reinstated following a pollution incident, and the development to be carried out as approved. In the event that the proposal is approved, planning permission does not override the statutory obligation for an Environmental Permit or the requirements of any permit issued. If minded to approve planning permission, a condition is recommended to ensure a copy of the Permit is provided to the Local Planning Authority.

## v Environmental Protection

9.33 Local Plan Policy NAP3 states that the Council will not grant planning permission for proposals likely to emit unacceptable levels of smell, fumes or noise beyond the site boundaries, while HWNP policy T2 states that development generating additional LGV and HGV traffic movements should ensure that any harm arising from noise and dust is satisfactorily mitigated. As a material consideration of significant weight, paragraph 185 of the NPPF requires planning decisions to take into account the likely effects of pollution on health and living conditions, as well as the potential sensitive of the site or the wider areas to impacts that could arise from the development, while paragraph 186 states that planning decision should sustain or contribute towards compliance with relevant limit values or national objectives for pollutants. As a further material consideration of significant weight, BLPSVPC policy EP1 states that development proposals will only be supported if it can be shown that individually or cumulatively that they do not have an unacceptable effect on environmental quality during the construction or operational phases of the development, and residential amenity should not be harmed by reason of noise, smell or other nuisances. Specifically relating to air pollution, BLPSVPC policy EP2 states that development proposals should aim to contribute to conserving and enhancing the natural and local environment, and avoid putting new or existing occupiers at risk of harm from unacceptable level of air quality. Development proposals should show how they have considered air quality impacts through an air quality assessment. Specifically relating to noise pollution, BLPSVPC policy EP4 state that development proposals that generate unacceptable levels of noise and affect quality of life will not be permitted. Effective mitigation measures will be required where development proposals generate significant levels of noise that may cause or have an adverse impact on neighbouring residents, the rural character of the area or biodiversity. The Council will require the submission of a noise assessment.

### Air Quality

- 9.34 For the construction phase of the development, the submitted Construction Traffic Management Plan sets out there would be between 4 to 10 LGVs a day and 15 to 20 HGVs a day, and circa 5 abnormal loads. Given the predicted number of vehicles trips, the proposed dust mitigation measures that includes damping, wheel cleaning facilities and road cleaning, and the temporary nature of construction, it is not considered that dust arising during this phase would not result in undue harm to air quality that would warrant refusal. Details of and adherence to dust mitigation measures can be secured by a condition for a site-specific Construction Environmental Management Plan.
- 9.35 For the operation phase of the development, an Air Quality Assessment was submitted to support the proposal. The Air Quality Assessment was originally based on 14m high stacks which was increase in height to 15m during the course of the application, therefore an addendum to the Air Quality Assessment was subsequently submitted. Overall, the methodology of the Air Quality Assessment and addendum complies with industry best practice approaches and therefore the conclusions are considered to be robust.
- 9.36 The Air Quality Assessment evaluates the emissions of nitric oxides, which oxidises in the atmosphere to form Nitrogen Dioxide (NO<sub>2</sub>), from the proposed stacks of the proposal and together with the proposed scheme under 20/00715/FULL for the cumulative impact to 12 receptors, which were selected where the public is regularly present and likely to be exposed over the averaging period of the objective. In line with EN-2, it is acknowledged that sulphur oxides (SOX) from gas-fired generating stations are likely to be negligible and therefore not assessed. The results indicate that the predicted concentrations of emissions from the stacks of NO<sub>2</sub> at all sensitive receptors meet the relevant air quality standards. Therefore, the conclusion of the Air Quality Assessment that the effect of the proposed development on air quality as 'not significant' is accepted.
- 9.37 As with groundwater and surface water pollution, air emissions from the operation of the development would be regulated by the Environmental Permitted regime. The Environment Agency would be the regulatory body, breaches of the approved Environmental Permit would be illegal, and planning permission does not override the statutory obligation for an Environmental Permit or the requirements of any permit issued. If minded to approve planning permission, a



condition is recommended ensure a copy of the Permit is provided to the Local Planning Authority.

- 9.38 The Air Quality Assessment does not include the impact of additional traffic. However, the Access Technical Note sets out 6 two-way vehicle movements per day. There would also be 34 deliveries by a 22,000L road tanker and 12 general deliveries / servicing vehicles per year, and there would be an annual shut down for full maintenance which requires an additional 4 specialist staff, split into 2 shifts over 12 hours on site for 5 weeks. Given the modest number of trips in absolute terms, it is not considered that impact on air quality from additional vehicles would be significant.
- 9.39 The above assessment is on human health receptors. The predicted air quality impact on trees and ecology are assessed in sections 9(vi) and 9(vii).

#### Noise Pollution

- 9.40 In terms of noise from construction traffic, due to the predicted number of LGV and HGV vehicle movements and the proposed route, in addition to the temporary nature of the construction phase, it is considered that noise from LGV and HGV traffic would not result in undue harm to amenity that would warrant refusal.
- 9.41 A Noise Assessment for the combined operation of the proposed development and the development under 20/00715/FULL has been submitted to support the application. The methodology is in line with British Standards 4142:2014 + A1:2019 (Methods for Rating and Assessing Industrial and Commercial Sound) and therefore the assessment and conclusions are considered to be robust.
- 9.42 The assessment considered the noise impact of development during its operation on residential properties that are closest in proximity to the site (Noise Sensitive Receptors: NSRs). It establishes that the baseline ambient sound levels already exceed the guidance level for the onset of annoyance during the day and evening. The main source of noise is traffic travelling on the M4. The proposal would add to baseline ambient sound levels, but the predicted change as a result of the proposed development would be below the minimum that is perceptible to most during all periods at the NSRs nor. As such, in accordance with BS: 4142:2014 + A1:2019, the proposed development would not result in an adverse impact in this respect.
- 9.43 The proposal incorporates various mitigation measures within its design, including enclosures the surrounding gas engines with acoustic absorptive cladding, exhaust silencers fitted to the gas engine exhausts, acoustically lagged external ductwork, acoustic louvers to the air inlet and outlets on the building facades, and low noise transformers. If minded to approve, a condition is recommended to secure the submission and approval of full details of the proposed insulation of the plant which accords with British Standards 4142: 2014+A1:2019. As mitigation for noise that may occur outside of the building, a condition to limit the hours of works of maintenance on the plant, machinery or equipment outside the building between 08:00 and 18:00 hours Mondays to Fridays, 08:00 and 13:00 on Saturdays and at no time on Sundays, or Bank Holidays or Public Holidays is recommended. It is considered that there would be less background noise in the evening, at night and at the weekend, and the NPPG notes that the adverse effect can be greater simply because there is less background noise. This condition excludes repair works in the interest of immediate safety risk or operational malfunction. This resultant harm is not considered to reduce amenity to an unacceptable level to warrant refusal but would still represent limited harm. This harm should be weighed against the development and is considered in the case for VSC (section 9(xii)) and overall Planning Balance (section 11)

#### Light Pollution

- 9.44 There were inconsistencies in supporting documents on the lighting proposed for the development. It was subsequently confirmed that there would be 7 lights poles mounted around the perimeter of the site, 4 lights mounted onto the corner of the engine housing building, and 1 lighting column between the exhaust system but, with the exception of instances where repair is required for immediate safety, lighting would not be used overnight. As the site is considered to be in an area with low district brightness (relatively dark outer suburban locations) with a material

influence from vehicle lights from the M4 from, there is no objection in principle. However, in the interest of minimising additional impact on amenity, character and wildlife in this location, and making the development more energy efficient and sustainable, a condition is recommended to secure submission and approval of a detailed lighting scheme.

### Visual Overbearing

- 9.45 Local residents have raised concerns over visual bearing of the flues and development on general to their properties. The nearest neighbour is sited over 270m away from the application site. Given the siting, height and mass of the flues, together with the separation distance, it is not considered that the proposed flues would result in any undue visual overbearing to the nearest neighbouring resident to the detriment of their amenity. Visual amenity is assessed in section 9(x).

### **vi Trees**

- 9.46 To the north of the site is Great Wood. Great Wood is dissected by the M4 with the main extent situated on the western (opposite) side of the motorway, covering approximately 59ha. The extent to the north of the application site is smaller, measuring approximately 1.6ha. Both extents are ancient woodland, which is defined in the NPPF has an area that has been wooded continuously since at least 1600AD. Natural England's Magic Map system indicates that Great Wood is semi-natural woodland mainly made up of trees and shrubs native to the site, usually arising from natural regeneration.
- 9.47 Local Plan policy N6 requires new development to allow for the retention of existing suitable trees wherever practicable, should include protection measures necessary to protect trees during development, and where the amenity value of trees outweigh the justification for development then planning permission may be refused. As a material consideration of significant weight, paragraph 174 of the NPPF states that planning decisions should recognise the intrinsic character and benefits of natural capital including trees and woodland, while paragraph 180 of the NPPF goes on to state that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Natural England and the Forestry Commission have also published 'standing advice', which Government Guidance has identified as a material consideration. The standing advice states that that planning permissions should be refused if the development loss or deterioration of ancient woodland unless there are wholly exceptional reasons and there is a suitable compensation strategy in place, and decision makers should take into account the conservation and enhancement of biodiversity, and any mitigation that reduces the impact of the proposed development on ancient woodland.
- 9.48 BLPSVPC policy NR3 also sets out that ancient woodland sites are to be safeguarded from harm or loss, but this policy is currently given limited weight.

### Air Pollution

- 9.49 Further to the An Air Quality Assessment on human health, a supplementary memo on the predicted air quality impacts on Great Wood has been submitted. A second supplementary memo was submitted to address the change in stack heights from 14m to 15m.
- 9.50 In assessing the potential on ecological receptors, it is acknowledged that ammonia in the air may exert direct effects on vegetation or indirectly affect the eco-system through depositions which cause excessive nitrogen enrichment. Nitrogen in plants is vital in the health of all plants as it is a component in the production of chlorophyll, but excess nitrogen results in disproportionate foliage growth, and energy is diverted from flower / berry production and root growth to the detriment of the health and longevity of the plant, and thereby the floristic composition of Great Wood and habitats.
- 9.51 The Air Quality Assessment concludes that the process contributions of Nitrogen (N) and Nitrogen Oxide (NOX) at Great Wood would be less than the 100% of the critical level / load for each pollutant. Critical levels are maximum atmospheric concentrations of pollutants for the

protection of vegetation and ecosystems and are specified within relevant UK regulations, while critical loads refer to the quantity of pollutants deposited, below which significant harmful effects on sensitive elements of the environment do not occur, according to present knowledge. Current Environment Agency guidance states that for ancient wood within 2km of the site, if the predicted process contributions are less than 100% of the critical level / load than the impact is not considered to be significant. Therefore, on this basis the impact of N and NOX process contributions on Great Wood is not considered to be significant.

- 9.52 Ammonia can also result in acidification of the soil, which may curb propagation of non-acid tolerant species and varieties. Acid soil, particularly in the subsurface, may also restrict root growth effecting uptake of water and nutrients. However, the habitats in Great Wood, identified by a walk-over survey by the applicant's ecologist, are not sensitive to acid deposition, so not considered further.

#### Buffer Zone

- 9.53 The purpose of a buffer zone is to protect ancient woodland, and to avoid root damage the standing advice is that there should be a buffer of at least 15m. Where assessment shows other impacts likely to extent beyond this distance, there may be requirement for a larger buffer zone. The buffer should also consist of a semi-natural habitat.

- 9.54 In this case, the proposed buffer zone falls short of the minimum buffer zone recommended to protect root damage by around 1m-1.5m. However, the Tree Impact Plan, drawing ref: AEL-18195-TIP rev. C, shows that the proposed development would not intrude through the Root Protection Area (RPA), the minimum area around the tree that holds enough roots and rooting volume suggested by British Standards (BS) 5837: 2012 to maintain the tree's viability, of existing individual trees along the southern boundary of the ancient woodland. Therefore, the proposed buffer is acceptable in this respect. Other identified impacts, such as air pollution dispersal with the proposed buffer is assessed above and considered acceptable. Woodland planting is proposed in between the development and Great Wood, comprises common oak, hazel and birch amongst other species as shown on the Planning Plan, drawing ref: 307\_PP\_E05 rev, A, which are typical of the florist composition of Great Wood, and therefore acceptable. Full details and approval of the proposed woodland planting, and their management, can be secured by condition.

#### Tree Removal

- 9.55 Part of the group of trees identified as G30, and 4 individual trees identified as T4, T5, T6 and T7 are proposed to be removed. In the submitted Arboricultural Impact Assessment, G30 (mixed species), T5, T6 and T7 (*Acer Campestre*) are categorised as C1 grade trees which, in terms of their arboriculture qualities, BS 5837: 2012 classes as unremarkable or of limited merit. Category grade C trees should be retained where possible, but where removal is necessary to accommodate development these trees should not pose a significant constraint. Therefore, as their removal is necessary to accommodate the proposed development, the partial loss of G30, and loss of T5, T6 and T7 is acceptable. T4 (*Quercus Robur*) is categorise as a B1 grade tree, which BS 5837: 2012 classes as having arboricultural qualities of moderate quality, capable of making a significant contribution for 20 or more years, and generally category grade B trees should be retained. Therefore, the loss of T4 would result in harm. However, the amenity value of T4 is not considered to be so significant to warrant refusal and the harm would be mitigated through the planting of new trees as indicated on the Planting Plan, drawing ref: 307\_PP\_E05 rev, A. Objections from the Council's Arboriculture Officers have been raised over the proposed specimen tree *Populus Canadensis* 'Robusta' as mitigation as it is not a native species. However, full details and approval of the species can be secured by condition. Therefore, the loss of T4 is also acceptable.

## Root Protection

- 9.56 The Tree Impact Plan shows that proposed layout of the main plant would also intrude through the RPA of the T8 while the proposed access track would intrude through the RPA of T1, T2 and T3. T8 (*Acer Campestre*) is categorised as grade C1, while T1, T2 (*Quercus Robur*) and T3 (*Acer Campestre*) are categorised as grade B1 trees. The default position set out in BS 5837: 2012 is that structures should be located outside of the RPAs of retained trees but goes on to state that new hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA. The intrusion is below 20% of the RPA of T8, T1, T2 and T3, and the Arboricultural Impact Assessment proposes measure to protect the trees during construction such as 'no dig' specification, and mitigation to ensure the health and longevity of the trees such as the use of permeable material to ensure soil moisture and the addition of soil nutrients to aid root development in the viable areas. As such, the impact on T1 and T2 is acceptable.
- 9.57 The Arboricultural Impact Assessment acknowledges that there is potential for intrusion into the RPA of T28 and T29 (as referred to in the Arboricultural Impact Assessment but labelled as T25 and T26 on plan ref: Tree Impact Plan, drawing ref: AEL-18195-TIP rev. C.) due to proposed tunnelling under The Cut for cables and pipework. T28 and T29 are both *Quercus Robur* and categorised as B1 grade trees. However, the Arboriculture Impact Assessment goes on to state that there is around 15m of easement, so cables and pipework can be located away from any underground structures such as tree roots, and details can be secured through a Arboricultural Method Statement.
- 9.58 If minded to approve, it is recommended that the submission and approval of a Arboricultural Method and Mitigation Statement to include details of the replacement tree planning and within the buffer zone, and tree protection measures, is secured by condition.

## **vii Ecology**

### Special Area of Conservation

- 9.59 The site lines within 10k of Chiltern Beechwood and Windsor Forest and Great Park, both a Special Area of Conservation (SAC), which is a European Designated site. Where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, the Conservation of Habitats and Species Regulations 2017 requires an appropriate assessment to be made in view of that site's conservation objectives. Paragraph 180 of the NPPF states that development resulting in the loss of deterioration of irreplaceable habitats, including Special Areas of Conservation, should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

#### *Chiltern Beechwood*

- 9.60 The Joint Nature Conservation Committee (JNCC), which is the public body that advises the UK Government on UK-wide conservation advises that the primary reason for designation of Chiltern Beechwoods SAC is the extensive tract of beech forest which is an important part of a grassland-scrub-woodland mosaic, which support important orchid sites and stag beetles.
- 9.61 A memo report has been submitted on the impact of the proposed development together with the proposed development under 20/00715/FULL on the impact on Bisham Woods Site of Special Scientific Interest (SSSI), which overlaps with Chilterns Beechwood SAC, from ammonia (NH<sub>3</sub>), nitrogen (N) and acid depositions. As set out in section 9(vi), ammonia in the air can result in depositions which cause excessive nitrogen enrichment and acidification to the detriment of the health and longevity of the plants and floristic composition of woods.
- 9.62 Current Environment Agency and Department for Environment, Food and Rural Affairs guidance (2021) states that or SSSIs and SACs within 10km of the site, if the process contributions are less than 1% of the critical level / load than the impact is not considered to be significant. In this case, the report concludes that the process contributions of ammonia (NH<sub>3</sub>), nitrogen oxide (NO<sub>x</sub>), nitrogen (N) deposition and acid deposition are below 1% of the critical level / load.

Therefore, in this respect the impact on Chiltern Beechwoods SAC is not considered to be significant.

- 9.63 In terms of other threats and pressures, the JNCC states identifies issues with management and use, problematic native species and invasive non-native species, and interspecies flora relations. The proposed development is not considered to have a significant effect on Chilterns Beechwoods due to its use and distance. Therefore, overall, an Appropriate Assessment for Chilterns Beechwoods is not required.

#### *Windsor Forest and Great Park*

- 9.64 The JNCC advises that the primary reason for designation of Windsor Forest and Great Park SAC is the significance of the old acidophilous oak woods, range and diversity of sapxylic invertebrates, and fungal assemblages. The JNCC has identified air pollution as an identified threat to Windsor Forest and Great Park SAC.
- 9.65 A memo report has been submitted on the impact of the proposed development together with the proposed development under 20/00714/FULL on the impact on Windsor Forest and Great Park SAC, from ammonia (NH<sub>3</sub>), nitrogen (N) and acid depositions. It concludes that the process contributions of ammonia (NH<sub>3</sub>), nitrogen oxide (NOX), nitrogen (N) deposition and acid deposition are below 1% of the critical level / load. Therefore, in accordance with current Environment Agency and Department for Environment, Food and Rural Affairs guidance (2021), the process contributions from the proposal are not considered to be significant. Therefore, overall, an Appropriate Assessment for Windsor Forest and Great Park is not required.
- 9.66 In terms of other identified threats and pressures, which includes forest and plantation management and use, invasive non-native species and interspecific floral relations, the proposed development is not considered to have a significant effect on Windsor Forest Great Park due to its use and distance.

#### Other Designations

- 9.67 In terms of biodiversity in general, HWNP policy Env1 states that development proposals should maintain and where practicable and appropriate, enhance biodiversity. As a material consideration of significant weight, paragraph 174 of the NPPF states that planning decisions should recognise the wider benefits from natural capital and ecosystem services and minimise impacts on and provide net gains for biodiversity. Paragraph 180(a) states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort compensated for then planning permission should be refused. As further material considerations of significant weight, BLPSVPC policy QP1 requires larger development, such as this, to foster biodiversity; policy QP3 requires new development to respect and enhance biodiversity; policy EP3 requires development proposals avoid generating artificial light pollution that would have a detrimental impact on biodiversity; and EP4 states that development would generate unacceptable levels of noise that adversely impacts biodiversity would not be permitted. BLPSVPC NR2, which expects development proposals to demonstrate how they maintain, protect and enhance the biodiversity of sites, is currently given limited weight.
- 9.68 An Ecology Assessment was submitted to support the application, which included a field survey, habitat assessment and protected species impact assessment.

#### *Badgers*

- 9.69 Badgers are protected under the Protection of Badgers Act 1992 (as amended). The submitted Ecology Assessment confirms that within the section of Great Wood to the north of the application site, there is a large main sett, two annex setts and one subsidiary sett, and evidence of use by badgers. Furthermore, there are locations across land adjacent to the site which are suitable for badger sett creation. Given the separation distance, the proposal would not directly impact existing or potential badger setts. However, as a result of the removal of around 60m of hedgerow within the site there would be harm to badgers through the loss of commuting and foraging habitat. As mitigation, the Planting Plan, drawing ref: 307\_PP\_E05 rev, A, shows

proposed woodland and hedgerow planting which would take time to fully establish but overall would maintain the commuting line from the retained section of hedgerow and would increase and enhance foraging opportunities for badgers. Fencing which could potentially block small mammals passing through, but badger / small mammal gates to be installed every 100m is proposed. If minded to approve, can be secured by condition along with the planting as mitigation. Therefore, the impact on badgers are considered to be acceptable.

### *Bats*

- 9.70 All British bats and their roosts are afforded full protection under the Conservation of Habitats and Species Regulations 2017 and Wildlife and Countryside Act 1981 (as amended). There was no evidence of roosting bats on the site. However, in terms of potential roosting features on and directly around the site, one mature field maple was deemed to be of high value, 5 oak trees were deemed to be of moderate value, and 53 oak trees were deemed to be of low value for roosting bats. Great Wood, The Cut and hedgerow were also deemed to be of high value for foraging and commuting bats.
- 9.71 The loss from removal or potential loss from the impact of the development of 6 low value trees, and removal of around 60m of hedgerow within the site would result in moderate negative impact on roosting bat and minor negative impact on commuting and foraging bats. As set out in this report, the proposed development is not considered to result in undue harm to the health and longevity of retained trees but, for the purposes of assessing proposed mitigation, the assumption of a worst case is reasonable. The Planting Plan, drawing ref: 307\_PP\_E05 rev, A, shows proposed woodland planting which, together with the installation of bat boxes, would satisfactorily compensate roosting bats for the loss of the 6 trees. The compensatory planting would take time to fully establish, but would maintain a commuting and foraging line from the retained section of the hedgerow to Great Wood. The range of species proposed, which supports invertebrates, would also improve foraging opportunities for bats. Therefore, the impact on bats is considered to be acceptable. If minded to approve, details and implementation of the planting as mitigation can be secured by condition.

### *Great Crested Newts*

- 9.72 Great Crested Newts are a Priority Species and afforded protection under the under the Conservation of Habitats and Species Regulations 2017 (as amended). There are a number of water bodies within 500m of the site at Pond Wood and Pondwood Farm where Great Crested Newts have been recorded but given the distance and as these ponds are physically separated from the site by the M4, any Great Crested Newts that may be present in these water bodies are unlikely to access and utilise the site. There are no ponds within 250m of the site and, while the field edges and hedgerow have potential for shelter and foraging opportunities, managed arable land comprises of sub-optimal vegetation as terrestrial habitat for Great Crested Newts. Therefore, the site is considered to be of low suitability for Great Crested Newts. As such, no specific mitigation measures are required in respect of this species. However, it is recommended that all attenuation ponds are designed to have at least one shallow / gradual side or has a wildlife-accessible escape ladders / netting installed. If minded to approve, details and implementation of this can be secured by condition.

### *Reptiles*

- 9.73 All six species of British reptiles are Priority Species under the Conservation of Habitats and Species Regulations 2017 (as amended), and the Wildlife and Countryside Act 1981 (as amended) protects all six species of British reptile against intentional killing or injury. There was no evidence of reptiles recorded during the survey, and while there is low potential within the grassy field margins to support reptiles, the site is considered to be of negligible to low value has habitat due to the sub-optimal vegetations structure within the managed arable land. As such, no specific mitigation measures are required in respect of this species.

### *Dormice*

- 9.74 Dormice are a Priority Species under the Conservation of Habitats and Species Regulations 2017 (as amended) and are fully protected under the Wildlife and Countryside Act 1981 (as amended). No evidence of dormice was recorded during the survey, and so it is considered that dormice are absent from the site. Thames Valley Environmental Record Centre (TVERC) data also records no dormice within 1km of the site. The hedgerow is suitable for commuting between local woodlands, but within Great Wood there is a lack of understorey for dormice to utilise and limited quantities of plant species which dormice forage on (hazel) or nest in (bramble) and therefore has low suitability as habitat. As such, no specific mitigation measures are required in respect of this species.

### *Water Voles*

- 9.75 Water voles are fully protected under the under the Wildlife and Countryside Act 1981 (as amended). The survey recorded no evidence of water voles on the, however there is potential for water voles to be found in The Cut. Therefore, if minded to approve it is recommended that an updated survey for water voles prior to the start of relevant works to ensure that presence of otters and no holts or burrows have been established subsequent to the survey undertaken as part of the submitted Ecology Assessment. If the survey finds evidence of water voles then further survey works should be secured to determine impacts and appropriate mitigation, which is likely to be required to accord with licensing requirements overseen by Natural England. The updated survey and where necessary a copy of the licence to be provided to the Local Planning Authority can be secured by condition.

### *Otters*

- 9.76 The European Otter, which the only native UK otter species, is a protected species under the Wildlife and Countryside Act 1981 (as amended). No evidence of otters was recorded during the survey, however there is potential for otters to be found in The Cut. Therefore, if minded to approve it is recommended that an updated survey for otters prior to the start of relevant works to ensure that presence of otters and no holts or burrows have been established subsequent to the survey undertaken as part of the submitted Ecology Assessment. If the survey finds evidence of otters then further survey works should be secured to determine impacts and appropriate mitigation, which is likely to be required to accord with licensing requirements overseen by Natural England. The updated survey and where necessary a copy of the licence to be provided to the Local Planning Authority can be secured by condition.

### *Nesting Birds*

- 9.77 Great Wood is of high value to nesting birds, while single trees and the hedgerow on site is of moderate value. Breeding birds, their eggs and active nests are protected under the Wildlife and Countryside Act 1981 (as amended). To avoid potential offence under the relevant legislation, an informative is recommended to advise the agent that there should be no clearance of suitable vegetation during bird-nesting season (1 March to 31 August, inclusive).

### The River Cut

- 9.78 The proposal includes a new crossing beneath the riverbed of The Cut. Further details were submitted during the course of the application confirming that the proposed new crossing under the River Cut will be constructed using directional drilling. This is a method of installing pipes and involves opening a trench on either side of the entity that is intended to be left unchanged, in this case the River Cut. The drill then cuts a hole from one trench, an acceptable distance below the riverbed, emerging at the other trench. The trenches are then backfilled. As a result, the impact on the river will remain hydrogeomorphologically neutral. This method is an established method used by the gas, electricity, water and telecoms industry to avoid interference with water features, and thereby considered to be effective and feasible. As such, this is acceptable in principle and the Environment Agency has withdrawn their initial objection.

- 9.79 As with groundwater and surface water pollution, and air pollution, the risks to nature conservation and fisheries as a result of these works, and details of how the risks can be managed, would be subject to the Environmental Permitting (England and Wales) Regulation. Therefore, if minded to approve planning permission, a condition is recommended ensure a copy of the Permit is provided to the Local Planning Authority.

### **viii Highway Safety**

- 9.80 Local Plan policy T5 requires all development proposals to comply with adopted highway design standards. HWNP policy T1 states that development proposals requiring access must demonstrate safe and suitable access, and development proposals that would have a severe residual cumulative impact on highway safety will be refused. As a material consideration, paragraph 110 of the NPPF states that safe and suitable access to the site should be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion) or on highway safety should be cost effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. As a material consideration of significant weight, BLPSV policy IF2 states that development should be located in sustainable locations, and proposals should be designed to optimise traffic flows and circulation to minimise negative environmental impacts of travel and provide car and cycle parking in accordance with the current Parking Strategy.

### Sustainable Location

- 9.81 Located in a rural location, the site is not close to homes, services and facilities nor near convenient and sustainable modes of public transport and therefore not in a sustainable location. It is acknowledged that the development is proposed to be largely unmanned, and so the harm is limited. This harm should be weighed against the development, which is considered further in the case for VSC (section 9(xii)) and the Planning Balance (section 11).

### Trip Generation

- 9.82 In terms of construction traffic, the construction period is envisaged to last 12 months and the applicant has submitted a Construction Traffic Management Plan (CTMP) which provides information on the types and frequency of construction vehicles and equipment which will need to be delivered to the site. The plan envisages there would be between 4 to 10 LGVs a day and 15 to 20 HGVs a day. The development will also need to accommodate circa 5 abnormal loads which comprise of the transformer, four engines and large crane.
- 9.83 The Council's Highway Consultants has confirmed no issues with the route and number of construction vehicles and impact on the local highway network, while the Council's Abnormal Loads Team has considered the Oakley Green Road/ Fifield Lane 7.5T Weight Restriction Scheme and the width of RBWM structures that the abnormal load vehicles will pass through and have also raised no objections. However, Bracknell Forest Council as the Local Highway Authority for the majority of the identified route for construction traffic from its starting point to the destination has raised objections as the route directs construction traffic through rural roads with poor accidents records including Forest Road/Warfield Street/A3095 and residential areas, and they note that the timing of deliveries do not appear to respect defined traffic sensitive time periods. Therefore, during the construction period it is considered to result in a detrimental impact on highway safety on Bracknell Forest Council's roads and network, contrary to Bracknell Forest Council Core Strategy policies CS23 and CS24. Given the temporary nature of construction traffic and given that any undue adverse impact from construction vehicles can be controlled and / or mitigated by existing highway legislation, the resultant harm is considered to be limited. This harm should be weighed against the development and is considered further in the case for VSC (section 9(xii)) and overall Planning Balance (section 11)



- 9.84 Once the site is operational, the Access Technical Note states it will produce approximately 6 two-way vehicle movements per day (3 arrivals / 3 departures). It was also confirmed there would be 25 deliveries of ammonia solution, 6 deliveries of lubricating oil, and 3 deliveries of waste oil removal per year by a 22,000L road tanker (34 in total) and 12 general deliveries / servicing vehicles, and there would be an annual shut down for full maintenance which requires an additional 4 specialist staff, split into 2 shifts over 12 hours on site for 5 weeks. Given the number of trips for normal operation and the annual shut down maintenance, and the frequency of trips by more impactful types of vehicles to and from the site, it is not considered that impact on the local highway network would be severe, and therefore acceptable.

#### Access

- 9.85 Vehicular access to the site is proposed from Howe Lane via a new private access priority junction. The proposed access arrangements, drawing ref: 19109-GA01 rev. C (appendix C of the Access Technical Note, dated 16 March 2020) demonstrates that the required visibility splays of 2.4m x 140m to the left and right can be achieved, and that a turning HGV can manoeuvre to and from the site access and onto Howe Lane. A gate is proposed which is set back approximately 18m beyond the back edge of the Howe Lane Carriageway to enable all vehicles to safely pull off the highway before the gates are opened.
- 9.86 The proposal also includes an access from Howe Lane, which is associated with the gas compound to the south of the site. The Access Technical note states that the access will only need to be used 2 to 3 times per year. Drawing number 19109-GA02 shows that the access will provide visibility splays of 2.4m x 55m to the right to the roundabout junction by 2.4m x 120m to the left. As vehicle speeds will be lower as vehicles would be braking for the roundabout the proposed visibility splays for this access are acceptable.

#### Parking

- 9.87 Local Plan policy P4 requires development to meet adopted parking standards while as a material consideration of significant weight, BLPSVPC policy IF2 states that development should provide vehicle parking in accordance with current parking strategy. The proposed master plan reference: SL203LXMP301 Revision C indicates 8 parking spaces on site, which is considered acceptable. There is sufficient turning for these spaces to enable cars to enter / exit in forward gear. If minded to approve condition is recommended to ensure that parking is provided in accordance with these details.

### **ix Character and Appearance**

- 9.88 Local Plan policy DG1 resists development which is cramped or which results in the loss of important features which contributes local character. As a material consideration, paragraph 126 of the NPPF advises that high quality buildings and places is fundamental to what the planning and development process should achieve, and good design is a key aspect of sustainable development. To achieve this, paragraph 130 of the NPPF advises that planning decisions should ensure that developments function well and add to the overall quality of the area for the lifetime of the development; is visually attractive as a result of good architecture, layout and appropriate landscaping; are sympathetic to the local character and history of the surrounding environment while not preventing appropriate change; and create places that are safe and inclusive. Paragraph 134 of the NPPF states that development that is not well designed should be refused. As a further material consideration of significant weight, BLPSVPC policy QP1 states that all new development should positively contribute to the place in which they are located, and larger developments will be expected to contribute to the provision of social, natural, transport and utility infrastructure to support communities and be of high quality that fosters a sense of place, while QP3 states that new development will be expected to contribute towards achieving sustainable high quality design in the Borough and sets out design principle for new development to achieve this. The principles include respecting and enhancing the local character of the environment.

- 9.89 A Landscape and Visual Appraisal (LVA) has been submitted by the applicant, which includes an assessment on the baseline landscape character of the site and surrounds, landscape value, sensitivity and potential landscape and visual effects when operational.
- 9.90 In terms of baseline character, the LVA refers to the Council's Landscape Character Assessment (LCA) Supplementary Planning Guidance (SPG). The LCA SPG identifies the area as an Open Clay Farmland (6A – Braywoodside). The key characteristics is a generally flat to undulating rural landscape with large rectilinear fields of arable crops defined by native hedgerows of varying age and conditions but with modern day practices, earlier field divisions have been lost and therefore the landscape is sometimes vast. The horizontal farmland landscape is punctuated by woodlands and copses, some of ancient origin (fragments of the medieval Royal hunting forest that extends from Windsor), drainage ditches and ponds, and isolated or small groups of farmsteads and cottages of vernacular style. It is considered that the application site and surrounds largely confirms to this character.
- 9.91 Turning to a site specific landscape assessment, the LVA does not identify key characteristics but notes that the site is rural although influenced by the M4, and the rural character of the landscape east of Howe Lane is weakened by the conversion of plots of land to small commercial units, offices, ad hoc storage and fishing lakes although these are all visually contained. The influence of the M4 is agreed, but it is considered that the influence of the identified commercial units to the character of the site or setting is very low given the separation distance (over 340m), number of units, building sizes and containment. The fishing lakes is not considered to weaken the character of the site, its setting or wider surrounds as drainage ditches and ponds are superficially identified as a key character of the landscape in the LCA SPG which the LVA refers to in the establishing the baseline character of the area.
- 9.92 In terms of quality and value, the LVA takes into account the proximity an influence of the M4 and nearby overhead transmission lines and therefore concludes the quality to be medium to low and the landscape value to be medium. This generally agreed. The LCA SPG states that based on its contribution towards consistent patterns in the landscape, occurrence and condition the landscape character of open chalk farmland is of moderate strength. In relation to value, the LCA SPG notes that in terms of rarity the Open Chalk Farmland character type is only found at one location within the Borough, roughly contained between settlement along Bath Road to the north and the settlements of White Waltham and Waltham St Lawrence to the south. There are overhead transmission lines, roadways, signage, and an indication that traditional land management practices are declining, but the overall condition is considered to be good to declining.
- 9.93 In terms of sensitivity, the LVA notes that the site is adjacent to the M4 and afforded some visual enclosure but the susceptibility to the landscape to change is considered to be medium. This is not agreed. The landscape and site itself is generally large scale, flat and open in character, and therefore considered to be highly sensitive to change, and therefore capacity for change is low.
- 9.94 Nevertheless, despite the differences on the capacity for change, the LVA concludes that the impact on visual amenity as a result of the proposed development on viewpoint 1 (from Howe Lane, southeast) and viewpoint 2 (from Howe Lane, east) would be adverse of moderate to major significance, while the impact on viewpoint 3 (from Howe Lane, northeast, viewpoint 7(M4) and viewpoint 10 (east of Howe Lane) would be adverse of moderate significance. The LVA states that moderate to major adverse effect is defined as '*an easily noticeable degradation of the landscape character/elements/existing views.*' In relation to moderate adverse, this is defined as '*a noticeable degradation of the landscape character/elements/existing views.*' A map of the location of these viewpoints, which were identified to provide a representation of the visual environment within which the site is set can be found at Figure 7: Viewpoint Location Plan in the LVA.
- 9.95 The proposal as described in section 5 would be a substantial development, and due to the siting, scale, form, mass, design, features and materials would be urban and industrial in appearance, which would be clearly distinct and unduly detract from the character of the site and surrounds. It would be locally prominent from Howe Lane and the M4.

- 9.96 A native hedge measuring 2-3m in height, once established, along Howe Lane, and woodland planting in the intervening fields is proposed as mitigation for the impact on viewpoint 1, 2 and 3, while hedge planting is proposed along the boundary to mitigate the impact on viewpoint 10. The LVA puts forward that this would effectively screen the development and so would reduce the adverse impact to negligible in the summer, but as there would be filtered views following leaf fall, during winter the adverse impact would still be of minor significance. Woodland planting is also proposed as screening to mitigate the impact on viewpoint 7, although given the scale of development this would only screen the low level infrastructure while the upper sections of the engine house and flues will be clearly visible. Therefore, taking this into account together with seasonal leaf fall, the LVA concludes that with mitigation the adverse impact for viewpoint 7 would still be of minor significance in the summer and moderate in the winter. On the basis of this assessment in the applicant's LVA, there would still be harm on visual amenity of the landscape as a result of development.
- 9.97 However, it is considered that these mitigation measures would not protect, reinforce or enhance identified features of the landscape character area, such as ruralness and openness that would be lost as a result of the development. There is also a limit to what can realistically be screened by planting as acknowledged by the assessment in the LVA. Furthermore, there is a point where an increase in planting to increase screening would have an impact on an identified characteristic, such as openness. Therefore, it is not agreed that the proposed mitigation measures would materially reduce the significance of effect on the identified landscape character. If minded to approve, it is recommended that details of the planting and maintenance plan is secured by condition.
- 9.98 Whilst the development would be removed after 30 years, this would still be a significant period for the landscape to be affected by the proposal. Overall, it is considered that the proposal would result in significant harm to the identified character of the site and wider locality. This harm should be weighed against the development and considered further in the case for VSC (section 9(xii)) and overall Planning Balance (section 11). It is noted that the LCA SPG specifically identifies inappropriate new development as a local force for change that would result in the degradation of character.

## **x Archaeology**

- 9.99 Local Plan policy ARCH3 states that planning permission will not be granted for proposals which appear likely to adversely affect archaeological sites of unknown importance unless adequate evaluation enabling the full implications of the development on archaeological interests is carried out prior to the determination of the application. This is supported by paragraph 194 of the NPPF which states that where a development site has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The NPPF is a material consideration of significant weight. BLPSVPC policy HE1 also states that applications for works within archaeologically sensitive areas will be required to include a desk-top archaeological assessment, but this policy is currently given limited weight.
- 9.100 An Archaeological Desk Based Heritage Assessment, ref: 20/39 was submitted to support the application, which found potential archaeological implications as the site lies in the area of pre-historic activity with general potential for pre-Iron Age, Iron Age and Roman activity across the site. Therefore, the site falls within an area of archaeological potential. However, given the scale of the development, the likelihood of the potential archaeology finds and, should it exist, the low likelihood to merit preservation in situ, it is considered that a condition to secure a programme of archaeological works, including a written scheme of investigation, and the publication and archive deposition of analysis, would be acceptable. Subject to the condition, the proposal would accord with Local Plan policy ARCH4 which requires the provision of an appropriate level of archaeological investigation, recording and off-site preservation/display/ publication of archaeological remains to record and advance understanding of the significance of any heritage assets.

## **xi Loss of Agricultural Land**

- 9.101 Local Plan policy GB2(b) states that planning permission will not be granted for new development within the Green Belt if it would harm the character of the countryside through the permanent loss of Grade 1, 2 or 3a agricultural land but, due to inconsistency with the NPPF, policy GB2(b) is afforded limited weight. However, as a material consideration of significant weight, paragraph 174 of the NPPF states that planning decisions should recognise the wider benefits from natural capital including the economic and other benefits of the best and most versatile agricultural land. Annex 2 of the NPPF states land in grade 1, 2 and 3a of the Agricultural Land Classification (ALC) is the best and most versatile agricultural land. As a further material consideration of significant weight, BLPSVPC policy QP5 states that proposals should not result in the irreversible loss of best and most versatile agricultural land (grades 1, 2 and 3a).
- 9.102 The site has been classified under the ALC as Grade 3 which is deemed to be moderate to good quality. The national ALC map does not show the subdivision of Grade 3 land and there is no boroughwide assessment on the quality of Grade 3 land to determine the subcategory of 'a' or 'b'. Nevertheless, the proposal would result in the approximately 4.4ha loss of Grade 3 land. In absolute terms and given that the land would be restored to agricultural land after 30 years, the harm caused by this loss is considered to be limited. This harm should be weighed against the development and is considered further in the case of VSC (section 9(xii)) and overall Planning Balance (section 11).

## **xii The Case for Very Special Circumstances**

- 9.103 As set out in this report, the proposal would be inappropriate development in the Green Belt. To accord with paragraph 147 of the NPPF, such development should not be approved except in Very Special Circumstances (VSC). Paragraph 148 of the NPPF goes on to state that Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 9.104 In addition to being inappropriate development in the Green Belt, section 9(ii) of this report sets out that the proposal would result in harm to openness and would conflict with one purposes of the Green Belt, namely encroachment into the countryside. In accordance with Paragraph 148 of the NPPF, any harm to the Green Belt should be given **substantial weight** against the development.
- 9.105 In terms of other harm, as set out above, there it is considered that is significant harm the to the landscape character of the site and surrounds, which should be given **significant weight** against the development. There is also limited harm due to the loss of Grade 3 agricultural land, limited harm to neighbouring amenity due to noise from repair works, limited harm due to its unsustainable location, and limited harm due to highway safety on Bracknell Forest Council's roads and network. These should each be given **limited weight (x 4)** against the development.
- 9.106 Turning to other considerations, the applicant has put forward the need for the facility to lower or eliminate carbon emissions and support energy resilience, the lack of alternative sites, and economic benefits, which are considered in turn below.
- 9.107 While there would be GHG emissions as a result of the development, as set out in section 9(i) proposal would be effective in achieving the Government's objectives for energy security and decarbonisation in the transition period, and would support the use of renewable energy and extended deployment of renewable infrastructure. This is considered to be represent a significant public benefit which should be given **significant weight** towards VSC.
- 9.108 When considering a case for VSC, it is also considered that whether there are suitable and available sites outside of the Green Belt is a material consideration. EN-2 sets out the Government does not seek to direct applicants to particular sites for fossil fuel generating stations. However, while EN-2 notes that there would be specific criterion considered by a developer when choosing a site and the weight given to them will vary from project to project, EN-2 identifies some general factors that would influence site selection. These includes:

- Grid connection: fossil fuel generating stations require connect to a transmission network, and the technical feasibility of export of electricity from a generating station is dependent on the capacity of the grid network to accept the likely electricity output together with the voltage and distance of the connection.
- Size: fossil fuel generating stations generally have a large land footprint and would only be possible where the applicant is able to acquire a suitably-sized site.

9.109 In line with the above, the applicant has set out that a connection of a proposed electricity generation plant to the electricity network is an important requirement and there needs to be the necessary infrastructure and capacity within the existing (or planned) transmission or distribution network to accommodate the electricity generated. The applicant has also set out that a connection to the National Grid (NTS) gas pipe is necessary as the gas supply from a gas distribution network is lower in pressure, as opposed to a supply from a NTS gas pipe, and therefore needs to be repressurised. This reduces efficiency and results in a higher carbon footprint. The applicant has provided a map of central, southern and south-eastern areas of England which shows the NTS gas pipe network overlaid by the electrical network (voltage level of 132kv) of the distributor network operator (DNO). This forms the main basis for site identification. The search area is considered to be reasonable due to the catchment of the service area.

9.110 The map also includes areas of where there are grid constraints, which know as a result of failed grid connection applications. The discounting of all sites within this area is considered to be acceptable on the basis that a connection to the electrical network to distribute the electric generated by the proposal is unlikely to be achieved. The remaining sites identified have been assessed and discounted for being not available, not suitable in size, not suitable for the commercial requirements of the development, leaving the application site. Overall, it is considered that the applicant has satisfactorily demonstrated that there are no other reasonably available alternative sites, and this is given **significant weight** towards VSC.

9.111 The Design and Access Statement sets out that the proposal would directly support approximately 70 workers during construction, and approximately 6 jobs during operation of the proposal. Although unquantified, there would be economic benefits spends as a result of the construction and operation of the development. This is given **moderate weight** towards VSC.

9.112 Overall, it is not considered that the identified harm is clearly outweighed by other considerations put forward. Therefore, a case for VSC has not been demonstrated.

## 10. COMMUNITY INFRASTRUCTURE LEVY (CIL)

10.1 Part 2 and 6 of the Community Infrastructure Levy Regulations 2010 (as amended) states that buildings into which people go to intermittently for the purposes of inspecting or maintaining fixed plant or machinery, such as the engine house and control / monitoring buildings, are exempt from CIL charges. The office building is CIL liable, but the chargeable rate is set at £0 per square metre.

## 11. PLANNING BALANCE AND CONCLUSION

11.1 Paragraphs 10 and 11 of the NPPF set out that there will be a presumption in favour of Sustainable Development. The latter paragraph states that:

*d) For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- 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.*

- 11.2 However, footnote 6 of the NPPF clarifies that section d(i) of paragraph 11 is not applicable where *'policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed'*. This includes land designated as Green Belt. For the reasons set out in sections 9(ii) and 9(xii), the proposed development is considered to be inappropriate development in the Green Belt and a case for VSC has not been demonstrated. Therefore, the 'tilted balance' does not apply, and the planning balance is to be carried out in the ordinary way, having regard to the statutory test in section 38(6) of the 2004 Act. This is set out below.
- 11.3 As set out in section 9(ii) as the proposal would represent inappropriate development in the Green Belt, would result in harm to openness and be contrary to one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment, contrary to Local Plan policies GB1 and GB2(a), BLPSVPC policies SP1 and QP5, and paragraphs 137, 138, 147 and 148 of the NPPF, and so there should be **substantial weight** against the development. Set out in section 9(ix) there would be significant harm to the character and appearance landscape character of the site and surrounds, contrary to Local Plan policy DG1, HWNP policy Gen2, BLPSVPC policy QP1 and QP3, and paragraph 126 and in accordance with paragraph 134 of the NPPF, which should be given **significant weight** against the development. Section 9 (v) sets out that there would also be limited harm in relation to noise, which should be given **limited weight** against the development, section 9(viii) sets out that there would be limited harm due to its unsustainable location and limited harm to highway safety which should each be given **limited weight** against the development and there is also **limited harm** due to the loss of Grade 3 agricultural land as set out in section 9(xi).
- 11.4 The harm arising from the above is not considered to be outweighed by the **significant weight** in favour of the proposed development due to the significant public benefit from energy security and decarbonisation in the transition period, and support of the use and deployment of renewable energy; the significant weight due to the lack of other reasonably available alternative sites; and **moderate weight** due to the economic benefits.
- 11.5 The proposal does not comply with the Development Plan and should be refused, relevant material planning considerations do not indicate a different outcome: for the reasons set out above, it is therefore considered that the adverse impacts of allowing this planning application would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, when taken as a whole. Therefore, the application is recommended for refusal.

## 12. APPENDICES TO THIS REPORT

- Appendix A – Site Location Plan and Site Layout
- Appendix B – Proposed Plans and Elevations

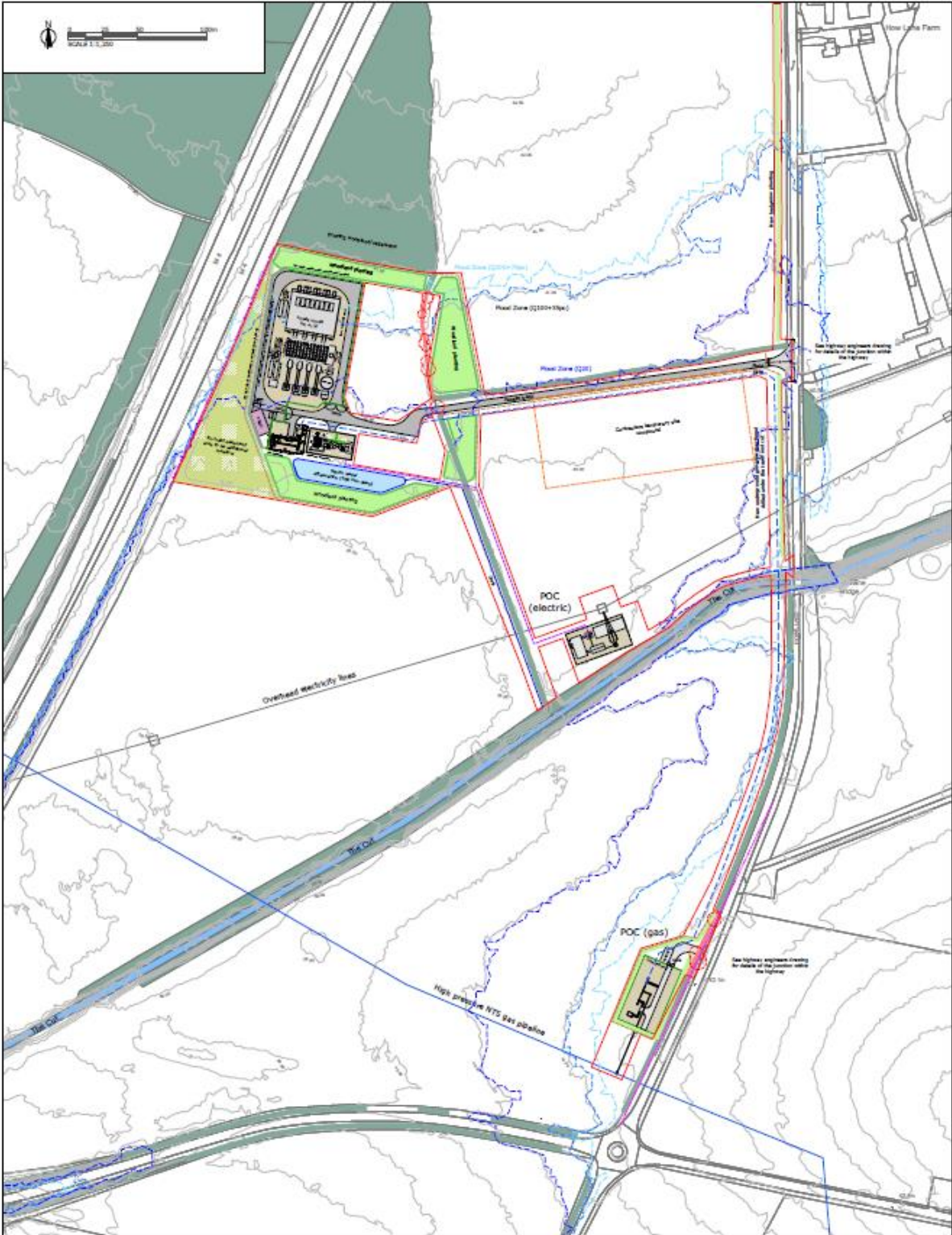
## 13. RECOMMENDED REASONS FOR REFUSAL IF PERMISSION IS NOT GRANTED

- 1 The proposal represents inappropriate development in Green Belt, which is by definition harmful to the Green Belt and would be harmful to actual openness of the Green Belt and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. No Very Special Circumstances have been demonstrated that clearly outweigh the harm to the Green Belt and any other harm. The proposal is therefore contrary to the provisions of saved policies GB1 and GB2(a) of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003), policies Sp1 and QP5 of the Borough Local Plan Submission Version Proposed Changes (2019) and paragraphs 137, 138, 147 and 148 of the NPPF (2021).
- 2 Due to the siting, scale, form, mass, design, features and materials, the proposed development would be a substantial and prominent development, which would be urban and industrial in appearance. It would therefore be clearly distinct and unduly detract from the character of the site and surrounds. Therefore, the proposal is considered to be contrary to the provisions of saved policy DG1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003), policy Gen2 of the Hurley and Walthams Neighbourhood Plan (2017), policies QP1 and QP3 of the Borough Local Plan Submission Version Proposed Changes (2019), and paragraph 126 of the National Planning Policy Framework (2021) and in accordance with paragraph 134.

Appendix A – Site Location Plan and Site Layout



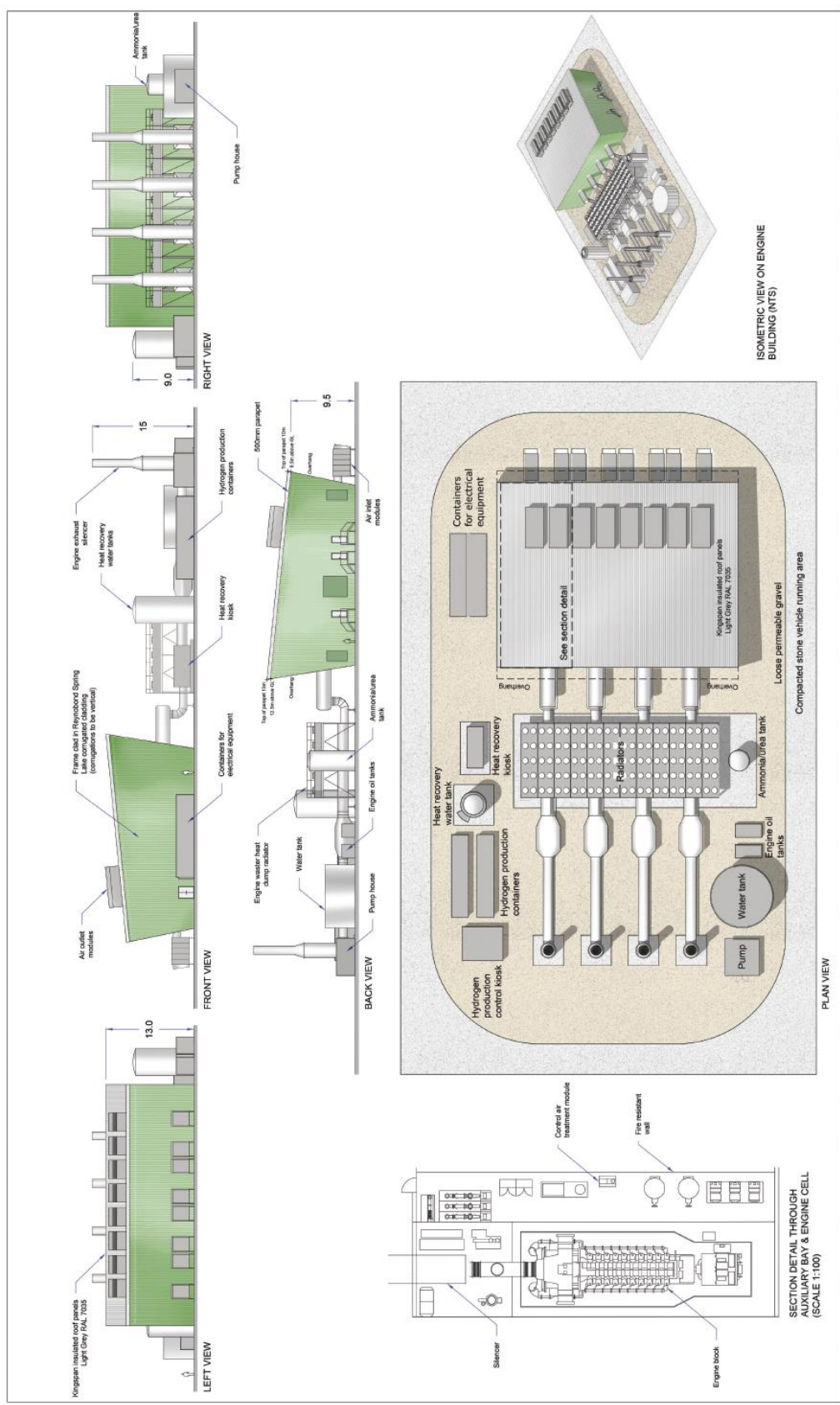




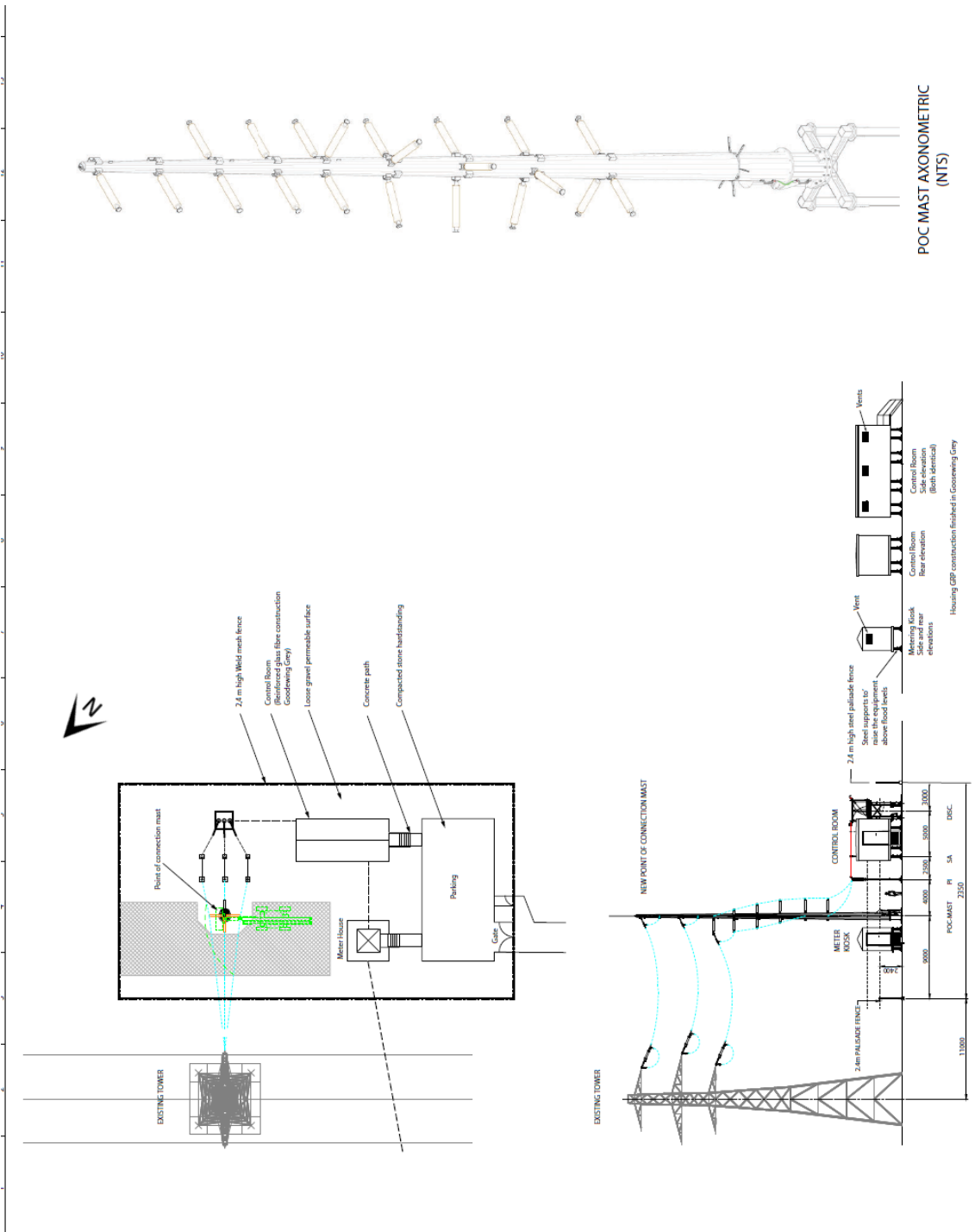


# Appendix B – Proposed Plans and Elevations

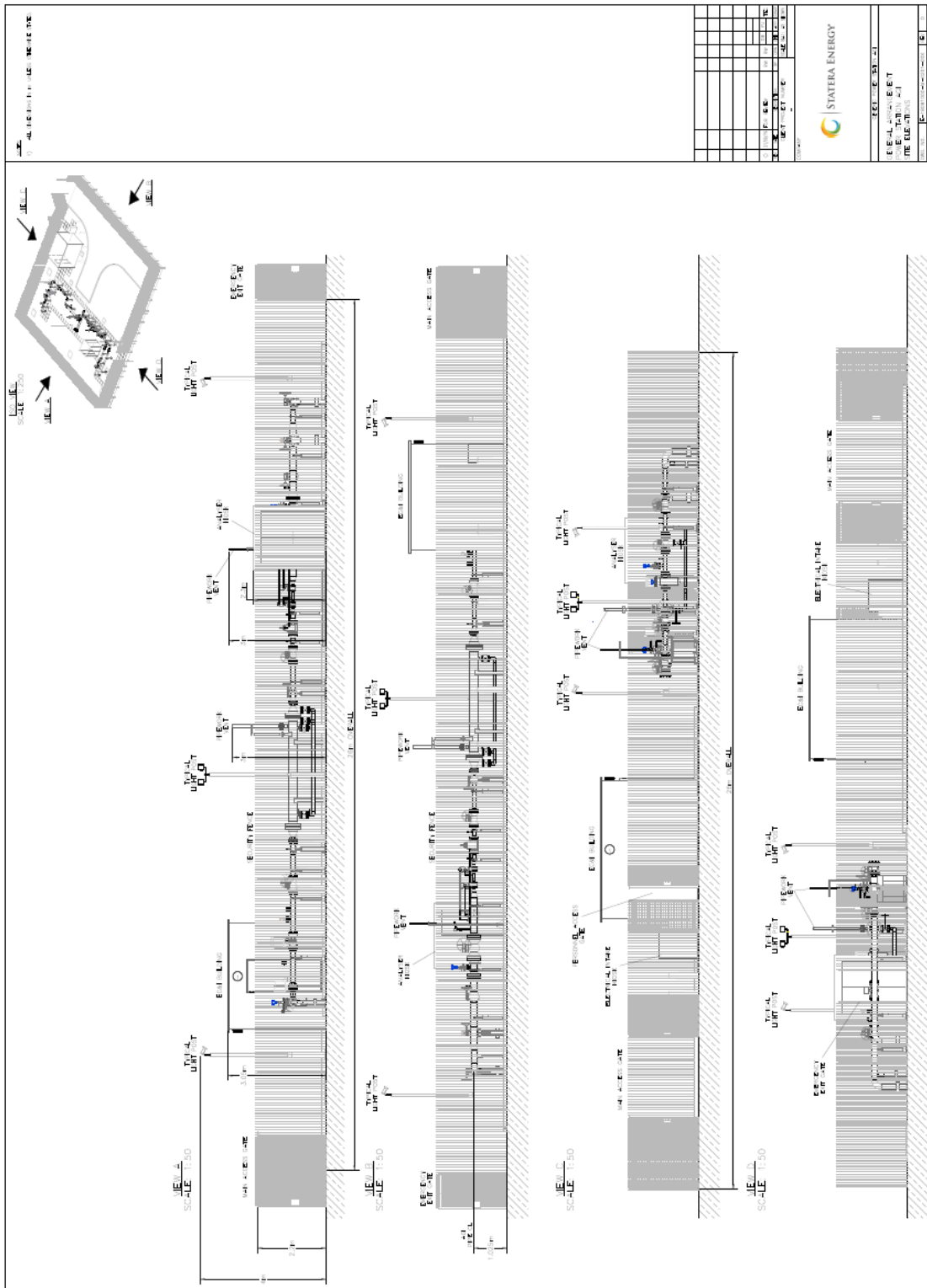
## Engine House

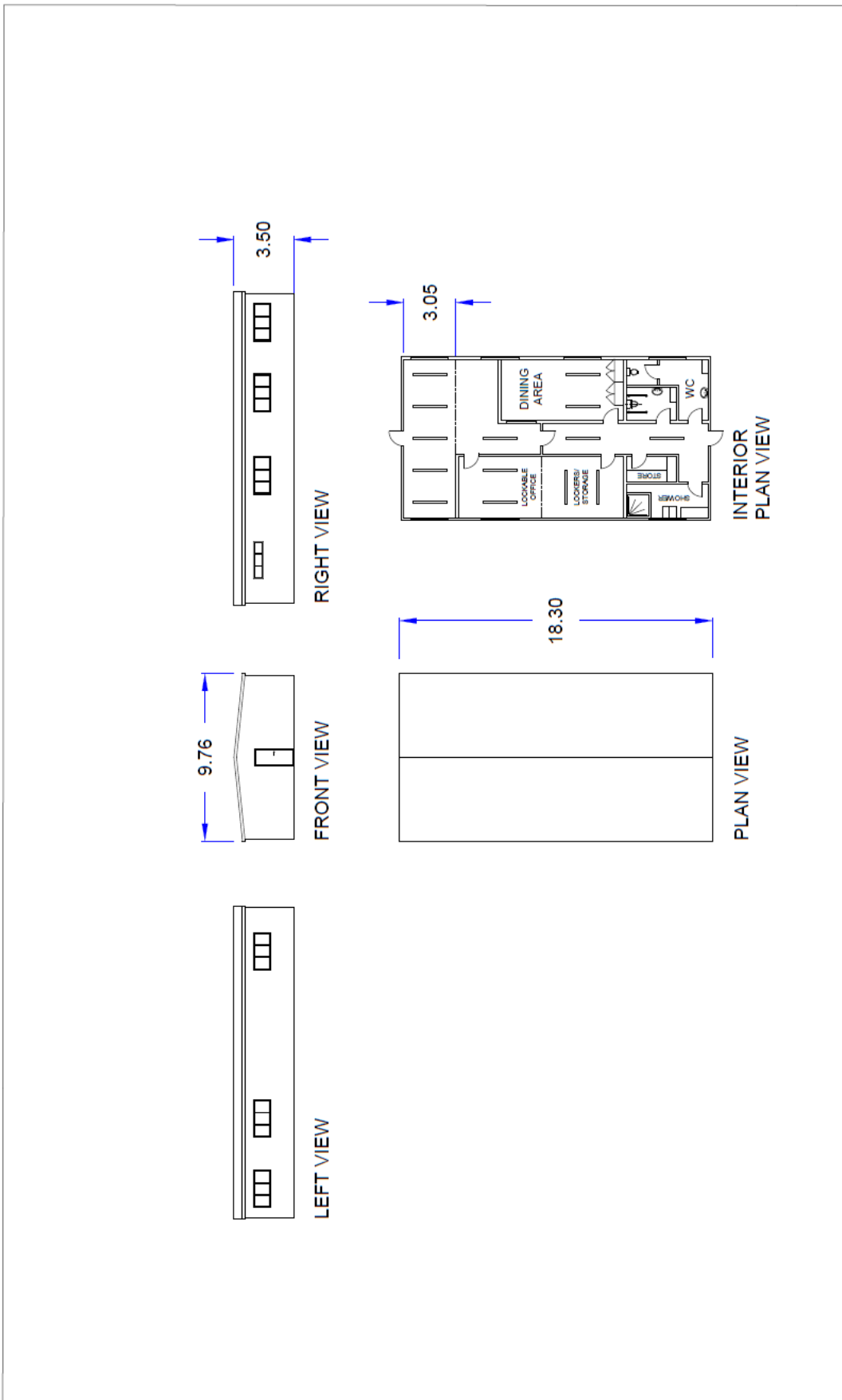


# Point of Connection Hub



# AFI Compound







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Agenda Item 5

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD**  
**PLANNING COMMITTEE**

**MAIDENHEAD DEVELOPMENT CONTROL PANEL**

17 November 2021

Item: 2

<b>Application No.:</b>	20/00715/FULL
<b>Location:</b>	Land To The South West of Howe Lane Farm Howe Lane Paley Street Maidenhead
<b>Proposal:</b>	Development of a gas fired electricity generating facility, incorporating engine house, ammonia tank, four 15m high flues, office, gas pressure reduction and electricity sub-station buildings, 2.5m high security fencing, entrance gates, vehicular access, parking and associated landscaping.
<b>Applicant:</b>	Miss Cassie
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	Shottesbrooke Parish/Hurley And Walthams
<b>If you have a question about this report, please contact:</b> Antonia Liu on 01628 796034 or at antonia.liu@rbwm.gov.uk	

**1. SUMMARY**

- 1.1 Through the use of fossil fuels, the proposed development would result in carbon emissions which contributes towards climate change. However, this does not automatically render the scheme unacceptable as national policy for energy is that to ensure security of supply, a diverse mix of all types of power generation, including fossil fuel generation is required. Furthermore, the proposal is for a flexible peaking plant to ensure resilience in energy supply when there is high demand as renewable energy can be intermittent and fossil fuel generation can be brought online quickly and shut down when demand is low. Therefore, national policy confirms that that fossil fuel power stations play and will continue to play an important role in providing reliable electricity supplies, and policy is that they must be constructed and operated in line with climate change goals. With the intention to operate using a 20% volume weighted blend of hydrogen as a fuel gas, which would lower emissions in comparison to no blend of hydrogen by approximately 8%, there is policy support for the proposed development in this respect.
- 1.2 The proposed development is inappropriate development in the Green Belt, would cause harm to the openness of the Green Belt and be contrary to one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment. There is also other harm in respect of its unsustainable location and highway safety, harm to the character of the site and its locality, the loss of the best and most versatile agricultural land.
- 1.3 The proposed development is put forward a case for Very Special Circumstances based on the public benefit in respect of energy security and support of the use renewable energy and decarbonisation in the transition period, and support of the use and deployment of renewable energy; the lack of other reasonably available alternative sites; and economic benefits. However, in the overall balancing exercise for establishing VSC, it is not considered that the identified harm is clearly outweighed by other considerations, and therefore VSC has not been demonstrated to justify the development in the Green Belt.

<b>It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 13 of this report):</b>	
<b>1.</b>	The proposal represents inappropriate development in Green Belt, which is by definition harmful to the Green Belt, and would harm actual openness of the Green Belt and conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. No Very Special Circumstances have been demonstrated that clearly outweighs the harm to the Green Belt and any other harm.
<b>2.</b>	Due to its siting, scale, form, mass, design, features and materials, the proposed development would be a substantial and prominent development which would be urban and industrial in appearance, contrary to the rural and open character of the site and

## 2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

## 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The site is an irregular in shape, measuring approximately 4.4ha, and comprises of an arable field.
- 3.2 The M4, which runs approximately north-south, forms the western boundary of the western-section of the application site while to the north lies Great Wood. Great Wood is a semi-natural woodland which is dissected by the M4. The main woodland extent is situated on the western side of the motorway. To the south the arable field continues, while to the east is a native hedgerow and beyond the hedgerow is another arable field.
- 3.3 A strip of land, which forms part of the application site, links the western-section with Howe Lane, while another strip of land runs parallel to Howe Lane to an area to the south. This southern section of the application site measures approximately 0.4ha and is sited approximately 35m to the north of the roundabout intersection between Howe Lane and Drift Road. To the south of this section of the application site is a high pressure gas pipe.
- 3.4 In between the western and southern section of the application site is another area of land measuring approximately 0.25ha, to the north of The Cut. An overhead electricity line runs through the northern section this part of the application site. The Cut and overhead electricity line run approximately southwest-northeast. This central area is linked to the western section of the application site and Howe Lane by strips of land.
- 3.5 The wider area is predominately arable fields and woodland with intermittent farmsteads and settlements. Paley Street lies approximately 500m to the north, White Waltham lies approximately 1.2km to the northwest of the site, Shurlock Row lies approximately 2.5km to the southwest.

## 4. KEY CONSTRAINTS

- 4.1 The entire site lies within Green Belt. Except for the north-west corner, the site lies in Flood Zone 2. Great Wood is designated as ancient woodland and a local wildlife site.

## 5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The proposed development is for a gas fired electricity generating facility with associated infrastructure and landscaping. It is intended to operate as a peaking plant for the purposes of supplying electricity to the National Grid as and when required.
- 5.2 The proposed development includes four 12.5MW gas reciprocating engines enclosed in a mono pitch roof building (the engine house). The engine house measures approximately 13m in height which slopes down to 9.5m in height and on the roof slope are 4 air outlets modules. The engine house is frame-clad with sound insulating green corrugated cladding on the walls and insulated light grey panels on the roof. The gas reciprocating engines are connected to a radiator and 4 x 15m high exhaust stacks, which are external to the engine house. To the west of the engine house, radiator and exhaust stacks are 2x hydrogen production containers and control kiosk, and a heat recovery water tank and kiosk. To the east of the engine house, radiator and exhaust stacks are an ammonia / urea tank, two engine oil tanks and water tank. To the south-east is a site office measuring approximately 3.5m in height at the roof ridge, 18.3m in length x 9.7m in width containing an office, lockers and storage area, break out room, WC and shower. Around this main compound is a perimeter fence comprising of a 2.5m high weld mesh fence with steel posts finished in mid-dark green colour and cranked top supporting three strands of barbed wire



being the maximum height of the perimeter fence to 3m. A concrete crash barrier around 1m in height is proposed along the west (M4) side of the compound.

- 5.3 To the south of the engine house, radiator and exhaust stacks, a gas pressure reduction and metering station is proposed. A new underground gas connection would connect the gas pressure reduction and metering station and a detached gas compound which is proposed approximately 290m south-east of the main compound, adjacent to Howe Lane and to the north of roundabout junction with Drift Road. At the gas compound the new underground pipe will connect into the existing high-pressure gas main, enclosed within the compound. The above ground pipework will have a maximum height of 2.1m, while the telemetry kiosk measures approximately 2.6m in height x 2.5m in width x 3m in length. A satellite dish sits on top of the telemetry kiosk, which is approximately 1.6m in height. A 2.5m high weldmesh fence and hedge made up of Field Maple, Hawthorne, Hazel and Blackthorn is proposed around the gas compound, and as a detached compound it would have a separate access from Howe Lane.
- 5.4 Also, to the south of the engine house radiator and exhaust stacks, to the west of the gas pressure reduction and metering station, is an electricity substation. A new underground electrical connection is proposed which would connect the electricity substation to an electric point of connection compound which provides a connection to an existing overhead distribution line. The electric compound is sited approximately 63m to the south-east of the main compound. The electric compound includes a control room measuring approximately 5m in height x 4.5m in width x 10m in length, a metering kiosk measuring approximately 5m in height x 2.5m in width and 2.5m in length, and a Point of Contact (POC) Mast which is approximately 29m in height. Surrounding the electric point of connection compound is a 2.4m high palisade fence.
- 5.5 Storm water attenuation ponds, which are approximately 500mm deep is proposed to the south of the main compound. Enclosing the main compound, gas pressure reduction and metering station, electricity substation, and attenuation pond, is woodland planting along the northern, eastern and southern boundary while along the western boundary is hedge and specimen tree planting.
- 5.6 Access to the main compound, gas pressure reduction and metering station, and electricity substation is proposed from Howe Lane.
- 5.7 The life-span of the development and lease term of the land is 30 years and following decommissioning of the development the intention to restore the site back to agricultural land.
- 5.8 There is a linked planning application ref: 20/00714/FULL which is pending decision for a further engine house, gas pressure reduction and metering station, electricity substation and storm water attenuation pond to the east of engine house, gas pressure reduction and metering station, and electricity substation proposed under this application. For clarity, the fencing along the boundaries of the main compound, enclosing planting, the access and detached electric point of connection compound and gas compound form part of both proposals.

### **Nationally Significant Infrastructure Project (NSIP)**

- 5.9 A NSIP is defined in the Planning Act 2008 (as amended) and includes the construction or extension of a generating station if it is in England, does not generate electricity from wind, is not an offshore generating station and its capacity is more than 50MW. The question falls to whether the proposed development submitted under 20/00714/FULL, in conjunction with the proposed submitted under 20/00715/FULL, would trigger the NSPI definition.
- 5.10 For a NSIP, the Planning Act 2008 (as amended) sets out a streamlined decision-making process for such development, with applications submitted to the Planning Inspectorate who determines, whether the application meets the standard to be excepted for examination. The Planning Inspectorate then has up to 6 months to carry out the examination before preparing a report to the Secretary of State, including a recommendation. The Secretary of State then makes a decision on whether to grant or refuse a development consent order (DCO). It would be a criminal offence under section 160 of the Planning Act 2008 (as amended) to carry out the development of an NSIP without a DCO.

- 5.11 The construction or extension of energy generation station that does not meet the criteria of a NSIP can be assessed and determined under the Town and Country Planning Act 1990 (as amended).
- 5.12 The issue turns on whether the 50MW threshold set out in the Planning Act 2008 (as amended) is exceeded or not, which would be the case if the two energy generating stations were treated as constituting one generating station.
- 5.13 In this case, each unit is unable to generate more than 50MW, and the functional independence of each generating station is a key factor in determining whether or not the proposed development can be properly regarded as separate developments, and therefore below the threshold set by the Planning Act 2008. Each generating station can and would operate independently of each other as there is no functional dependency between the two units other than sharing an access, point of connection at the electricity substation and entry point to the Gas National Transmission System. There would be some overlap between the development proposed in each application, as set out above, but each application is self-contained and therefore capable of being implemented and brought into operation independently (whilst also allowing both of the energy generating stations to be developed and operated alongside one another). The fact that two proposed schemes are near to each other, driven by the same locational considerations (the grid capacity and the National Transmission Systems) or submission by the same developer does not indicate that they ought to be regarded as one generating station.
- 5.14 On this basis, the view is that each generating station ought to be regarded as separate generating station and so the proposed development should be regarded as falling below the threshold set by the Planning Act 2008 (as amended) and therefore can be registered and determined under the Town and Country Planning Act 1990 (as amended).
- 5.15 Relevant planning history is as follows:

Reference	Description of Works	Decision and Date
01/37285/OUT	Motorway Service Area to serve the west bound carriageway of the M4 Motorway	Appealed for non-determination, called in by Secretary of State - 31.08.2001  Appeal dismissed – 06.10.2005

## 6. DEVELOPMENT PLAN

### 6.1 Adopted Royal Borough Local Plan (2003)

The main Development Plan policies applying to the site are:

Issue	Adopted Local Plan Policy
Green Belt	GB1, GB2
Archaeology	ARCH3, ARCH4
Environmental Protection	NAP3, NAP4
Character and Appearance of Area	DG1
Highways	P4, T5
Trees	N6
Flood Risk	F1

### 6.2 Adopted Hurley and the Waltham's Neighbourhood Plan (HWNP) (2015-2030)

Issue	Neighbourhood Plan Policy
Sustainable Development	Env1
Climate Change, Flood and Water Management	Env2
Character and Appearance	Gen2
Good Vehicle Traffic	T1, T2

## 7. MATERIAL PLANNING CONSIDERATIONS

### 7.1 National Planning Policy Framework Sections (NPPF) (2021)

Section 2 – Achieving Sustainable Development  
 Section 4 – Decision Making  
 Section 9 – Promoting Sustainable Transport  
 Section 12 – Achieving Well Designed Places  
 Section 13 – Protecting the Green Belt  
 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

### National Policy Statement (NPS) for Energy

- 7.2 NPS EN-1: Overarching National Policy Statement  
 NPS EN-2: Fossil fuel electricity generation  
 NPS EN-3: Renewable electricity generation (both onshore and offshore)  
 NPS EN-4: Gas supply infrastructure and gas and oil pipelines  
 NPS EN-5: The electricity transmission and distribution network  
 NPS EN-6: Nuclear electricity generation
- 7.3 The NPS documents sets out Government policy for delivery of major energy projects, which is defined in the Planning Act 2008 as a generating station with a capacity of more than 50MW. However, the NPS documents states that they likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended), the extent of which will be on a case by case basis.

### National Design Guide

- 7.4 This document was published in October 2019 and seeks to illustrate how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools. The focus of the design guide is on layout, form, scale, appearance, landscape, materials and detailing. It further highlights ten characteristics help which work together to create its physical character, these are context, identify, built forms, movement, nature, public spaces, uses, homes and buildings, resources and life span.
- 7.5 **Borough Local Plan: Submission Version (BLPSV) (2017) and Borough Local Plan: Submission Version Proposed Changes (BLPSVPC) (2019)**

Issue	BLPSV	BLPSVPC Policy
Climate Change	N/A	SP2
Green Belt	SP1, SP5	SP1, QP5
Character and Appearance	SP2, SP3	QP1, QP3
Sustainable Transport	IF2	IF2
Ecology	NR3	NR2
Trees	NR2	NR3
Flood risk and Waterways	NR1	NR1
Environmental Protection	EP1, EP2, EP3, EP4, EP5	EP1, EP2, EP3, EP4, EP5

Paragraph 48 of the NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to:

- a) *the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) *the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. The plan and its supporting documents, including all representations received, was submitted to the Secretary of State for independent examination in January 2018. In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV. Public consultation ran from 1 November to 15 December 2019. All representations received were reviewed by the Council before the Proposed Changes were submitted to the Inspector. The Examination was resumed in late 2020 and the Inspector’s post hearings advice letter was received in March 2021. The consultation on the main modification to the BLPSV ran from 19 July to 5 September 2021.

The BLPSV together with the Proposed Changes are material considerations for decision-making. The weight to be given to each of the emerging policies and allocations will depend on an assessment against the criteria set out in paragraph 48 of the NPPF. This assessment is set out in detail, where relevant, in Section 9 of this report.

#### 7.8 **Supplementary Planning Documents**

- Interpretation of Policy F1
- Interpretation of Policy NAP4
- Landscape Character Assessment
- Borough Wide Design Guide

#### 7.9 **Other Local Strategies or Publications**

- RBWM Parking Strategy
- RBWM Environment and Climate Strategy

#### 7.10 **Bracknell Forest Council Core Strategy**

Issue	Core Strategy Policies
Transport	CS23
Transport and New Development	CS24

### 8. **CONSULTATIONS CARRIED OUT**

#### **Comments from interested parties**

6 neighbours were notified directly of the application. A notice advertising the application was erected at the site on 16.04.2020. The application was advertised in a local paper distributed in the borough on 02.04.2020. Re-consultation was undertaken on 21.09.2021 with the consultation period closing on the 19.10.2021.

1 letter supporting the application has been received, summarised as:

Comment	Where in the report this is considered
Flexible power generation needed as back up to wind and solar.	Section 9(i)
VSC for Green Belt location exists as site needs to be close to the National Gas Transmission System for the input of gas, and close to the High Voltage national grid system into which power will be fed.	Section 9(xii)
Emission of CO2 and other pollutants are much lower than other methods utilising hydrocarbon, and air emissions are controlled via scrubber systems technology and will be kept below current legal limits.	Section 9(v)
M4 would mask much of the noise, and plant will be insulated for noise	Section 9(v)
Plant is automated with only maintenance crew required, so keeping vehicle numbers to single digits	Section 9(viii)
Similar plants like this have been built and in safe operation in other parts of the UK	Each application is determined on its own merits.

A petition of 1400 signatures objecting to the proposal based on impact on openness, landscape, noise, lighting, air pollution and local wildlife was received, and 137 letters were received objecting to the application (multiple representations from same author has been counted as 1 representation), summarised as:

Comment	Where in the report this is considered
Development is not for a renewable scheme, resulting in harm to the climate and contributing to climate change. No justification in terms of the national strategy, which is to move away from fossil fuels. There are better alternatives to peaking plant to support intermittent renewables.	Section 9(i)  The Local Planning Authority has a duty to assess and determine the application put before us.
Inappropriate development in the Green Belt; harm to its openness; conflict with purposes of including land within Green Belt, including safeguarding the countryside from encroachment and loss of gap between Bracknell and Maidenhead; no very special circumstances demonstrated.	Section 9(ii)
Need comes from London / Southampton area, energy will serve London / Southampton, not Maidenhead or surrounds and so all harm but no benefit to the Borough. Alternative sites where demand is available.	Section 9(xii)
Criteria used in sequential site search not robust as proximity to gas line and grid are commercially attractive, not essential.	Section 9(xii)
Due to scale, form, height, design, massing, layout and materials the proposal would appear as a large-scale, industrial development which is obtrusive and out of character with open, semi-rural / rural landscape and character of the site and wider area. Landscape and Visual Appraisal inadequate / misrepresentative. Mitigation / screening inadequate.	Section 9(ix)
Visual impact exacerbated as sited on flat open area of countryside, increasing prominence and existing / additional planting would not adequately screen development and species chosen are not robust and so would not survive for the life-time of development.	Section 9(ix)
Increase in traffic movements from the operation and construction of the development, in particular on Howe Lane, would result in increase in congestion and air pollution, and would be detrimental to highway safety.	Section 9(v) (viii)

Harm to Great Wood, which is ancient woodland and SSSI, including impact of ammonia and nitrogen dioxide deposits	With reference to DEFRA 'Magic Map', Great Wood is not designated as an SSSI.  Section 9(vi) (vii)
Risk from ammonia leaks into groundwater and The Cut, which is harmful to aquatic wildlife.	Section 9(iv)
Risk of ammonia to human health.	Section 9(v)
Increase in noise, added to existing noise from M4 and air traffic from Heathrow, to the detriment of residential amenity. Noise survey inadequate / misrepresentative.	Section 9(v)  Noise Assessment has been reviewed by technical Environmental Protection officers who have not raised issues with adequacy or misrepresentation.
Increase in light pollution.	Section 9(v)
Increase in smells.	No specific cause of smell given, and application has been reviewed by technical Environmental Protection officers who do not raise smell as an issue / concern.
Visual Overbearing.	Section 9(v)
Increase in flood risk.	Section 9(iii)
Loss of agricultural land.	Section 9(ix)
Harm to archaeology and nearby heritage assets, including nearby listed buildings.	Section 9(x)  The nearest Listed Building (Littlefield House) is over 270m away with Great Wood in between. Due to this separation distance and siting of Great Wood, the proposed development is not considered to harm the heritage asset including its setting.
Harm to ecology, inadequate biodiversity enhancements.	Section 9(vii)
No need for two large offices.	Section 9(ii)
Risks from explosion / malfunction, additional strain of emergency services and	Not a material planning consideration, but in respect of risk while the development would not come under the Control of Major Accident Hazards 2015 it would be subject to other Health and Safety legislation and Environmental Permit for its the operation.
No details of decommissioning and removal, and restoration after 30 year life-time of development, lack of mechanism for ensuring restoration.	Details of decommissioning, removal and restoration, including schedule for works, can be secured by condition.
Gas pipeline is running close to capacity.	Falls under the remit of the National Grid and would be assessed as part of any application to connect to the (NTS).
Incorrect neighbours notified, insufficient consultation.	Statutory neighbour / public notification undertaken.

### Consultees

Consultee	Comment	Where in the report this is considered
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<p>Arboriculture Officer</p>	<p>Objects to the scheme for the following reasons:</p> <ul style="list-style-type: none"> <li>• Most of the facilities and infrastructure are too close to the existing ancient woodland, trees and hedgerows, and root protection areas are likely to be breached by the proposed access and gas pipe.</li> <li>• Buffer zones may be considered for ancient woodland (minimum of 15m to avoid root damage) but air pollution is likely to extend beyond this distance. Ammonia and nitrogen deposits are one of the greatest threats to ancient woodland in the UK and new development should not lead to further degradation of ancient woodland sites which would be unacceptable.</li> <li>• There would direct loss of some trees along with an approximate 85m section of hedgerow. The hedgerows may meet the criteria as 'important' under the Hedgerows Regulations 1997 and therefore desirable to be retained.</li> <li>• Proposed woodland planting would need to be allowed to regenerate into woodland naturally. Recommends direct seeding of seeds collected from the adjacent woodland, but to maintain local genetic diversity, new stock must be brought in from elsewhere.</li> <li>• Willow and poplar tree planting to screen the facility are fast growing but have a heightened propensity for branches to fail and so should not be planted within falling distance of critical structures, otherwise there will be pressure to detrimentally prune or fell these trees in future.</li> <li>• Populus Canadensis 'Robusta' is non-native and therefore inappropriate.</li> </ul> <p>Should a satisfactory scheme be submitted, then conditions and a S.106 management agreement would be required to ensure the appropriate management of the planted and soft ground areas for the lifetime of the development.</p>	<p>Section 9(vi), (vii)</p>
<p>Bracknell Forest Council</p>	<p>Objects to the scheme as the Highway Authority for a the majority of the route over which construction traffic is proposed to be routed due to lack of consultation by the applicant with Bracknell Forest Council; illogical routing, particularly through northern sections of the route directing construction traffic through residential roads</p>	<p>Section 9(viii)</p>

	and winding rural roads with poor accident records; timing of deliveries which does not appear to respect defined traffic sensitive time periods; and how vehicles will be marked / labelled as associated with this development in order that vehicles deviating from the agreed routing / timing can be identified. In relation to abnormal loads, these should be borough to the site using temporary construction access from the M4.	
Ecology Officer	No comments received.	Section 9(vii)
Emergency Planner	Objects to the scheme as a major incident at the site would be of significant concern due to location adjacent to M4 and under the flightpath of Heathrow Airport. The Fire and Rescue Service would also require further details including access during the building phase plus any roads or areas with restricted room / weight tolerances.  However, if minded to approve recommends conditions relating to the submission and approval of an Emergency Plan for both the construction and operation phase.	Not a material planning issue, but in respect of risk while the development would not come under the Control of Major Accident Hazards 2015 but would be subject to other Health and Safety legislation and Environmental Permit for its the operation.
Environment Agency	No objection subject to conditions relating to the development being carried out in accordance with the submitted flood risk assessment; submission and approval of details of the disposal of foul drainage and a construction and operations environmental management plan. Informatives recommended relating to a flood risk activity permit and environmental permit under the Environmental Permitted Regulations (England and Wales) 2016.	Section 9(iii). Conditions considered to meet the 6 statutory tests and if minded to approve the conditions are recommended.
Environmental Protection	No objection subject to conditions relating to scheme for the noise insulation of the plant; hours limited works of repair or maintenance of the plant, machinery or equipment; a site specific Construction Environmental Management Plan; and bunding of tanks. Informatives recommended relating to requirement of relevant permits under Pollution Prevention and Control Regulations and contaminated land.	Section 9(v). Conditions considered to meet the 6 statutory tests and if minded to approve the conditions is recommended.
Berkshire Archaeology	No objection subject to a condition to secure a programme of archaeological works, including a written scheme of investigation.	Section 9(x). Condition considered to meet the 6 statutory tests and if minded to approve the condition is recommended.
Health and Safety Executive	No comments received.	N/A
Highways Consultant and RBWM Highways	No objection subject to condition relating to access constructed as approved, a construction management plan, parking and turning as approved, provision of visibility splays as approved, any gates to be set back at least 18m from the nearside of the	Section 9(viii). With the exception of the Condition considered to meet the 6 statutory tests and if minded to approve the conditions are recommended.



	<p>edge of the carriageway of the adjoining highway, and the submission of the Special Order or STGO to secure an abnormal load routing plan and agreed actions in relation to the abnormal loads.</p> <p>Recommended informatives relating to highway licence, damage to footway and verges, damage to the highway and no storage of equipment on the public highway</p>	
Highways England	No objection subject to notification of commencement and conditions relating to a comprehensive emergency plan in relation to the construction phase of the development;	Section 9(viii). Conditions considered to meet the 6 statutory tests and if minded to approve the conditions are recommended.
Lead Local Flood Authority	No objection subject to a condition relating to submission and approval of full details of a surface water drainage scheme based on the approved sustainable drainage strategy.	Section 9(iii)
National Grid	No comments received.	N/A
Natural England	No comments received.	Section 9(vii)
Bray Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Inappropriate development in the Green Belt</li> <li>- Even if there is need to ensure electricity supplies, no evidence that the development must take place on this Green Belt site as part of the case for Very Special Circumstances</li> <li>- Non-Green power station, contrary to RBWM's commitment to green energy</li> <li>- Due to scale, density, massing, height, landscape design, layout and materials, harm to the rural character of the area</li> <li>- Harm to Ancient Woodland, which is irreplaceable habitat for wildlife, in particular from Nitrogen Dioxide and Ammonia</li> <li>- Light pollution</li> </ul>	Section 9(i), (ii), (v), (vi) (vii), (ix), (xii).
Shottesbrooke Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Location in Green Belt and insufficient evidence to support a case of Very Special Circumstances</li> <li>- Harm from air pollution, including to Ancient Woodland from pollution</li> <li>- Harm from noise pollution</li> </ul>	Section 9(ii), (v), (vi), (vii), (xii)
Waltham St Lawrence Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Intrusion into the Green Belt</li> <li>- Impact on ancient woodland with protected wildlife</li> <li>- Flood risk</li> <li>- If allowed in the national interest then height should lowered to 14m and special attention paid to emitting</li> </ul>	Section 9(ii), (iii), (v), (vi), (vii), (ix)

	noise and external lighting, and tree screening	
White Waltham Parish Council	<p>Objects to the scheme due to the following reasons:</p> <ul style="list-style-type: none"> <li>- Inappropriate development in the Green Belt</li> <li>- Even if there is need to ensure electricity supplies, no evidence that the development must take place on this Green Belt site as part of the case for Very Special Circumstances</li> <li>- Non-Green power station, contrary to RBWM's commitment to green energy</li> <li>- Due to scale, density, massing, height, landscape design, layout and materials, harm to the rural character of the area</li> <li>- Harm to Ancient Woodland, which is irreplaceable habitat for wildlife, in particular from Nitrogen Dioxide and Ammonia</li> <li>- Light pollution</li> </ul>	Section 9(i), (ii), (iii), (v), (vi), (vii), (ix)

Note: The Lead Local Flood Authority are responsible for the quality of the surface water drainage in typical rainfall events and any pollutants which may typically enter the discharge in those events (e.g. hydrocarbons from cars in car parks). Pollutants reaching water bodies as a by-product (or accidental spill) of commercial / industrial process, such as ammonia, are within the remit of the Environment Agency.

### Others

Group	Comment	Where in the report this is considered
Binfield Badger Group	<p>There is an extensive badger set complex including the main sett and annexes in the woodland adjacent to the site and the most recent survey (July 2019) recorded badger activity. In the absence of a bait marking survey, it is anticipated that the site is also used for foraging.</p> <p>Raises objections due to disruption to foraging. If minded to approve, recommends all-round badger-proof fencing during the operation phase to prevent badgers who may be accustomed to visiting this area from gaining access, and between the setts and the M4 to reduce badger road deaths as badgers may head in a different direction to compensate. Also raises objections to increase in air, light and noise pollution levels, and underground vibrations.</p> <p>Also requests group be contracted if approve is given to make recommendations on best practice during the construction phase.</p>	Section 9(vii)
Woodland Trust	Raises objections due to potential damage and deterioration to ancient woodlands, including Great Wood as a result on ammonia air pollution emissions and nitrogen deposition and harm to semi-natural ecosystems. There should be a buffer of at least 30 between development and Great Wood.	Section 9(vi), (vii)
CPRE:	Raises objection as inappropriate development in Green	Section 9(ii), (vi),

Berkshire	<p>Belt and very special circumstances has not been demonstrated.</p> <p>Development is adjacent to Great Wood, ancient woodland, which is an irreplaceable habitat for wildlife and of historic and landscape value, and nitrogen dioxide and ammonia threats have not been adequately addressed.</p> <p>Unacceptable and visually intrusive impact on local rural environment.</p> <p>Rural roads are unsuitable and unable to sustain large volumes of construction traffic.</p>	(vii), (viii), (ix), (xii)
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## 9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Green House Gas Emissions (GHG) and Climate Change
- ii Green Belt
- iii Flood Risk
- iv Water Quality
- v Environmental Protection
- vi Trees
- vii Ecology
- viii Highway Safety and Parking
- ix Character and Appearance
- x Archaeology
- xi Loss of Agricultural Land
- xii The Case for Very Special Circumstances

### i **Green House Gas Emissions (GHG) and Climate Change**

9.1 The Paris Agreement demonstrates global agreement that anthropogenic Green House Gas (GHG) emissions are resulting in climate change with damaging consequences for the environment, along with a global responsibility to address climate change. To meet the UK's obligations under the Paris Agreement, the Climate Change Act 2008 (as amended) imposes a duty to ensure that the UK will bring all GHG emissions to net zero by 2050, and to provide a system of carbon budgeting. In terms of local commitments, RBWM declared an environment and climate emergency in June 2019 with aims to ensure the Borough will achieve net zero carbon emissions by 2050. In December 2020 the Council approved the Borough's Environment and Climate Strategy. These are material considerations of significant weight in determining this planning application.

9.2 This is balanced against the role of the planning system to consider the construction of energy infrastructure projects, which the Government has identified as the type of infrastructure needed, against the principles of sustainable development.

- 9.3 Underpinned by the target to cut GHG emissions by 2050, the overarching National Policy Statement for Energy (EN-1) sets out that the Government needs to ensure that sufficient electricity generating capacity is available to meet maximum peak demand (with safety margin) and to mitigate risks. This objective is a material consideration of significant weight, as resilience in energy provision is important to protect consumer from interruptions to supplies and volatile prices, including vulnerable households and those providing essential services. EN-1 goes on to state that a diverse mix of all types of power generation, including fossil fuel generation, means the UK is not dependent on any one type of generation or one source of fuel or power, ensuring security and thereby resilience of supply. In addition to contributing to diversity of supply, EN-1 acknowledges that fossil fuel generation is particularly suited as a flexible peaking plant to support generation from renewables which can be intermittent, such as the proposed development. The proposed development is intended to only run when there is high demand for electricity to balance the grid, as fossil fuel generation can be brought online quickly when there is high demand and shut down when demand is low. In this context, EN-1 confirms that fossil fuel power stations play and will continue to play an important role in providing reliable electricity supplies.
- 9.4 Therefore, while EN-1 recognises that carbon emissions from the proposed development can have a significant adverse impact, CO<sub>2</sub> emissions does not automatically render the scheme unacceptable. EN-1 goes so far as to state that individual applications do not need to be assessed in terms of carbon emissions against carbon budgets, and carbon emissions are not a reason to prohibit the consenting of projects. Government policy is that they must be constructed and operated in line with climate change goals. In this respect, in addition to minimising vulnerability and improving resilience, paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate by shaping places that contribute to a radical reduction in GHG emissions.
- 9.5 Carbon Capture and Storage (CCS) is an emerging technology that has the potential to remove carbon emissions of fossil fuel generating stations that would otherwise be released to the atmosphere by up to 90%, which offers the opportunity for fossil fuels to continue to be an important element of diverse and secure energy mix while meeting the Government's decarbonising goals. However, the development of CCS technologies and the necessary supporting chain (capture of carbon, transport, storage) is not yet at a stage for commercial deployment, and the conditions to be carbon capture ready set out in EN-1 and EN-2 only applies to new coal-fired plants which are of a generating capacity at or over 300MW. However, to reduce greenhouse gas emissions the applicant has proposed to ensure the facility is capable of operating using a 20% volume weighted blend of hydrogen as a fuel gas. Hydrogen acts as a chemical energy carrier that can store three times as much energy per units of mass as conventional petrol and when it 'burns' in air, releasing that stored energy, it combines with oxygen to produce water and thereby producing virtually no greenhouse gas emissions. This would lower emissions in comparison to no blend of hydrogen by approximately 8%. There is a 20% limit in the volume weighted blend as full hydrogen turbines are still in development. However, gas turbines are technically capable of burning up to 20% hydrogen without any significant conversion technology or changes to risk associated with natural gas delivery. In addition to full hydrogen turbine technology not yet being available, there are also current limitations in low-carbon hydrogen production; transport and storage with a fully functional GB hydrogen network unlikely to materialise before 2040. As such, due to available and practical approaches, it is considered that the proposed 8% reduction in emissions is a realistic and reasonable commitment to decarbonisation in line with sustainable development, and if minded to approve the use of 20% volume weighted blend of hydrogen as a fuel gas and certification can be secured by condition.
- 9.6 As such, there is policy support for the proposal. Whether it would do so would be dependent on how the facility would operate, including accordance with the 'rules' referred to in EN-1, but it is reasonable to assume that the proposed facility will be effective in achieving the Government's objectives for energy security and decarbonisation.
- 9.7 In terms of need, the Future Energy Scenarios, which is produced by the National Grid, sets out how much energy is needed and where it would come from for future but credible scenarios. For the gas reciprocating engines, based on all scenarios and taking into account existing and

pipeline facilities, the system is predicted to be short of the predicted levels of flexible generation requirement of between 300MW and 22,100MW. In relation to the impact of Covid-19, the National Grid reports that since the first Covid-19 lockdown, average daily electricity demands reduced by around 5-10% compared to 'normal levels', the reasons being less travel, reduced economic activity and change in balance of residential, industrial and commercial demand. However, analysis by the National Grid suggest that the long-term impact on need is likely to be small.

## ii **Green Belt**

### Whether the Proposals are Appropriate Development in the Green Belt

- 9.8 The entire site lies within the Metropolitan Green Belt and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Local Plan policy GB1 sets out forms of appropriate development in the Green Belt but was prepared in accordance with the cancelled PPG2: Green Belts which has since been replaced by the NPPF. While broadly reflective of current national Green Belt policy at a strategic level, it is more proscriptive and therefore policy GB1 is given less weight. The NPPF is a material consideration of greater weight and it sets out what comprises appropriate development in the Green Belt in paragraph 149 and paragraph 150. As a further material consideration of significant weight, BLPSVPC policy SP1 states that the Green Belt would be protected from inappropriate development in line with Government Policy.
- 9.9 BLPSVPC policy QP5 also states that states that permission will not be given for inappropriate development, as defined in the NPPF, unless very special circumstances are demonstrated, but due to unresolved objections this policy is currently given limited weight for the purposes of this assessment.
- 9.10 With reference to Local Plan Policy GB1 and BLPSVPC policy SP1, paragraph 149 and 150, the proposal does not fall under any of the exceptions to inappropriate development in the Green Belt. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and such development should not be approved except in Very Special Circumstances (VSC). The applicant has put forward a case for VSC, which is considered in section 9(xii) of this report.

### The Effect on Openness and Purposes of the Green Belt

- 9.11 Local Plan policy GB2(a) states that permission will not be granted for new development within the Green Belt which would have a greater impact on openness of the Green Belt or the purposes of including land within it than existing development on the site. Insofar as assessing the impact of development on the openness of the Green Belt, Local Plan policy GB2(a) is more proscriptive than the NPPF and therefore not given full weight. However, the objective of GB2(a) is consistent with paragraph 137 of the NPPF which makes it clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belt are their openness and their permanence. Paragraph 138 of the NPPF goes on to state that the Green Belt serves 5 purposes: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration by encouraging the recycling of derelict and other urban land. The NPPF is a material consideration of significant weight.
- 9.12 As inappropriate development in the Green Belt the proposal is, by definition, harmful to openness. In terms of actual openness, the NPPG advises that when considering the potential impact of development on actual openness of the Green Belt, openness is capable of having both a spatial and visual aspect, and the permanence and degree of activity likely to be generated should be taken into account.
- 9.13 Located on a site comprising of an open agricultural field where there are currently no buildings within the site, the siting, layout, height, scale, form and amount of the proposed development, as described in section 5 of this report, would unavoidably result in an adverse effect on spatial

and visual openness in comparison with the existing situation. The loss of openness would also be experienced from public vantage points from the M4, Howe Lane and at the junction between Howe Lane and Drift Road, although it is acknowledged that views are partly screened by existing trees, hedgerows and other vegetation and thereby localised.

- 9.14 The Landscape and Visual Appraisal (LVA) submitted by the applicant suggests that the visual impact of the proposed development on the Green Belt would be limited due to the existing level of enclosures and it is proposed to undertake woodland planting to increase screening and the reduce visibility of the development. However, it is considered that such mitigation could only reduce the extent to which the decrease in the site's openness can be seen and experienced from, it cannot increase openness, and there is a limited to what can realistically be screened by planting and there is a point where an increase in planting to increase screening would have an impact on openness in itself. Therefore, it is considered that the harm to openness remains.
- 9.15 The life-span of the proposal is intended to be 30 years. Therefore, the proposal is not permanent, and the site would be restored to agricultural land after this time, which can be conditioned. This would limit the harm but the period of 30 years is not considered to be short-term and, together with the siting, layout, height, scale, form and amount, it is considered that the detrimental impact of the proposed development would still be material.
- 9.16 Turning to the purposes of the Green Belt, objections have been raised on the loss of the gap between Bracknell and Maidenhead, and therefore conflict with the purpose of the Green Belt to prevent neighbouring towns merging into one another. However, due to the scale of development and the distance between the two settlements it is not considered that the proposal would have significant impact on the integrity of the Green Belt in respect of this purpose. However, as the site is open and rural in character despite the urbanising influence of the M4, it is considered that it makes a strong contribution to the countryside. Therefore, its loss as a result of the development would conflict with the purpose of the Green Belt in safeguarding the countryside from encroachment.
- 9.17 With reference to its inappropriateness, harm to openness and conflict with one of the purposes, this harm to the Green Belt is considered further in the case for VSC (section 9(xii)) and the Planning Balance (section 11)

### **iii Flood Risk**

- 9.18 Local Plan policy F1 states that within areas liable to flood, development will not be permitted unless it can be demonstrated that the proposal would not of itself or cumulatively in conjunction with other development impede the flow of flood water, reduce the capacity of the floodplain to store flood water or increase the number of people or properties at risk from flooding. HWNP policy Env2 states that development must not increase flood risk elsewhere. As a material consideration, paragraph 159 of the NPPF requires development to be safe for its lifetime without increasing flood risk elsewhere, however, in the first instance paragraphs 159 of the NPPF requires development to be steered away from areas at highest risk. To accord, the NPPG sets out that a sequential approach (the Sequential Test) is applied. BLPSVPC policy NR1 also requires development to pass the Sequential Test, and development in flood Zone 2 and 3 will only be supported where it has been demonstrated that the development is located and designed to ensure that flood risk from all sources of flooding is acceptable in planning terms, but this policy is currently given limited weight.

#### Sequential Test

- 9.19 In accordance with the Environment Agency flood maps for planning, the application site lies within Flood Zone 2 (medium probably of flooding) with the exception of the north-west corner which lies in Flood Zone 1. Therefore, only where there are no reasonably available sites wholly in Flood Zone 1 should the suitability of sites that comprise of Flood Zone 2 be considered.

- 9.20 The submitted site-specific flood risk assessment (FRA) acknowledges that most of the site lies in Flood Zone 2 and that acceptability in Flood Zone 2 is subject to passing the sequential test. No sequential assessment was submitted by the applicant to support the application. However, a sequential assessment has been submitted in respect of the Green Belt. Although this does not address flooding specifically, it concludes that there is no other suitable site of the required size in proximity to the high-pressure transmission gas network. In applying the Sequential Test, the NPPG states that a pragmatic approach on identifying alternative sites should be taken and where it would be illogical to suggest alternative site (i.e., which do not reasonably meet the requirements of the development) then it might be impractical to suggest that the alternative site is suitable. As there are no other suitable sites in terms of size and proximity to the high-pressure transmission gas network, this suggests that an alternative site with a lower flood risk is also not available. As such, the proposal is considered to demonstrate that there are no reasonably available sites wholly in Flood Zone 1, and thereby passes the Sequential Test.

#### Exception Test

- 9.21 Paragraph 163 of the NPPF states that if it is not possible for development to be located in areas with a lower risk of flooding, the exception test may have to be applied depending on the flood risk vulnerability of the proposed development and flood zone compatibility. In accordance with Table 2: Flood Risk Vulnerability Classification in the NPPG, as power generating facility the proposed development is classed as 'essential infrastructure'. With reference to Table 3: Flood Risk Vulnerability and Flood Zone Compatibility in the NPPG, essential infrastructure in Flood Zone 1 and 2 is deemed to be appropriate development and therefore the exception test is not required.

#### Other Tests for Flood Risk

- 9.22 In addition to the requirement set out in Local Plan policy F1 and HWNP policy Env2, when determining any planning application paragraph 167 of the NPPF states that Local Planning Authorities should ensure that flood risk is not increased elsewhere, and development should only be allowed in areas at risk of flooding where it can be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk; the development is appropriately flood resistant and resilient in the event of a flood; it incorporates sustainable drainage systems; any residential risk can be safely managed; and safe access and escape routes are included where appropriate.
- 9.23 The site specific FRA includes hydraulic modelling which shows maximum floodplain levels on the proposed development site and tabulated results from modelling scenarios with the baseline and proposed development, which have been reviewed and approved by the Environment Agency. The modelling indicates that there will be negligible loss of floodplain storage as a result of the development, and therefore it is not considered that the proposed development will impede the flow of flood water, reduce the capacity of the floodplain to store flood water and increase flood risk elsewhere.
- 9.24 Turning to locating the most vulnerable development in area of lowest flood risk, as the majority of the site lies in Flood Zone 2 is it not possible for the development to be wholly or for the most part sited in the section of land in Flood Zone 1 within the site.
- 9.25 In terms of resistance and resilience measures, the model outputs show that the during a 1 in 100 year event plus climate change allowance, the southern extent is at risk of flooding. Therefore, it is proposed that the engine house door cills, floor levels and internal equipment is raised to a minimum of around 41.2m AOD above the worst case scenario. Model outputs for the worst case event also indicates that the transformer unit is at risk to flood depths of approximately 0.8m, therefore a bund is proposed as an appropriate resistance and resilience measure. These measures are considered to be acceptable.
- 9.26 In terms of safe access and egress, as the occupation of the development would be limited, it is not considered that securing safe access and egress would be necessary and appropriate in this instance. To address residual risk, it is considered that a Flood Warning Evacuation Plan to be

submitted and approved by the Local Planning Authority can be secured by condition if minded to approve.

### Sustainable Drainage

- 9.27 HWNP policy Env2 states the inclusion of sustainable drainage systems as part of new development will be supported. In addition to the requirements for sustainable drainage systems set out in paragraph 167 of the NPPF, paragraph 169 of the NPPF sets out similar requirements for sustainable drainage for major development such as this. Paragraph 169 of the NPPF goes on to state that systems should take into account advice from the Lead Local Flood Authority; have appropriate minimum operational standards; have maintenance arrangements in place for the lifetime of the development; and where possible provide multifunctional benefits. BLPSVPC policy NR1 also requires development to incorporate sustainable drainage systems, but this policy is currently given limited weight.
- 9.28 Undeveloped sites generally rely on natural drainage to absorb and convey rainfall into watercourses, and the effect of development is to generally reduce the permeability of the site. Therefore, a surface water drainage strategy has been submitted to mitigate the impact of the development, which comprises permeable gravel areas, unbound stone access roads and hardstanding, which allows runoff to infiltrate naturally into the underlying geology, and for impermeable buildings surface water runoff would be channelled by gravity gutters and downpipes to an attenuation pond. The pond has been designed to store approximately 148 cubic metres to prevent uncontrolled flooding of the site in extreme rainfall events, and the discharge of surface water from will be controlled to 2.0l/s runoff rates by use of a vortex flow control device fitted to the first upstream manhole from the surface water drainage outfall. The downstream outlet of the pond will include a sump / catchpit for removal of silt and debris. The discharge point will be to the Cut to the south of the development.
- 9.29 The proposed sustainable drainage strategy is acceptable in principle. If minded to approve, full details of the surface water drainage system based on the above strategy to ensure compliance with the non-statutory technical standards for sustainable drainage systems and to ensure that proposed development does is safe from flooding and does not increase flood risk can be secured by condition.

### **iv Water Quality**

- 9.30 Local Plan policy NAP4 states that the Council will not grant planning permission for development which poses an unacceptable risk to the quality of groundwater and/or which would have a detrimental effect on the quality of surface water, and of a material consideration of significant weight, paragraph 174 of the NPPF states that the planning decisions should prevent new development from contributing to unacceptable levels of water pollution. BLPSVPC policy EP5 also states that development proposals will be supported where it can be demonstrated that proposals will not cause unacceptable harm to the quality of groundwater and surface water, and where it can be demonstrated that adequate and effective remedial measures to remove the potential harm to human health and the environment are successfully mitigated, but this policy is currently given limited weight.
- 9.31 The site is located within a greenfield site over London Clay and so there are no concerns in respect of groundwater quality. In terms of surface water, the Environment Agency originally objected to the proposal on the basis that the applicant had not supplied adequate information to demonstrate that the risks of pollution posed to the surface water quality of the River Cut have been assessed and can be safely managed. The applicant subsequently confirmed that the primary safeguard for surface water quality from any ammonia spillage, which is soluble and toxic to aquatic organisms, or other pollution would be the temporary isolation of the drainage system. The drainage pond will function as a temporary collection of any spillage that might occur and effectively sealing the site in a similar manner to a collection bund. The valve that controls the outflow will be manually shut during any activities involving un-banded hazardous materials, and the pond will be fully cleaned and reinstated before any drainage recommences. This method to manage pollution risk to surface water quality to the River Cut is considered acceptable in principle.



9.32 The applicant also confirmed that an Environmental Management Plan would be prepared and submitted as part of their application to the Environment Agency for an Environmental Permit, which regulates plants that could pollute the air, water or land and a statutory requirement under the Environmental Permitting (England and Wales) Regulations 2016. For a Permit, the Environment Agency would customarily require the Environmental Management Plan to set out full details of the alarm system and procedures for how to seal the surface water drainage pond to prevent outflow and how a contaminated pond is suitably reinstated following a pollution incident, and the development to be carried out as approved. In the event that the proposal is approved, planning permission does not override the statutory obligation for an Environmental Permit or the requirements of any permit issued. If minded to approve planning permission, a condition is recommended to ensure a copy of the Permit is provided to the Local Planning Authority.

#### **v Environmental Protection**

9.33 Local Plan Policy NAP3 states that the Council will not grant planning permission for proposals likely to emit unacceptable levels of smell, fumes or noise beyond the site boundaries, while HWNP policy T2 states that development generating additional LGV and HGV traffic movements should ensure that any harm arising from noise and dust is satisfactorily mitigated. As a material consideration of significant weight, paragraph 185 of the NPPF requires planning decisions to take into account the likely effects of pollution on health and living conditions, as well as the potential sensitivity of the site or the wider areas to impacts that could arise from the development, while paragraph 186 states that planning decision should sustain or contribute towards compliance with relevant limit values or national objectives for pollutants. As a further material consideration of significant weight, BLPSVPC policy EP1 states that development proposals will only be supported if it can be shown that individually or cumulatively that they do not have an unacceptable effect on environmental quality during the construction or operational phases of the development, and residential amenity should not be harmed by reason of noise, smell or other nuisances. Specifically relating to air pollution, BLPSVPC policy EP2 states that development proposals should aim to contribute to conserving and enhancing the natural and local environment, and avoid putting new or existing occupiers at risk of harm from unacceptable level of air quality. Development proposals should show how they have considered air quality impacts through an air quality assessment. Specifically relating to noise pollution, BLPSVPC policy EP4 state that development proposals that generate unacceptable levels of noise and affect quality of life will not be permitted. Effective mitigation measures will be required where development proposals generate significant levels of noise that may cause or have an adverse impact on neighbouring residents, the rural character of the area or biodiversity. The Council will require the submission of a noise assessment.

#### Air Quality

9.34 For the construction phase of the development, the submitted Construction Traffic Management Plan sets out there would be between 4 to 10 LGVs a day and 15 to 20 HGVs a day, and circa 5 abnormal loads. Given the predicted number of vehicles trips, the proposed dust mitigation measures that includes damping, wheel cleaning facilities and road cleaning, and the temporary nature of construction, it is not considered that dust arising during this phase would not result in undue harm to air quality that would warrant refusal. Details of and adherence to dust mitigation measures can be secured by a condition for a site-specific Construction Environmental Management Plan.

9.35 For the operation phase of the development, an Air Quality Assessment was submitted to support the proposal. The Air Quality Assessment was originally based on 14m high stacks which was increase in height to 15m during the course of the application, therefore an addendum to the Air Quality Assessment was subsequently submitted. Overall, the methodology of the Air Quality Assessment and addendum complies with industry best practice approaches and therefore the conclusions are considered to be robust.

9.36 The Air Quality Assessment evaluates the emissions of nitric oxides, which oxidises in the atmosphere to form Nitrogen Dioxide (NO<sub>2</sub>), from the proposed stacks of the proposal and

together with the proposed scheme under 20/00715/FULL for the cumulative impact to 12 receptors, which were selected where the public is regularly present and likely to be exposed over the averaging period of the objective. In line with EN-2, it is acknowledged that sulphur oxides (SOX) from gas-fired generating stations are likely to be negligible and therefore not assessed. The results indicate that the predicted concentrations of emissions from the stacks of NO<sub>2</sub> at all sensitive receptors meet the relevant air quality standards. Therefore, the conclusion of the Air Quality Assessment that the effect of the proposed development on air quality as 'not significant' is accepted.

- 9.37 As with groundwater and surface water pollution, air emissions from the operation of the development would be regulated by the Environmental Permit regime. The Environment Agency would be the regulatory body, breaches of the approved Environmental Permit would be illegal, and planning permission does not override the statutory obligation for an Environmental Permit or the requirements of any permit issued. If minded to approve planning permission, a condition is recommended ensure a copy of the Permit is provided to the Local Planning Authority.
- 9.38 The Air Quality Assessment does not include the impact of additional traffic. However, the Access Technical Note sets out 6 two-way vehicle movements per day. There would also be 34 deliveries by a 22,000L road tanker and 12 general deliveries / servicing vehicles per year, and there would be an annual shut down for full maintenance which requires an additional 4 specialist staff, split into 2 shifts over 12 hours on site for 5 weeks. Given the modest number of trips in absolute terms, it is not considered that impact on air quality from additional vehicles would be significant.
- 9.39 The above assessment is on human health receptors. The predicted air quality impact on trees and ecology are assessed in sections 9(vi) and 9(vii).

#### Noise Pollution

- 9.40 In terms of noise from construction traffic, due to the predicted number of LGV and HGV vehicle movements and the proposed route, in addition to the temporary nature of the construction phase, it is considered that noise from LGV and HGV traffic would not result in undue harm to amenity that would warrant refusal.
- 9.41 A Noise Assessment for the combined operation of the proposed development and the development under 20/00715/FULL has been submitted to support the application. The methodology is in line with British Standards 4142:2014 + A1:2019 (Methods for Rating and Assessing Industrial and Commercial Sound) and therefore the assessment and conclusions are considered to be robust.
- 9.42 The assessment considered the noise impact of development during its operation on residential properties that are closest in proximity to the site (Noise Sensitive Receptors: NSRs). It establishes that the baseline ambient sound levels already exceed the guidance level for the onset of annoyance during the day and evening. The main source of noise is traffic travelling on the M4. The proposal would add to baseline ambient sound levels, but the predicted change as a result of the proposed development would be below the minimum that is perceptible to most during all periods at the NSRs. As such, in accordance with BS: 4142:2014 + A1:2019, the proposed development would not result in an adverse impact in this respect.
- 9.43 The proposal incorporates various mitigation measures within its design, including enclosures surrounding the gas engines with acoustic absorptive cladding, exhaust silencers fitted to the gas engine exhausts, acoustically lagged external ductwork, acoustic louvers to the air inlet and outlets on the building facades, and low noise transformers. If minded to approve, a condition is recommended to secure the submission and approval of full details of the proposed insulation of the plant which accords with British Standards 4142: 2014+A1:2019. As mitigation for noise that may occur outside of the building, a condition to limit the hours of works of maintenance on the plant, machinery or equipment outside the building between 08:00 and 18:00 hours Mondays to Fridays, 08:00 and 13:00 on Saturdays and at no time on Sundays, or Bank Holidays or Public Holidays is recommended. It is considered that there would be less background noise in the evening, at night and at the weekend, and the NPPG notes that the adverse effect can be greater simply because there is less background noise. This condition excludes repair works in the

interest of immediate safety risk or operational malfunction. This resultant harm is not considered to reduce amenity to an unacceptable level to warrant refusal but would still represent limited harm. This harm should be weighed against the development and is considered in the case for VSC (section 9(xii) and overall Planning Balance (section 11)

### Light Pollution

- 9.44 There were inconsistencies in supporting documents on the lighting proposed for the development. It was subsequently confirmed that there would be 7 lights poles mounted around the perimeter of the site, 4 lights mounted onto the corner of the engine housing building, and 1 lighting column between the exhaust system but, with the exception of instances where repair is required for immediate safety, lighting would not be used overnight. As the site is considered to be in an area with low district brightness (relatively dark outer suburban locations) with a material influence from vehicle lights from the M4 from, there is no objection in principle. However, in the interest of minimising additional impact on amenity, character and wildlife in this location, and making the development more energy efficient and sustainable, a condition is recommended to secure submission and approval of a detailed lighting scheme.

### Visual Overbearing

- 9.45 Local residents have raised concerns over visual bearing of the flues and development on general to their properties. The nearest neighbour is sited over 270m away from the application site. Given the siting, height and mass of the flues, together with the separation distance, it is not considered that the proposed flues would result in any undue visual overbearing to the nearest neighbouring resident to the detriment of their amenity. Visual amenity is assessed in section 9(x).

### **vi Trees**

- 9.46 To the north of the site is Great Wood. Great Wood is dissected by the M4 with the main extent situated on the western (opposite) side of the motorway, covering approximately 59ha. The extent to the north of the application site is smaller, measuring approximately 1.6ha. Both extents are ancient woodland, which is defined in the NPPF as an area that has been wooded continuously since at least 1600AD. Natural England's Magic Map system indicates that Great Wood is semi-natural woodland mainly made up of trees and shrubs native to the site, usually arising from natural regeneration.
- 9.47 Local Plan policy N6 requires new development to allow for the retention of existing suitable trees wherever practicable, should include protection measures necessary to protect trees during development, and where the amenity value of trees outweigh the justification for development then planning permission may be refused. As a material consideration of significant weight, paragraph 174 of the NPPF states that planning decisions should recognise the intrinsic character and benefits of natural capital including trees and woodland, while paragraph 180 of the NPPF goes on to state that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Natural England and the Forestry Commission have also published 'standing advice', which Government Guidance has identified as a material consideration. The standing advice states that that planning permissions should be refused if the development loss or deterioration of ancient woodland unless there are wholly exceptional reasons and there is a suitable compensation strategy in place, and decision makers should take into account the conservation and enhancement of biodiversity, and any mitigation that reduces the impact of the proposed development on ancient woodland.
- 9.48 BLPSVPC policy NR3 also sets out that ancient woodland sites are to be safeguarded from harm or loss, but this policy is currently given limited weight.

## Air Pollution

- 9.49 Further to the An Air Quality Assessment on human health, a supplementary memo on the predicted air quality impacts on Great Wood has been submitted. A second supplementary memo was submitted to address the change in stack heights from 14m to 15m.
- 9.50 In assessing the potential on ecological receptors, it is acknowledged that ammonia in the air may exert direct effects on vegetation or indirectly affect the eco-system through depositions which cause excessive nitrogen enrichment. Nitrogen in plants is vital in the health of all plants as it is a component in the production of chlorophyll, but excess nitrogen results in disproportionate foliage growth, and energy is diverted from flower / berry production and root growth to the detriment of the health and longevity of the plant, and thereby the floristic composition of Great Wood and habitats.
- 9.51 The Air Quality Assessment concludes that the process contributions of Nitrogen (N) and Nitrogen Oxide (NOX) at Great Wood would be less than the 100% of the critical level / load for each pollutant. Critical levels are maximum atmospheric concentrations of pollutants for the protection of vegetation and ecosystems and are specified within relevant UK regulations, while critical loads refer to the quantity of pollutants deposited, below which significant harmful effects on sensitive elements of the environment do not occur, according to present knowledge. Current Environment Agency guidance states that for ancient wood within 2km of the site, if the predicted process contributions are less than 100% of the critical level / load than the impact is not considered to be significant. Therefore, on this basis the impact of N and NOX process contributions on Great Wood is not considered to be significant.
- 9.52 Ammonia can also result in acidification of the soil, which may curb propagation of non-acid tolerant species and varieties. Acid soil, particularly in the subsurface, may also restrict root growth effecting uptake of water and nutrients. However, the habitats in Great Wood, identified by a walk-over survey by the applicant's ecologist, are not sensitive to acid deposition, so not considered further.

## Buffer Zone

- 9.53 The purpose of a buffer zone is to protect ancient woodland, and to avoid root damage the standing advice is that there should be a buffer of at least 15m. Where assessment shows other impacts likely to extent beyond this distance, there may be requirement for a larger buffer zone. The buffer should also consist of a semi-natural habitat.
- 9.54 In this case, the proposed buffer zone falls short of the minimum buffer zone recommended to protect root damage by around 1m-1.5m. However, the Tree Impact Plan, drawing ref: AEL-18195-TIP rev. C, shows that the proposed development would not intrude through the Root Protection Area (RPA), the minimum area around the tree that holds enough roots and rooting volume suggested by British Standards (BS) 5837: 2012 to maintain the tree's viability, of existing individual trees along the southern boundary of the ancient woodland. Therefore, the proposed buffer is acceptable in this respect. Other identified impacts, such as air pollution dispersal with the proposed buffer is assessed above and considered acceptable. Woodland planting is proposed in between the development and Great Wood, comprises common oak, hazel and birch amongst other species as shown on the Planning Plan, drawing ref: 307\_PP\_E05 rev, A, which are typical of the florist composition of Great Wood, and therefore acceptable. Full details and approval of the proposed woodland planting, and their management, can be secured by condition.

## Tree Removal

- 9.55 Part of the group of trees identified as G30, and 4 individual trees identified as T4, T5, T6 and T7 are proposed to be removed. In the submitted Arboricultural Impact Assessment, G30 (mixed species), T5, T6 and T7 (Acer Campestre) are categorised as C1 grade trees which, in terms of their arboriculture qualities, BS 5837: 2012 classes as unremarkable or of limited merit. Category

grade C trees should be retained where possible, but where removal is necessary to accommodate development these trees should not pose a significant constraint. Therefore, as their removal is necessary to accommodate the proposed development, the partial loss of G30, and loss of T5, T6 and T7 is acceptable. T4 (*Quercus Robur*) is categorised as a B1 grade tree, which BS 5837: 2012 classifies as having arboricultural qualities of moderate quality, capable of making a significant contribution for 20 or more years, and generally category grade B trees should be retained. Therefore, the loss of T4 would result in harm. However, the amenity value of T4 is not considered to be so significant to warrant refusal and the harm would be mitigated through the planting of new trees as indicated on the Planting Plan, drawing ref: 307\_PP\_E05 rev, A. Objections from the Council's Arboriculture Officers have been raised over the proposed specimen tree *Populus Canadensis* 'Robusta' as mitigation as it is not a native species. However, full details and approval of the species can be secured by condition. Therefore, the loss of T4 is also acceptable.

### Root Protection

- 9.56 The Tree Impact Plan shows that proposed layout of the main plant would also intrude through the RPA of the T8 while the proposed access track would intrude through the RPA of T1, T2 and T3. T8 (*Acer Campestre*) is categorised as grade C1, while T1, T2 (*Quercus Robur*) and T3 (*Acer Campestre*) are categorised as grade B1 trees. The default position set out in BS 5837: 2012 is that structures should be located outside of the RPAs of retained trees but goes on to state that new hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA. The intrusion is below 20% of the RPA of T8, T1, T2 and T3, and the Arboricultural Impact Assessment proposes measures to protect the trees during construction such as 'no dig' specification, and mitigation to ensure the health and longevity of the trees such as the use of permeable material to ensure soil moisture and the addition of soil nutrients to aid root development in the viable areas. As such, the impact on T1 and T2 is acceptable.
- 9.57 The Arboricultural Impact Assessment acknowledges that there is potential for intrusion into the RPA of T28 and T29 (as referred to in the Arboricultural Impact Assessment but labelled as T25 and T26 on plan ref: Tree Impact Plan, drawing ref: AEL-18195-TIP rev. C.) due to proposed tunnelling under The Cut for cables and pipework. T28 and T29 are both *Quercus Robur* and categorised as B1 grade trees. However, the Arboriculture Impact Assessment goes on to state that there is around 15m of easement, so cables and pipework can be located away from any underground structures such as tree roots, and details can be secured through a Arboricultural Method Statement.
- 9.58 If minded to approve, it is recommended that the submission and approval of a Arboricultural Method and Mitigation Statement to include details of the replacement tree planning and within the buffer zone, and tree protection measures, is secured by condition.

## **vii Ecology**

### Special Area of Conservation

- 9.59 The site lies within 10km of Chiltern Beechwood and Windsor Forest and Great Park, both a Special Area of Conservation (SAC), which is a European Designated site. Where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, the Conservation of Habitats and Species Regulations 2017 requires an appropriate assessment to be made in view of that site's conservation objectives. Paragraph 180 of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats, including Special Areas of Conservation, should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

### *Chiltern Beechwood*

- 9.60 The Joint Nature Conservation Committee (JNCC), which is the public body that advises the UK Government on UK-wide conservation, advises that the primary reason for designation of Chiltern Beechwoods SAC is the extensive tract of beech forest which is an important part of a grassland-scrub-woodland mosaic, which supports important orchid sites and stag beetles.

- 9.61 A memo report has been submitted on the impact of the proposed development together with the proposed development under 20/00715/FULL on the impact on Bisham Woods Site of Special Scientific Interest (SSSI), which overlaps with Chilterns Beechwood SAC, from ammonia (NH<sub>3</sub>), nitrogen (N) and acid depositions. As set out in section 9(vi), ammonia in the air can result in depositions which cause excessive nitrogen enrichment and acidification to the detriment of the health and longevity of the plants and floristic composition of woods.
- 9.62 Current Environment Agency and Department for Environment, Food and Rural Affairs guidance (2021) states that for SSSIs and SACs within 10km of the site, if the process contributions are less than 1% of the critical level / load then the impact is not considered to be significant. In this case, the report concludes that the process contributions of ammonia (NH<sub>3</sub>), nitrogen oxide (NO<sub>x</sub>), nitrogen (N) deposition and acid deposition are below 1% of the critical level / load. Therefore, in this respect the impact on Chiltern Beechwoods SAC is not considered to be significant.
- 9.63 In terms of other threats and pressures, the JNCC states identifies issues with management and use, problematic native species and invasive non-native species, and interspecies flora relations. The proposed development is not considered to have a significant effect on Chilterns Beechwoods due to its use and distance. Therefore, overall, an Appropriate Assessment for Chilterns Beechwoods is not required.

#### *Windsor Forest and Great Park*

- 9.64 The JNCC advises that the primary reason for designation of Windsor Forest and Great Park SAC is the significance of the old acidophilous oak woods, range and diversity of saproxylic invertebrates, and fungal assemblages. The JNCC has identified air pollution as an identified threat to Windsor Forest and Great Park SAC.
- 9.65 A memo report has been submitted on the impact of the proposed development together with the proposed development under 20/00714/FULL on the impact on Windsor Forest and Great Park SAC, from ammonia (NH<sub>3</sub>), nitrogen (N) and acid depositions. It concludes that the process contributions of ammonia (NH<sub>3</sub>), nitrogen oxide (NO<sub>x</sub>), nitrogen (N) deposition and acid deposition are below 1% of the critical level / load. Therefore, in accordance with current Environment Agency and Department for Environment, Food and Rural Affairs guidance (2021), the process contributions from the proposal are not considered to be significant. Therefore, overall, an Appropriate Assessment for Windsor Forest and Great Park is not required.
- 9.66 In terms of other identified threats and pressures, which includes forest and plantation management and use, invasive non-native species and interspecific floral relations, the proposed development is not considered to have a significant effect on Windsor Forest Great Park due to its use and distance.

#### Other Designations

- 9.67 In terms of biodiversity in general, HWNP policy Env1 states that development proposals should maintain and where practicable and appropriate, enhance biodiversity. As a material consideration of significant weight, paragraph 174 of the NPPF states that planning decisions should recognise the wider benefits from natural capital and ecosystem services and minimise impacts on and provide net gains for biodiversity. Paragraph 180(a) states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort compensated for then planning permission should be refused. As further material considerations of significant weight, BLPSVPC policy QP1 requires larger development, such as this, to foster biodiversity; policy QP3 requires new development to respect and enhance biodiversity; policy EP3 requires development proposals avoid generating artificial light pollution that would have a detrimental impact on biodiversity; and EP4 states that development would generate unacceptable levels of noise that adversely impacts biodiversity would not be permitted. BLPSVPC NR2, which expects development proposals to demonstrate how they maintain, protect and enhance the biodiversity of sites, is currently given limited weight.

- 9.68 An Ecology Assessment was submitted to support the application, which included a field survey, habitat assessment and protected species impact assessment.

### *Badgers*

- 9.69 Badgers are protected under the Protection of Badgers Act 1992 (as amended). The submitted Ecology Assessment confirms that within the section of Great Wood to the north of the application site, there is a large main sett, two annex setts and one subsidiary sett, and evidence of use by badgers. Furthermore, there are locations across land adjacent to the site which are suitable for badger sett creation. Given the separation distance, the proposal would not directly impact existing or potential badger setts. However, as a result of the removal of around 60m of hedgerow within the site there would be harm to badgers through the loss of commuting and foraging habitat. As mitigation, the Planting Plan, drawing ref: 307\_PP\_E05 rev, A, shows proposed woodland and hedgerow planting which would take time to fully establish but overall would maintain the commuting line from the retained section of hedgerow and would increase and enhance foraging opportunities for badgers. Fencing which could potentially block small mammals passing through, but badger / small mammal gates to be installed every 100m is proposed. If minded to approve, can be secured by condition along with the planting as mitigation. Therefore, the impact on badgers are considered to be acceptable.

### *Bats*

- 9.70 All British bats and their roosts are afforded full protection under the Conservation of Habitats and Species Regulations 2017 and Wildlife and Countryside Act 1981 (as amended). There was no evidence of roosting bats on the site. However, in terms of potential roosting features on and directly around the site, one mature field maple was deemed to be of high value, 5 oak trees were deemed to be of moderate value, and 53 oak trees were deemed to be of low value for roosting bats. Great Wood, The Cut and hedgerow were also deemed to be of high value for foraging and commuting bats.
- 9.71 The loss from removal or potential loss from the impact of the development of 6 low value trees, and removal of around 60m of hedgerow within the site would result in moderate negative impact on roosting bat and minor negative impact on commuting and foraging bats. As set out in this report, the proposed development is not considered to result in undue harm to the health and longevity of retained trees but, for the purposes of assessing proposed mitigation, the assumption of a worst case is reasonable. The Planting Plan, drawing ref: 307\_PP\_E05 rev, A, shows proposed woodland planting which, together with the installation of bat boxes, would satisfactorily compensate roosting bats for the loss of the 6 trees. The compensatory planting would take time to fully establish, but would maintain a commuting and foraging line from the retained section of the hedgerow to Great Wood. The range of species proposed, which supports invertebrates, would also improve foraging opportunities for bats. Therefore, the impact on bats is considered to be acceptable. If minded to approve, details and implementation of the planting as mitigation can be secured by condition.

### *Great Crested Newts*

- 9.72 Great Crested Newts are a Priority Species and afforded protection under the under the Conservation of Habitats and Species Regulations 2017 (as amended). There are a number of water bodies within 500m of the site at Pond Wood and Pondwood Farm where Great Crested Newts have been recorded but given the distance and as these ponds are physically separated from the site by the M4, any Great Crested Newts that may be present in these water bodies are unlikely to access and utilise the site. There are no ponds within 250m of the site and, while the field edges and hedgerow have potential for shelter and foraging opportunities, managed arable land comprises of sub-optimal vegetation as terrestrial habitat for Great Crested Newts. Therefore, the site is considered to be of low suitability for Great Crested Newts. As such, no

specific mitigation measures are required in respect of this species. However, it is recommended that all attenuation ponds are designed to have at least one shallow / gradual side or has a wildlife-accessible escape ladders / netting installed. If minded to approve, details and implementation of this can be secured by condition.

### *Reptiles*

- 9.73 All six species of British reptiles are Priority Species under the Conservation of Habitats and Species Regulations 2017 (as amended), and the Wildlife and Countryside Act 1981 (as amended) protects all six species of British reptile against intentional killing or injury. There was no evidence of reptiles recorded during the survey, and while there is low potential within the grassy field margins to support reptiles, the site is considered to be of negligible to low value habitat due to the sub-optimal vegetations structure within the managed arable land. As such, no specific mitigation measures are required in respect of this species.

### *Dormice*

- 9.74 Dormice are a Priority Species under the Conservation of Habitats and Species Regulations 2017 (as amended) and are fully protected under the Wildlife and Countryside Act 1981 (as amended). No evidence of dormice was recorded during the survey, and so it is considered that dormice are absent from the site. Thames Valley Environmental Record Centre (TVERC) data also records no dormice within 1km of the site. The hedgerow is suitable for commuting between local woodlands, but within Great Wood there is a lack of understorey for dormice to utilise and limited quantities of plant species which dormice forage on (hazel) or nest in (bramble) and therefore has low suitability as habitat. As such, no specific mitigation measures are required in respect of this species.

### *Water Voles*

- 9.75 Water voles are fully protected under the under the Wildlife and Countryside Act 1981 (as amended). The survey recorded no evidence of water voles on the, however there is potential for water voles to be found in The Cut. Therefore, if minded to approve it is recommended that an updated survey for water voles prior to the start of relevant works to ensure that presence of otters and no holts or burrows have been established subsequent to the survey undertaken as part of the submitted Ecology Assessment. If the survey finds evidence of water voles then further survey works should be secured to determine impacts and appropriate mitigation, which is likely to be required to accord with licensing requirements overseen by Natural England. The updated survey and where necessary a copy of the licence to be provided to the Local Planning Authority can be secured by condition.

### *Otters*

- 9.76 The European Otter, which the only native UK otter species, is a protected species under the Wildlife and Countryside Act 1981 (as amended). No evidence of otters was recorded during the survey, however there is potential for otters to be found in The Cut. Therefore, if minded to approve it is recommended that an updated survey for otters prior to the start of relevant works to ensure that presence of otters and no holts or burrows have been established subsequent to the survey undertaken as part of the submitted Ecology Assessment. If the survey finds evidence of otters then further survey works should be secured to determine impacts and appropriate mitigation, which is likely to be required to accord with licensing requirements overseen by Natural England. The updated survey and where necessary a copy of the licence to be provided to the Local Planning Authority can be secured by condition.

### *Nesting Birds*

- 9.77 Great Wood is of high value to nesting birds, while single trees and the hedgerow on site is of moderate value. Breeding birds, their eggs and active nests are protected under the Wildlife and



Countryside Act 1981 (as amended). To avoid potential offence under the relevant legislation, an informative is recommended to advise the agent that there should be no clearance of suitable vegetation during bird-nesting season (1 March to 31 August, inclusive).

### The River Cut

- 9.78 The proposal includes a new crossing beneath the riverbed of The Cut. Further details were submitted during the course of the application confirming that the proposed new crossing under the River Cut will be constructed using directional drilling. This is a method of installing pipes and involves opening a trench on either side of the entity that is intended to be left unchanged, in this case the River Cut. The drill then cuts a hole from one trench, an acceptable distance below the riverbed, emerging at the other trench. The trenches are then backfilled. As a result, the impact on the river will remain hydrogeomorphologically neutral. This method is an established method used by the gas, electricity, water and telecoms industry to avoid interference with water features, and thereby considered to be effective and feasible. As such, this is acceptable in principle and the Environment Agency has withdrawn their initial objection.
- 9.79 As with groundwater and surface water pollution, and air pollution, the risks to nature conservation and fisheries as a result of these works, and details of how the risks can be managed, would be subject to the Environmental Permitting (England and Wales) Regulation. Therefore, if minded to approve planning permission, a condition is recommended ensure a copy of the Permit is provided to the Local Planning Authority.

### **viii Highway Safety**

- 9.80 Local Plan policy T5 requires all development proposals to comply with adopted highway design standards. HWNP policy T1 states that development proposals requiring access must demonstrate safe and suitable access, and development proposals that would have a severe residual cumulative impact on highway safety will be refused. As a material consideration, paragraph 110 of the NPPF states that safe and suitable access to the site should be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion) or on highway safety should be cost effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. As a material consideration of significant weight, BLPSV policy IF2 states that development should be located in sustainable locations, and proposals should be designed to optimise traffic flows and circulation to minimise negative environmental impacts of travel and provide car and cycle parking in accordance with the current Parking Strategy.

### Sustainable Location

- 9.81 Located in a rural location, the site is not close to homes, services and facilities nor near convenient and sustainable modes of public transport and therefore not in a sustainable location. It is acknowledged that the development is proposed to be largely unmanned, and so the harm is limited. This harm should be weighed against the development, which is considered further in the case for VSC (section 9(xii)) and the Planning Balance (section 11).

### Trip Generation

- 9.82 In terms of construction traffic, the construction period is envisaged to last 12 months and the applicant has submitted a Construction Traffic Management Plan (CTMP) which provides information on the types and frequency of construction vehicles and equipment which will need to be delivered to the site. The plan envisages there would be between 4 to 10 LGVs a day and 15 to 20 HGVs a day. The development will also need to accommodate circa 5 abnormal loads which comprise of the transformer, four engines and large crane.

- 9.83 The Council's Highway Consultants has confirmed no issues with the route and number of construction vehicles and impact on the local highway network, while the Council's Abnormal Loads Team has considered the Oakley Green Road/ Fifield Lane 7.5T Weight Restriction Scheme and the width of RBWM structures that the abnormal load vehicles will pass through and have also raised no objections. However, Bracknell Forest Council as the Local Highway Authority for the majority of the identified route for construction traffic from its starting point to the destination has raised objections as the route directs construction traffic through rural roads with poor accidents records including Forest Road/Warfield Street/A3095 and residential areas, and they note that the timing of deliveries do not appear to respect defined traffic sensitive time periods. Therefore, during the construction period it is considered to result in a detrimental impact on highway safety on Bracknell Forest Council's roads and network, contrary to Bracknell Forest Council Core Strategy policies CS23 and CS24. Given the temporary nature of construction traffic and given that any undue adverse impact from construction vehicles can be controlled and / or mitigated by existing highway legislation, the resultant harm is considered to be limited. This harm should be weighed against the development and is considered further in the case for VSC (section 9(xii)) and overall Planning Balance (section 11)
- 9.84 Once the site is operational, the Access Technical Note states it will produce approximately 6 two-way vehicle movements per day (3 arrivals / 3 departures). It was also confirmed there would be 25 deliveries of ammonia solution, 6 deliveries of lubricating oil, and 3 deliveries of waste oil removal per year by a 22,000L road tanker (34 in total) and 12 general deliveries / servicing vehicles, and there would be an annual shut down for full maintenance which requires an additional 4 specialist staff, split into 2 shifts over 12 hours on site for 5 weeks. Given the number of trips for normal operation and the annual shut down maintenance, and the frequency of trips by more impactful types of vehicles to and from the site, it is not considered that impact on the local highway network would be severe, and therefore is acceptable.

#### Access

- 9.85 Vehicular access to the site is proposed from Howe Lane via a new private access priority junction. The proposed access arrangements, drawing ref: 19109-GA01 rev. C (appendix C of the Access Technical Note, dated 16 March 2020) demonstrates that the required visibility splays of 2.4m x 140m to the left and right can be achieved, and that a turning HGV can manoeuvre to and from the site access and onto Howe Lane. A gate is proposed which is set back approximately 18m beyond the back edge of the Howe Lane carriageway to enable all vehicles to safely pull off the highway before the gates are opened.
- 9.86 The proposal also includes an access from Howe Lane, which is associated with the gas compound to the south of the site. The Access Technical note states that the access will only need to be used 2 to 3 times per year. Drawing number 19109-GA02 shows that the access will provide visibility splays of 2.4m x 55m to the right to the roundabout junction by 2.4m x 120m to the left. As vehicle speeds will be lower as vehicles would be braking for the roundabout the proposed visibility splays for this access are acceptable.

#### Parking

- 9.87 Local Plan policy P4 requires development to meet adopted parking standards while as a material consideration of significant weight, BLPSVPC policy IF2 states that development should provide vehicle parking in accordance with current parking strategy. The proposed master plan reference: SL203LXMP301 Revision C indicates 8 parking spaces on site, which is considered acceptable. There is sufficient turning for these spaces to enable cars to enter / exit in forward gear. If minded to approve condition is recommended to ensure that parking is provided in accordance with these details.

### **ix Character and Appearance**

- 9.88 Local Plan policy DG1 resists development which is cramped or which results in the loss of important features which contributes local character. As a material consideration, paragraph 126 of the NPPF advises that high quality buildings and places is fundamental to what the planning

and development process should achieve, and good design is a key aspect of sustainable development. To achieve this, paragraph 130 of the NPPF advises that planning decisions should ensure that developments function well and add to the overall quality of the area for the lifetime of the development; is visually attractive as a result of good architecture, layout and appropriate landscaping; are sympathetic to the local character and history of the surrounding environment while not preventing appropriate change; and create places that are safe and inclusive. Paragraph 134 of the NPPF states that development that is not well designed should be refused. As a further material consideration of significant weight, BLPSVPC policy QP1 states that all new development should positively contribute to the place in which they are located, and larger developments will be expected to contribute to the provision of social, natural, transport and utility infrastructure to support communities and be of high quality that fosters a sense of place, while QP3 states that new development will be expected to contribute towards achieving sustainable high quality design in the Borough and sets out design principle for new development to achieve this. The principles include respecting and enhancing the local character of the environment.

- 9.89 A Landscape and Visual Appraisal (LVA) has been submitted by the applicant, which includes an assessment on the baseline landscape character of the site and surrounds, landscape value, sensitivity and potential landscape and visual effects when operational.
- 9.90 In terms of baseline character, the LVA refers to the Council's Landscape Character Assessment (LCA) Supplementary Planning Guidance (SPG). The LCA SPG identifies the area as an Open Clay Farmland (6A – Braywoodside). The key characteristics is a generally flat to undulating rural landscape with large rectilinear fields of arable crops defined by native hedgerows of varying age and conditions but with modern day practices, earlier field divisions have been lost and therefore the landscape is sometimes vast. The horizontal farmland landscape is punctuated by woodlands and copses, some of ancient origin (fragments of the medieval Royal hunting forest that extends from Windsor), drainage ditches and ponds, and isolated or small groups of farmsteads and cottages of vernacular style. It is considered that the application site and surrounds largely confirms to this character.
- 9.91 Turning to a site specific landscape assessment, the LVA does not identify key characteristics but notes that the site is rural although influenced by the M4, and the rural character of the landscape east of Howe Lane is weakened by the conversion of plots of land to small commercial units, offices, ad hoc storage and fishing lakes although these are all visually contained. The influence of the M4 is agreed, but it is considered that the influence of the identified commercial units to the character of the site or setting is very low given the separation distance (over 340m), number of units, building sizes and containment. The fishing lakes is not considered to weaken the character of the site, its setting or wider surrounds as drainage ditches and ponds are superficially identified as a key character of the landscape in the LCA SPG which the LVA refers to in the establishing the baseline character of the area.
- 9.92 In terms of quality and value, the LVA takes into account the proximity an influence of the M4 and nearby overhead transmission lines and therefore concludes the quality to be medium to low and the landscape value to be medium. This is generally agreed. The LCA SPG states that based on its contribution towards consistent patterns in the landscape, occurrence and condition the landscape character of open chalk farmland is of moderate strength. In relation to value, the LCA SPG notes that in terms of rarity the Open Chalk Farmland character type is only found at one location within the Borough, roughly contained between settlement along Bath Road to the north and the settlements of White Waltham and Waltham St Lawrence to the south. There are overhead transmission lines, roadways, signage, and an indication that traditional land management practices are declining, but the overall condition is considered to be good to declining.
- 9.93 In terms of sensitivity, the LVA notes that the site is adjacent to the M4 and afforded some visual enclosure but the susceptibility to the landscape to change is considered to be medium. This is not agreed. The landscape and site itself is generally large scale, flat and open in character, and therefore considered to be highly sensitive to change, and therefore capacity for change is low.

- 9.94 Nevertheless, despite the differences on the capacity for change, the LVA concludes that the impact on visual amenity as a result of the proposed development on viewpoint 1 (from Howe Lane, southeast) and viewpoint 2 (from Howe Lane, east) would be adverse of moderate to major significance, while the impact on viewpoint 3 (from Howe Lane, northeast, viewpoint 7(M4) and viewpoint 10 (east of Howe Lane) would be adverse of moderate significance. The LVA states that moderate to major adverse effect is defined as '*an easily noticeable degradation of the landscape character/elements/existing views.*' In relation to moderate adverse, this is defined as '*a noticeable degradation of the landscape character/elements/existing views.*' A map of the location of these viewpoints, which were identified to provide a representation of the visual environment within which the site is set can be found at Figure 7: Viewpoint Location Plan in the LVA.
- 9.95 The proposal as described in section 5 would be a substantial development, and due to the siting, scale, form, mass, design, features and materials would be urban and industrial in appearance, which would be clearly distinct and unduly detract from the character of the site and surrounds. It would be locally prominent from Howe Lane and the M4.
- 9.96 A native hedge measuring 2-3m in height, once established, along Howe Lane, and woodland planting in the intervening fields is proposed as mitigation for the impact on viewpoint 1, 2 and 3, while hedge planting is proposed along the boundary to mitigate the impact on viewpoint 10. The LVA puts forward that this would effectively screen the development and so would reduce the adverse impact to negligible in the summer, but as there would be filtered viewed following leaf fall, during winter the adverse impact would still be of minor significance. Woodland planting is also proposed as screening to mitigate the impact on viewpoint 7, although given the scale of development this would only screen the low level infrastructure while the upper sections of the engine house and flues will be clearly visible. Therefore, taking this into account together with seasonal leaf fall, the LVA concludes that with mitigation the adverse impact for viewpoint 7 would still be of minor significance in the summer and moderate in the winter. On the basis of this assessment in the applicant's LVA, there would still be harm on visual amenity of the landscape as a result of development.
- 9.97 However, it is considered that these mitigation measures would not protect, reinforce or enhance identified features of the landscape character area, such as ruralness and openness that would be lost as a result of the development. There is also a limit to what can realistically be screened by planting as acknowledged by the assessment in the LVA. Furthermore, there is a point where an increase in planting to increase screening would have an impact on an identified characteristic, such as openness. Therefore, it is not agreed that the proposed mitigation measures would materially reduce the significance of effect on the identified landscape character. If minded to approve, it is recommended that details of the planting and maintenance plan is secured by condition.
- 9.98 Whilst the development would be removed after 30 years, this would still be a significant period for the landscape to be affected by the proposal. Overall, it is considered that the proposal would result in significant harm to the identified character of the site and wider locality. This harm should be weighed against the development and considered further in the case for VSC (section 9(xii)) and overall Planning Balance (section 11). It is noted that the LCA SPG specifically identifies inappropriate new development as a local force for change that would result in the degradation of character.

## **x Archaeology**

- 9.99 Local Plan policy ARCH3 states that planning permission will not be granted for proposals which appear likely to adversely affect archaeological sites of unknown importance unless adequate evaluation enabling the full implications of the development on archaeological interests is carried out prior to the determination of the application. This is supported by paragraph 194 of the NPPF which states that where a development site has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The NPPF is a material consideration of significant weight. BLPSVPC policy HE1 also states that applications for

works within archaeologically sensitive areas will be required to include a desk-top archaeological assessment, but this policy is currently given limited weight.

- 9.100 An Archaeological Desk Based Heritage Assessment, ref: 20/39 was submitted to support the application, which found potential archaeological implications as the site lies in the area of pre-historic activity with general potential for pre-Iron Age, Iron Age and Roman activity across the site. Therefore, the site falls within an area of archaeological potential. However, given the scale of the development, the likelihood of the potential archaeology finds and, should it exist, the low likelihood to merit preservation in situ, it is considered that a condition to secure a programme of archaeological works, including a written scheme of investigation, and the publication and archive deposition of analysis, would be acceptable. Subject to the condition, the proposal would accord with Local Plan policy ARCH4 which requires the provision of an appropriate level of archaeological investigation, recording and off-site preservation/display/ publication of archaeological remains to record and advance understanding of the significance of any heritage assets.

#### **xi Loss of Agricultural Land**

- 9.101 Local Plan policy GB2(b) states that planning permission will not be granted for new development within the Green Belt if it would harm the character of the countryside through the permanent loss of Grade 1, 2 or 3a agricultural land but, due to inconsistency with the NPPF, policy GB2(b) is afforded limited weight. However, as a material consideration of significant weight, paragraph 174 of the NPPF states that planning decisions should recognise the wider benefits from natural capital including the economic and other benefits of the best and most versatile agricultural land. Annex 2 of the NPPF states land in grade 1, 2 and 3a of the Agricultural Land Classification (ALC) is the best and most versatile agricultural land. As a further material consideration of significant weight, BLPSVPC policy QP5 states that proposals should not result in the irreversible loss of best and most versatile agricultural land (grades 1, 2 and 3a).
- 9.102 The site has been classified under the ALC as Grade 3 which is deemed to be moderate to good quality. The national ALC map does not show the subdivision of Grade 3 land and there is no boroughwide assessment on the quality of Grade 3 land to determine the subcategory of 'a' or 'b'. Nevertheless, the proposal would result in the approximately 4.4ha loss of Grade 3 land. In absolute terms and given that the land would be restored to agricultural land after 30 years, the harm caused by this loss is considered to be limited. This harm should be weighed against the development and is considered further in the case of VSC (section 9(xii)) and overall Planning Balance (section 11).

#### **xii The Case for Very Special Circumstances**

- 9.103 As set out in this report, the proposal would be inappropriate development in the Green Belt. To accord with paragraph 147 of the NPPF, such development should not be approved except in Very Special Circumstances (VSC). Paragraph 148 of the NPPF goes on to state that Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 9.104 In addition to being inappropriate development in the Green Belt, section 9(ii) of this report sets out that the proposal would result in harm to openness and would conflict with one purposes of the Green Belt, namely encroachment into the countryside. In accordance with Paragraph 148 of the NPPF, any harm to the Green Belt should be given **substantial weight** against the development.
- 9.105 In terms of other harm, as set out above, it is considered that is significant harm the to the landscape character of the site and surrounds, which should be given **significant weight** against the development. There is also limited harm due to the loss of Grade 3 agricultural land, limited harm to neighbouring amenity due to noise from repair works, limited harm due to its unsustainable location, and limited harm due to highway safety on Bracknell Forest Council's roads and network. These should each be given **limited weight (x 4)** against the development.

- 9.106 Turning to other considerations, the applicant has put forward the need for the facility to lower or eliminate carbon emissions and support energy resilience, the lack of alternative sites, and economic benefits, which are considered in turn below.
- 9.107 While there would be GHG emissions as a result of the development, as set out in section 9(i) proposal would be effective in achieving the Government's objectives for energy security and decarbonisation in the transition period, and would support the use of renewable energy and extended deployment of renewable infrastructure. This is considered to be represent a significant public benefit which should be given **significant weight** towards VSC.
- 9.108 When considering a case for VSC, it is also considered that whether there are suitable and available sites outside of the Green Belt is a material consideration. EN-2 sets out the Government does not seek to direct applicants to particular sites for fossil fuel generating stations. However, while EN-2 notes that there would be specific criterion considered by a developer when choosing a site and the weight given to them will vary from project to project, EN-2 identifies some general factors that would influence site selection. These includes:
- Grid connection: fossil fuel generating stations require connect to a transmission network, and the technical feasibility of export of electricity from a generating station is dependent on the capacity of the grid network to accept the likely electricity output together with the voltage and distance of the connection.
  - Size: fossil fuel generating stations generally have a large land footprint and would only be possible where the applicant is able to acquire a suitably-sized site.
- 9.109 In line with the above, the applicant has set out that a connection of a proposed electricity generation plant to the electricity network is an important requirement and there needs to be the necessary infrastructure and capacity within the existing (or planned) transmission or distribution network to accommodate the electricity generated. The applicant has also set out that a connection to the National Grid (NTS) gas pipe is necessary as the gas supply from a gas distribution network is lower in pressure, as opposed to a supply from a NTS gas pipe, and therefore needs to be repressurised. This reduces efficiency and results in a higher carbon footprint. The applicant has provided a map of central, southern and south-eastern areas of England which shows the NTS gas pipe network overlaid by the electrical network (voltage level of 132kv) of the distributor network operator (DNO). This forms the main basis for site identification. The search area is considered to be reasonable due to the catchment of the service area.
- 9.110 The map also includes areas of where there are grid constraints, which know as a result of failed grid connection applications. The discounting of all sites within this area is considered to be acceptable on the basis that a connection to the electrical network to distribute the electric generated by the proposal is unlikely to be achieved. The remaining sites identified have been assessed and discounted for being not available, not suitable in size, not suitable for the commercial requirements of the development, leaving the application site. Overall, it is considered that the applicant has satisfactorily demonstrated that there are no other reasonably available alternative sites, and this is given **significant weight** towards VSC.
- 9.111 The Design and Access Statement sets out that the proposal would directly support approximately 70 workers during construction, and approximately 6 jobs during operation of the proposal. Although unquantified, there would be economic benefits spends as a result of the construction and operation of the development. This is given **moderate weight** towards VSC.
- 9.112 Overall, it is not considered that the identified harm is clearly outweighed by other considerations put forward. Therefore, a case for VSC has not been demonstrated.

## 10. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 10.1 Part 2 and 6 of the Community Infrastructure Levy Regulations 2010 (as amended) states that buildings into which people go to intermittently for the purposes of inspecting or maintaining fixed plant or machinery, such as the engine house and control / monitoring buildings, are exempt from CIL charges. The office building is CIL liable, but the chargeable rate is set at £0 per square metre.

## 11. PLANNING BALANCE AND CONCLUSION

11.1 Paragraphs 10 and 11 of the NPPF set out that there will be a presumption in favour of Sustainable Development. The latter paragraph states that:

*d) For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

11.2 However, footnote 6 of the NPPF clarifies that section d(i) of paragraph 11 is not applicable where '*policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*'. This includes land designated as Green Belt. For the reasons set out in sections 9(ii) and 9(xii), the proposed development is considered to be inappropriate development in the Green Belt and a case for VSC has not been demonstrated. Therefore, the 'tilted balance' does not apply, and the planning balance is to be carried out in the ordinary way, having regard to the statutory test in section 38(6) of the 2004 Act. This is set out below.

11.3 As set out in section 9(ii) as the proposal would represent inappropriate development in the Green Belt, would result in harm to openness and be contrary to one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment, contrary to Local Plan policies GB1 and GB2(a), BLPSVPC policies SP1 and QP5, and paragraphs 137, 138, 147 and 148 of the NPPF, and so there should be **substantial weight** against the development. Set out in section 9(ix) there would be significant harm to the character and appearance landscape character of the site and surrounds, contrary to Local Plan policy DG1, HWNP policy Gen2, BLPSVPC policy QP1 and QP3, and paragraph 126 and in accordance with paragraph 134 of the NPPF, which should be given **significant weight** against the development. Section 9 (v) sets out that there would also be limited harm in relation to noise, which should be given **limited weight** against the development, section 9(viii) sets out that there would be limited harm due to its unsustainable location and limited harm to highway safety which should each be given **limited weight** against the development and there is also **limited harm** due to the loss of Grade 3 agricultural land as set out in section 9(xi).

11.4 The harm arising from the above is not considered to be outweighed by the **significant weight** in favour of the proposed development due to the significant public benefit from energy security and decarbonisation in the transition period, and support of the use and deployment of renewable energy; the significant weight due to the lack of other reasonably available alternative sites; and **moderate weight** due to the economic benefits.

11.5 The proposal does not comply with the Development Plan and should be refused, relevant material planning considerations do not indicate a different outcome: for the reasons set out above, it is therefore considered that the adverse impacts of allowing this planning application would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, when taken as a whole. Therefore, the application is recommended for refusal.

## 12. APPENDICES TO THIS REPORT

- Appendix A – Site Location Plan and Site Layout
- Appendix B – Proposed Plans and Elevations

## 13. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

1 The proposal represents inappropriate development in Green Belt, which is by definition harmful to the Green Belt and would be harmful to actual openness of the Green Belt and would conflict

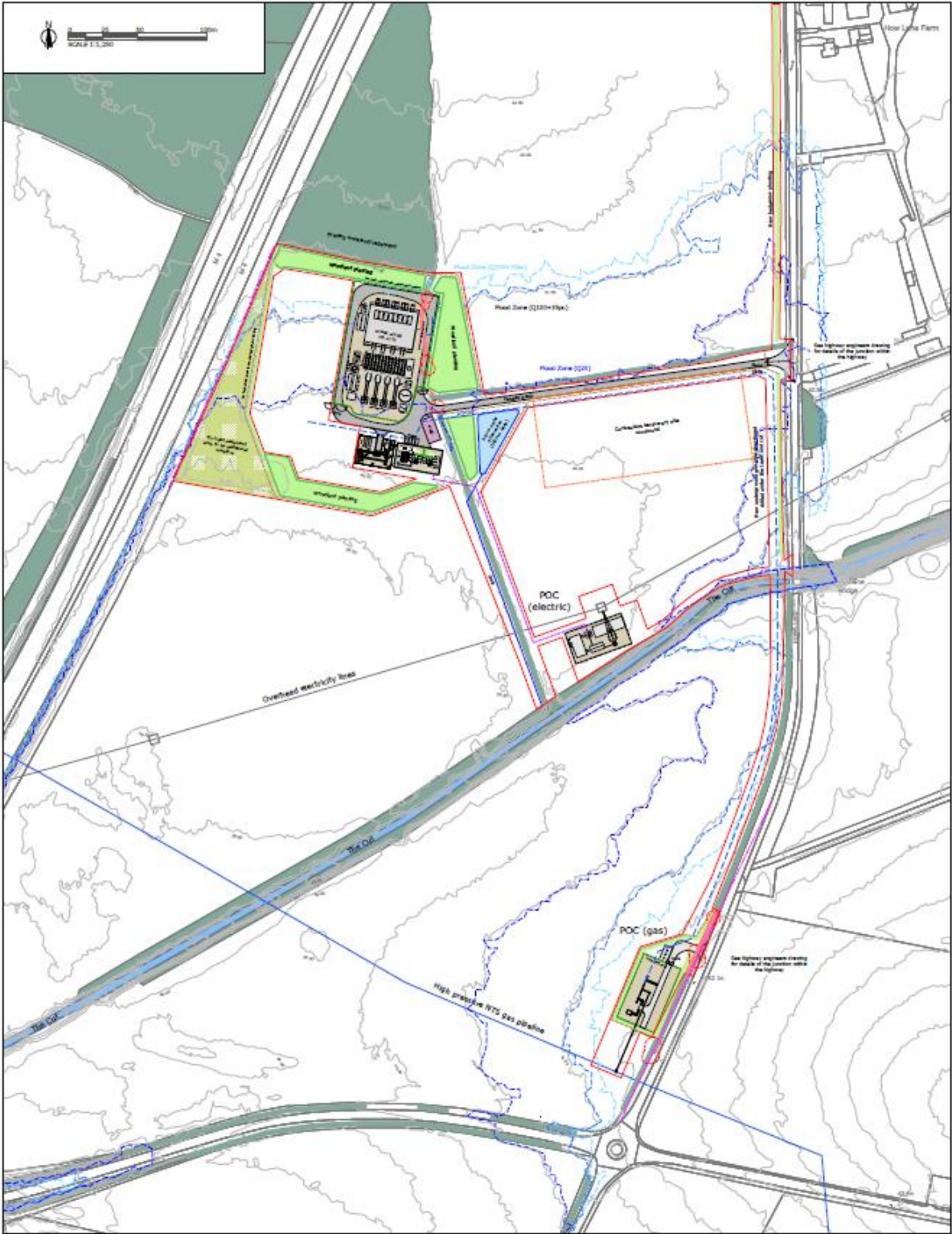
with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. No Very Special Circumstances have been demonstrated that clearly outweigh the harm to the Green Belt and any other harm. The proposal is therefore contrary to the provisions of saved policies GB1 and GB2(a) of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003), policies Sp1 and QP5 of the Borough Local Plan Submission Version Proposed Changes (2019) and paragraphs 137, 138, 147 and 148 of the NPPF (2021).

- 2 Due to the siting, scale, form, mass, design, features and materials, the proposed development would be a substantial and prominent development, which would be urban and industrial in appearance. It would therefore be clearly distinct and unduly detract from the character of the site and surrounds. Therefore, the proposal is considered to be contrary to the provisions of saved policy DG1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003), policy Gen2 of the Hurley and Walthams Neighbourhood Plan (2017), policies QP1 and QP3 of the Borough Local Plan Submission Version Proposed Changes (2019), and paragraph 126 of the National Planning Policy Framework (2021) and in accordance with paragraph 134.



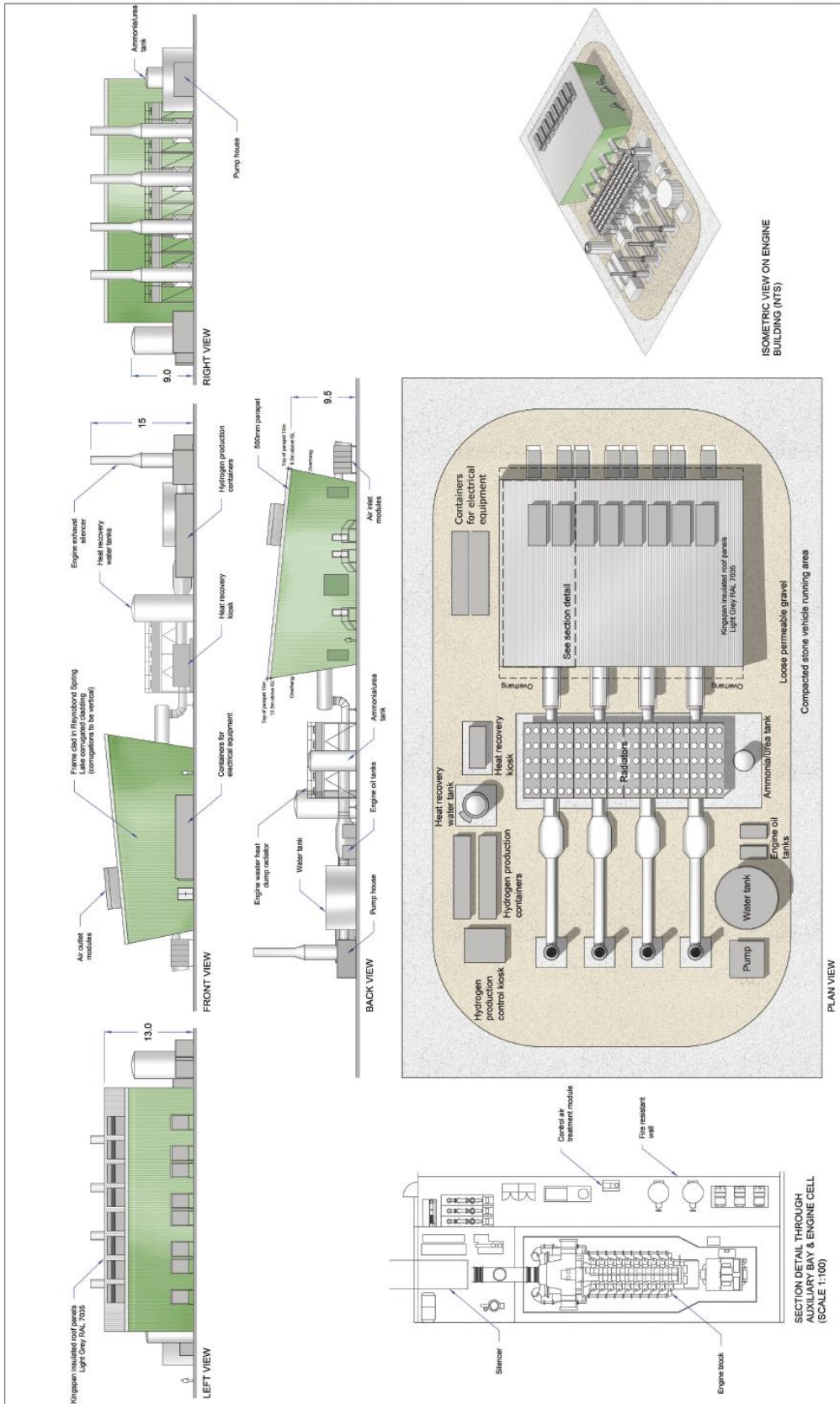
Appendix A – Site Location Plan and Site Layout



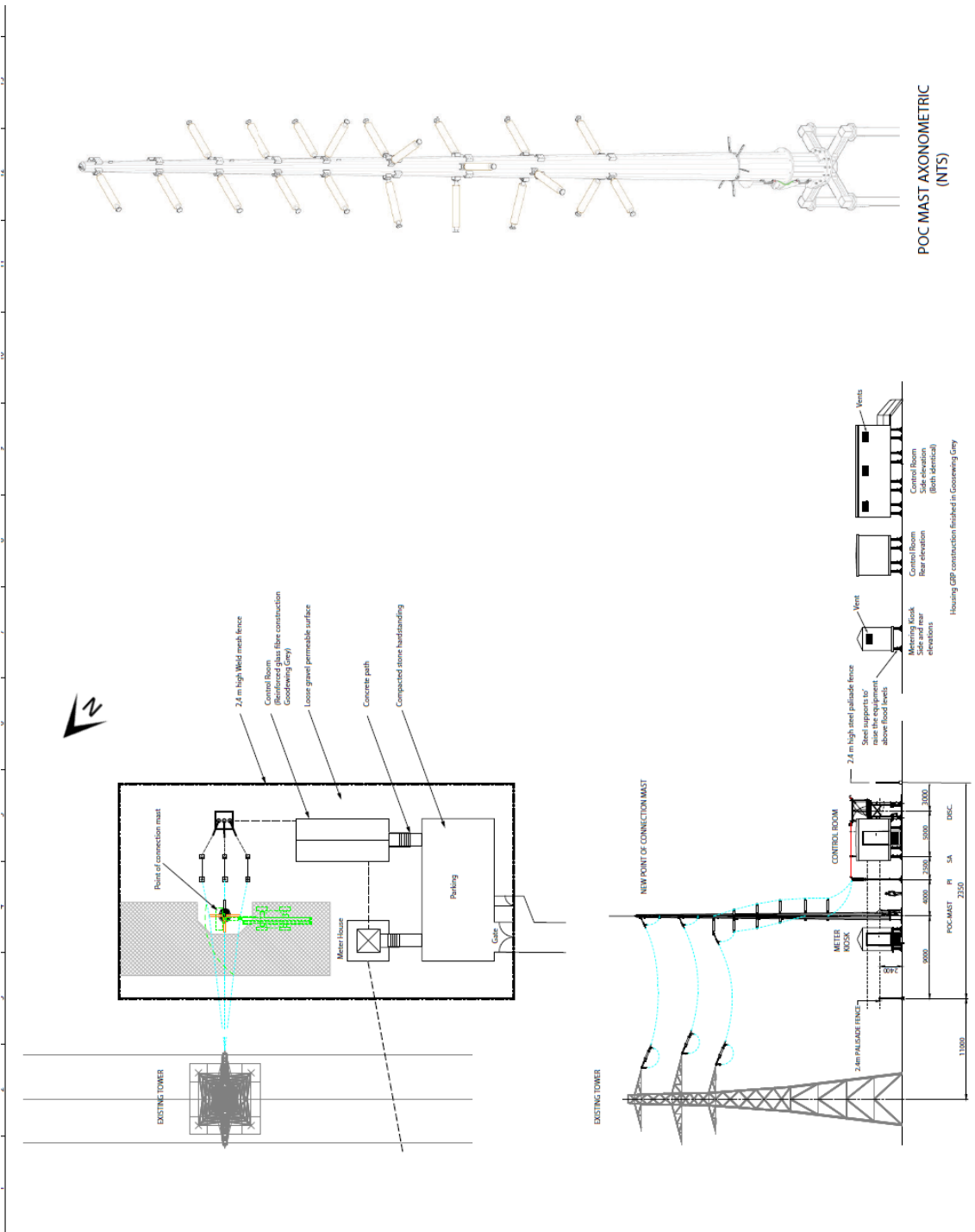


Appendix B – Proposed Plans and Elevations

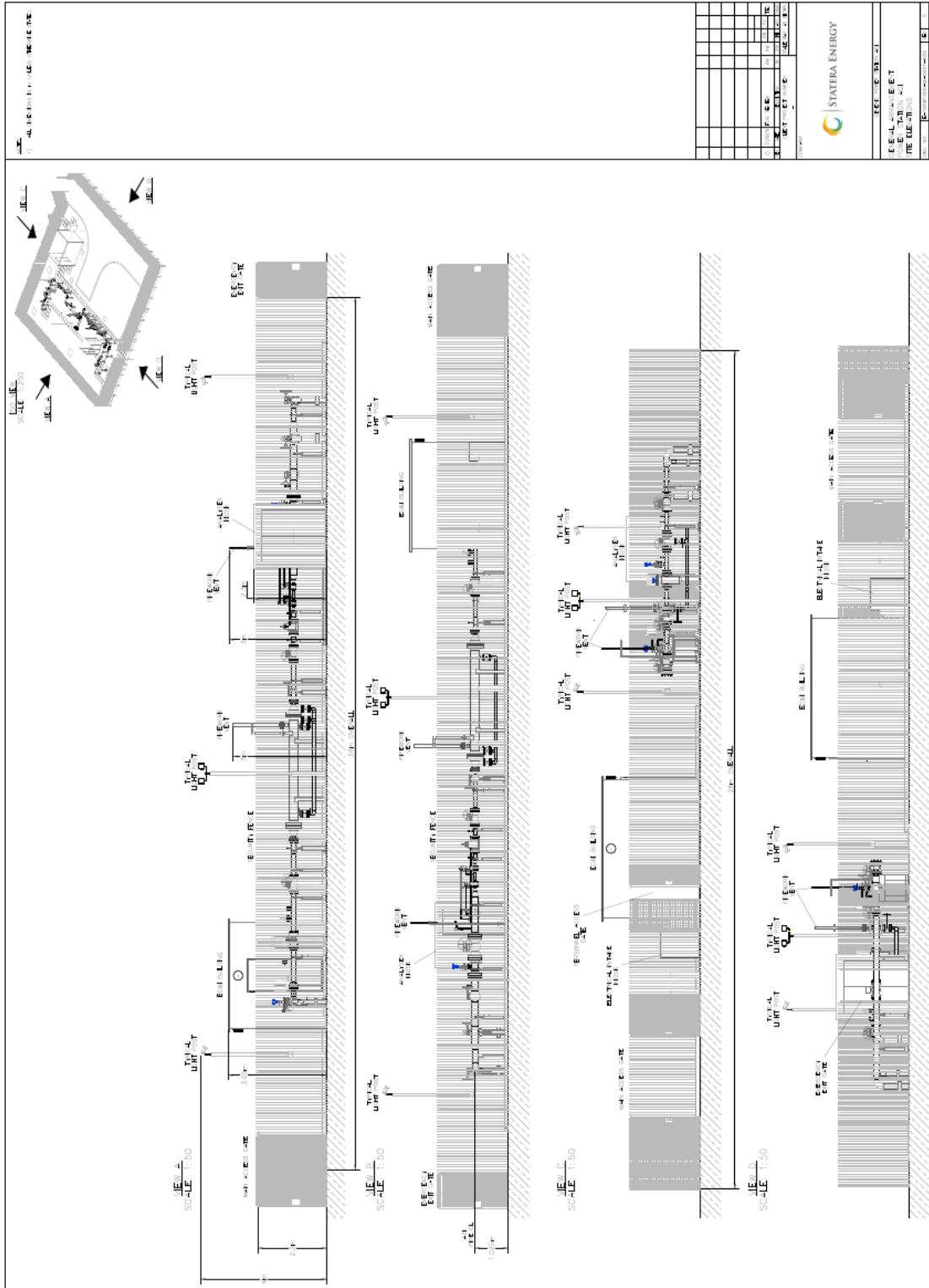
Engine House



# Point of Connection Hub

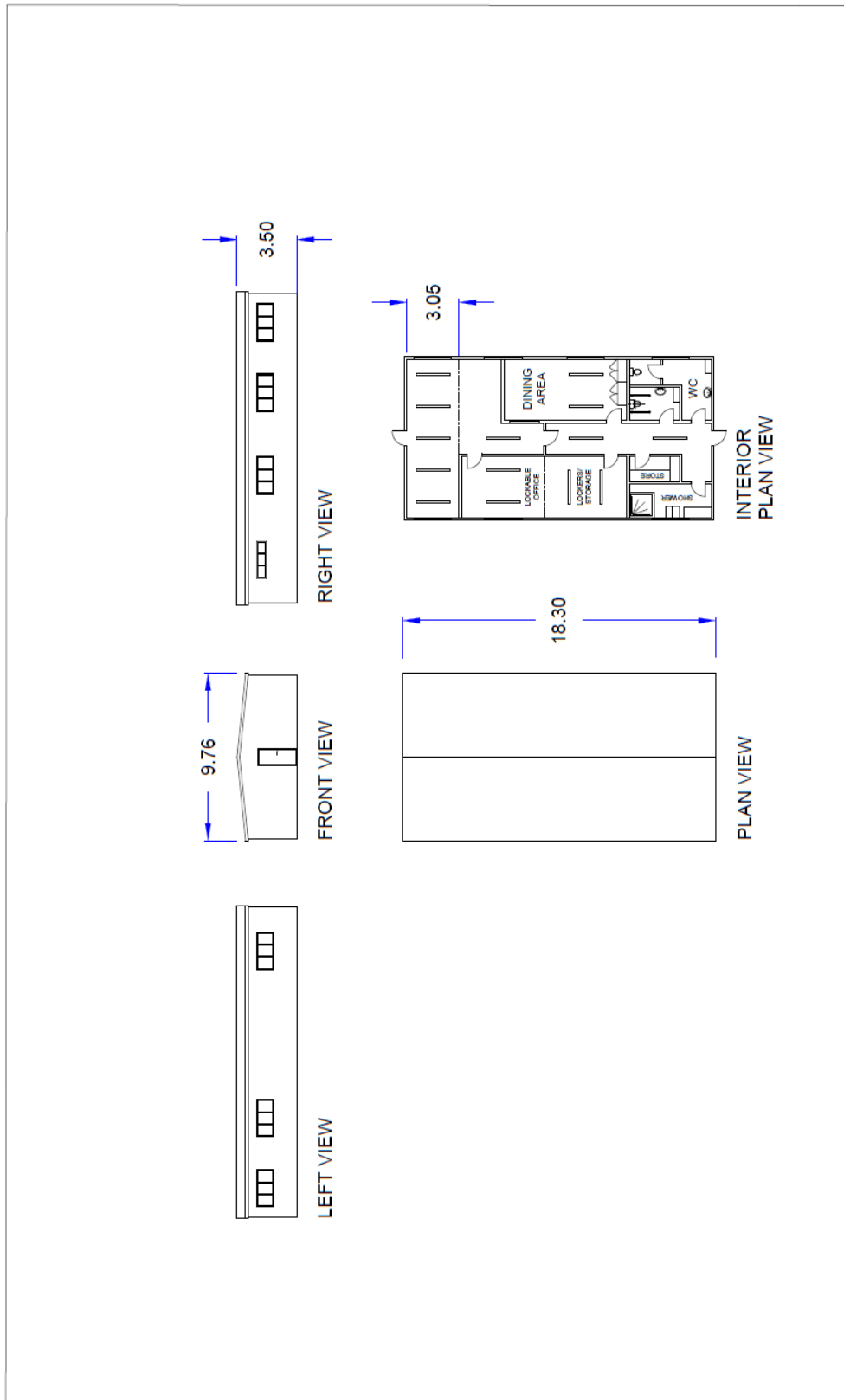


# AFI Compound





Office





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Agenda Item 6

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD**  
**PLANNING COMMITTEE**

**MAIDENHEAD DEVELOPMENT CONTROL PANEL**

17 November 2021

Item: 3

<b>Application No.:</b>	21/02866/FULL
<b>Location:</b>	Land To The South of 18 To 20 And Open Space To The South of Ray Mill Road East Maidenhead
<b>Proposal:</b>	Erection of 80 dwellings together with landscaping, the provision of open space and related facilities, associated engineering works and access to Ray Mill Road East.
<b>Applicant:</b>	Cala Homes (Thames) Ltd And RBWM
<b>Agent:</b>	Mr Douglas Bond
<b>Parish/Ward:</b>	Maidenhead Unparished/Riverside
<b>If you have a question about this report, please contact:</b> Tony Franklin on 01628 796155 or at <a href="mailto:tony.franklin@rbwm.gov.uk">tony.franklin@rbwm.gov.uk</a>	

### 1. SUMMARY

**This application is identical to planning application 20/03450/FULL, which was due to be heard at the 18<sup>th</sup> August 2021 Maidenhead Planning Committee Meeting. Prior to it being considered by Members planning application 20/03450/FULL was withdrawn by the applicants. The report on this previous application is copied below with section 8 updated to reflect the responses received on this current application and section 9 updated in relation to Sustainability.**

- 1.1 The scheme proposes 80 residential units on land that is allocated as an important urban open space within the Adopted Local Plan. The site is located within the settlement of Maidenhead and is located within a reasonably sustainable location.
- 1.2 The reduction in open space as a result of the proposed development is considered to be acceptable, provided that the proposed enhancements to the open space are secured; this would need to be achieved through the signing of a legal agreement. The site had a slow worm and toad population, but these were re-located from the site in 2016. Subject to the Ecological Mitigation and Management Plan, the impacts on ecology are considered to be acceptable.
- 1.3 The site is located within flood zone 3 (high risk flooding). Whilst the scheme is considered to pass the Sequential Test, it is not considered that the Exceptions Test or paragraph 167 of the NPPF (which relates to flood risk) is passed. The scheme also conflicts with Policy F1 of the Adopted Local Plan.
- 1.4 The scheme has several benefits including the contribution it would make to the Council's 5 year housing land supply, the provision of affordable homes (in excess of the Local Plan Policy requirement) which is much needed in the Borough, and the economic benefits that would arise from the scheme. However, it is not considered that these benefits would outweigh the serious concerns over flood risk.
- 1.5 The site is within 5.6km of the Burnham Beeches Special Area of Conservation (SAC). 20 of the proposed dwellings come within 5.6km of the SAC. An Appropriate Assessment has been undertaken, and it is considered that without mitigation the proposal would likely have an impact upon the integrity of the Burnham Beeches SAC as a result of additional recreational pressure. However, it is considered that improvements to local green spaces within Maidenhead, close to the application site (Maidenhead Town Moor and North Town moor) would be adequate mitigation to divert recreational pressures (from the increase in housing) away from the Burnham Beeches SAC. The applicant is willing to enter into a legal agreement to secure this mitigation, however, at the time of writing a legal agreement has not been signed, and so the impact of the proposed development on the Burnham Beeches SAC is added as a reason for refusal.

- 1.6 A legal agreement has not been entered into to secure the affordable units, or the retention, enhancement and management of the resultant open space; however, the applicant has indicated their willingness to enter into an agreement to secure these matters. Irrespective of this, in the absence of a signed legal agreement, the failure to provide affordable housing and the open space also constitute reasons for refusal.

<b>It is recommended the Panel REFUSES planning permission for the following summarised reasons (the full reasons are identified in Section 13 of this report):</b>	
<b>1.</b>	<b>The scheme conflicts with Policy F1 of the Adopted Local Plan. It also fails to comply with Paragraph 164 (Exceptions Test) and 167 of the NPPF which relates to flood risk.</b>
<b>2</b>	<b>In the absence of a signed legal agreement to secure the provision of on-site affordable housing, the scheme fails to comply with Policy H3 of the Adopted Local Plan.</b>
<b>3</b>	<b>In the absence of a signed legal agreement, the scheme fails to secure open space as required by paragraph 99 of the NPPF.</b>
<b>4</b>	<b>In the absence of a signed legal agreement, the scheme without mitigation would likely impact upon the integrity of the Burnham Beeches SAC.</b>

## **2. REASON FOR PANEL DETERMINATION**

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

## **3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 3.1 The site is designated as a protected urban open space in the Adopted Local Plan. The site is square in shape and measures circa 2.3 hectares. It comprises overgrown grassland, scrub and scattered trees. Informal paths (created through the cutting of grass) have been created in the eastern half of the site. A Public Right of Way runs to the south (along the southern boundary) and partially along the eastern boundary of the site. The Public Right of Way connects Blackamoor Lane to the Deerswood.
- 3.2 The site is situated to the south of Ray Mill Road East, and to the east of Blackamoor Lane. It is approximately 1 km from Maidenhead town centre. The site is surrounded by residential development on all sides, which comprises predominantly detached and semi-detached dwellings, but also includes flatted development.
- 3.3 The character of the area is mixed, and the site is located next to the Townscapes of late 20<sup>th</sup> Century suburbs (1960s onwards), Interwar suburbs, and Edwardian and Victorian suburbs according to the Council's townscape assessment
- 3.4 To the north, east and west of the application site, the dwellings are predominantly two storeys in height. To the south of the application site, the scale of the buildings tends to be larger; there are two storey buildings, but also large buildings which accommodate flats that are up to 4 to 5 storeys in height.
- 3.5 According to the Environment Agency Flood map for Planning the site is situated within flood zone 3 (high risk of flooding)

## **4. KEY CONSTRAINTS**

- 4.1 -Flood Zone  
-Important Urban Open Space

- Ecology
- Public Right of Way

## 5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The application site measures circa 2.3 hectares. Approximately 1.3 hectares of the site is proposed to be developed for housing, with the remaining 1 hectare shown to be public open space.
- 5.2 The western part of the site is shown to be developed. Within this part of the site, residential units would vary in type and scale. Generally, buildings of a smaller scale are shown to be located to the northern part of the application site, and the scale of the buildings increases across the central and southern part of the application site. A breakdown of the housing proposed is set out in the table below.

Reference	House type	Number of bedrooms	Maximum height in metres (approximate)	Number of units within scheme
A.1	Detached	4-5	10.2	3
A.2	Detached	4-5	9.8	1
A.3	Detached	4-5	10	1
A.4	Detached	4-5	9.7	1
A.5	Detached	4-5	9.6	1
B.1	Semi-detached	4	12	2
B.2	Semi-detached	4	12	2
B.3	Semi-detached	4	11.7	2
B.4	Semi-detached	4	11.6	2
B.5	Semi-detached	4	11.6	2
B.6	Semi-detached	4	11.8	2
C.1	Semi-detached	4	11	2
C.2	Semi-detached	4	11	2
C.3	Semi-detached	4	10.3	2
C.4	Semi-detached	4	10.7	2
C.5	Detached	4	11.3	1
D.1	Semi-detached	3	10.8	2
D.2	Semi-detached	3	10.5	2
D.3	Semi-detached	3	10.8	2
D.4	Semi-detached	3	10.7	4
D.5	Terrace	3	11.2	3
E.1	Terrace	3	10.8	4
F.1	Semi-detached	2	8.5	2
F.2	Detached	2	8.4	1
	Apartment Block	16x 2 bed 16x 1bed	15	32

- 5.3 Based on the area of the application site to be developed, the scheme would have a density of around 62 dwellings per hectare.
- 5.4 The eastern part of the application site would be used to provide Public Open Space. The submitted Design and Access Statement sets out that the open space area would comprise:
- Existing grassland
  - Meadow Area
  - Scrub Habitats
  - Existing and newly planted trees

- SuDS provision
- Hedgerow planting

- 5.5 The plans show that the existing ground levels on site (where the housing is proposed) would be raised and lowered across the site. The amount by which the land is to be lowered and raised varies across the site, with the maximum change to ground levels being up to 1 metre. Ground levels are proposed to be altered, as they form part of the proposed flood compensation scheme.
- 5.6 This proposed development would not impact on the Public Right of Way that runs along the southern, and part of the eastern boundary of the site.
- 5.7 The proposed vehicular access would be taken from the existing access off Ray Mill Road East.

#### Planning History

- 5.8 Planning application 19/01140/FULL which was for the 'Construction of 17 x one bedroom dwellings; 18 x two bedroom dwellings; 17 x three bedroom dwellings; 28 x four bedroom dwellings, bin storage associated landscaping and parking, new access from Ray Mill Road East and public open space.' was refused on the 20<sup>th</sup> February 2020 for the following reasons:
- The application site is located in Flood Zone 3 where there is a high risk of flooding and the proposal is for a more vulnerable type of use, as identified in the National Planning Policy Guidance. The application has failed to demonstrate that safe escape from the site and safe access to the site could be achieved in the event of a flood, resulting in lives and properties being put at risk. In addition, the application has failed to demonstrate that it would not reduce the capacity of the site to store water in the event of a flood and not displace that flood water outside the site further increasing risk to lives and properties. Accordingly, the application has failed to demonstrate that the proposal would be safe over its lifetime and that it would not increase flood risk elsewhere. The proposal is contrary to Policy F1 of the Adopted Local Plan. The scheme also fails to pass the Exceptions Test as required by the National Planning Policy Framework. The scheme therefore fails to comply with paragraphs 155, 160 and 163 of the National Planning Policy Framework (2019).*
  - In the absence of a legal agreement the proposed development fails to secure a satisfactory level of affordable housing. The proposal is therefore contrary to policy H3 of the Windsor and Maidenhead Local Plan, 1999 (including Adopted Alterations 2003), and paragraph 64 of the National Planning Policy Framework (2019).*
  - In the absence of a legal agreement, the scheme fails to provide a sufficient open space as required by paragraph 97(b) of the National Planning Policy Framework 2019. Without a parking survey of the existing car park associated with the family centre on Ray Mill Road East, it is not known what impact the loss of this car parking area would have on parking or the safe free flow of traffic in the area. The scheme therefore fails to accord with Policies P4 and T5 of the Adopted Local Plan, and with paragraph 108 of the NPPF.*
- 5.9 Planning application ref. No. 20/03450/FULL. Construction of 16 x one bedroom dwellings; 19 x two bedroom dwellings; 17 x three bedroom dwellings; 28 x four bedroom dwellings, bin storage, associated landscaping and parking, new access from Ray Mill Road East and public open space. Application withdrawn.
- 5.10 Adjacent to the application site (numbers 18-20 Ray Mill Road East), planning permission was granted on the 19th May 2021 to change the use from D1 (family centre) to C3 (residential) to form 2 dwellings (planning reference 21/00544). The approved plans for this scheme did not include the former car park associated with the family centre within the application site.

## **6. DEVELOPMENT PLAN**

## Adopted Royal Borough Local Plan (2003)

6.1 The main Development Plan policies applying to the site are:

Issue	Adopted Local Plan Policy
Design	DG1, H10, H11
Highways	P4 and T5
Trees	N6
Flood Risk	F1
Affordable Housing	H3
Public Right of Way	R14
Making housing Accessible	H9
Protection of Urban Open space	R1
Provision of public open space in new developments	R3, R4, R5
Pollution	NAP3
Archaeology	ARCH4

## 7. MATERIAL PLANNING CONSIDERATIONS

### National Planning Policy Framework Sections (NPPF) (2021)

Section 2- Achieving sustainable development  
 Section 4- Decision-making  
 Section 5- Delivering a sufficient supply of homes  
 Section 8- Promoting healthy and safe communities  
 Section 9- Promoting Sustainable Transport  
 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

### Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Sustainable Transport	IF2
Housing mix and type	HO2
Affordable housing	HO3
Housing Density	HO5
Flood risk	NR1
Pollution (Noise, Air and Light)	EP1, EP2, EP3, EP4
Housing Development Site	HO1
Nature Conservation and Biodiversity	NR3
Trees, Woodlands and Hedgerows	NR2

### Borough Local Plan: Submission Version Proposed Changes (2019)

Issue	Local Plan Policy
Design in keeping with character and appearance of area	QP1, QP3
Climate Change	SP2
Sustainable Transport	IF2
Housing mix and type	HO2
Affordable housing	HO3
Flood risk	NR1
Pollution (Noise, Air and Light)	EP1, EP2, EP3, EP4
Open Space	IF4
Nature Conservation and Biodiversity	NR2
Trees, Woodlands and Hedgerows	NR3
Archaeology	HE1

7.1 Paragraph 48 of the NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to:

*“a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);  
b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and  
c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”*

7.2 The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. The plan and its supporting documents, including all representations received, was submitted to the Secretary of State for independent examination in January 2018. In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV. Public consultation ran from 1 November to 15 December 2019. All representations received were reviewed by the Council before the Proposed Changes were submitted to the Inspector. The Examination was resumed in late 2020 and the Inspector’s post hearings advice letter was received in March 2021. The consultation on the proposed Main Modifications to the BLPSV ran from 19<sup>th</sup> July to 5<sup>th</sup> September 2021.

7.3 The BLPSV together with the Proposed Changes are material considerations for decision-making. The weight to be given to each of the emerging policies and allocations will depend on an assessment against the criteria set out in paragraph 48 of the NPPF. This assessment is set out in detail, where relevant, in Section 9 of this report.

### **Supplementary Planning Documents**

- RBWM Interpretation of Policy F1
- Interpretation of Policies R2, R3, R4, R5 and R6.
- Borough Design Guide (Adopted)

### **Other Local Strategies or Publications**

7.4 Other Strategies or publications material to the proposal are:

- RBWM Townscape Assessment
- RBWM Parking Strategy
- Affordable Housing Planning Guidance
- Interim Sustainability Position Statement

## **8. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

141 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 9<sup>th</sup> October 2021 and the application was advertised in the Local Press on the 7<sup>th</sup> October 2021.

14 letters were received objecting to the application, summarised as:

	<b>Comment</b>	<b>Where in report this is considered.</b>
1	Application site is located in Flood Zone 3 and was removed from the BLP as a housing allocation site for this very reason. What has changed to reverse this decision? What has changed since previous application was refused? The possible risk of flooding will exacerbate the risk of existing neighbouring residents and their properties. This has been exacerbated by the large number of properties that were built at Boulters Meadow 8 years ago.	i
2	The EA has advised that planning permission should not be granted. The new EA modelling maps place the entire site within Flood Zone 3 and granting planning permission would knowingly endanger properties and residents	i
3	All properties in Riverside are at risk of flooding due to climate change and it is important to keep as much open space as possible. Ray Mill Road West has flooded in the recent past.	i
4	The proposed evacuation route would not be safe in the event of a flood. It evacuates directly into Flood Zone 3 and across the water course. The allotments in Ray Mill Road West have suffered extensive flooding in recent times, as has Blackamoor Lane.	i
5	There is still a failure to demonstrate that the application would not reduce the capacity of the site to store water in the event of a flood and not displace that flood water outside of the site, further increasing risk to lives and properties. The development would not be safe over its lifetime.	i
6	The scheme still fails to pass the Exceptions Test as required by the NPPF and fails to comply with paragraphs 155, 160 and 163 of the NPPF (2019). Now paragraphs 159, 164 and 167 of the NPPF (2021).	i
7	Planning permission has been refused for several other properties in the area with flooding being cited as a reason for refusal in each case.	i
8	The modelling used within the flood risk assessment contained in the supporting documents is now outdated in as much as it takes no account of the UK Climate Change Committee (IPPC) and the UK Met Office data which shows the inevitable amount of future change due to the changing heavy rainfall patterns. The heavy rainfall figures under most global emission pathways show that a 20% rise is inevitable by the end of the century. It is even now commonplace to have as much as a month's rainfall over a period of just 24 -48 hours. These new levels of heavy rain render the SUD's design solutions totally inadequate to prevent heavy flooding events in this area. The notion that developments on any designated flood plain at this point in time is anything but foolhardy fails to reflect current science.	i
9	Lack of rigour in resubmitted FRA. This is a 'high risk' flood area, not low-moderate'. There are gaps in historical records of recent flood incidents by type, with no mention of 2014. Focus is on the site and not the surrounding area, which would be impacted negatively by increased surface water flow. Safe access/egress is in the words of the report, not possible.	i
10	A proposed culvert under the access road would increase flooding risk to neighbouring properties. Concern over future management and maintenance of the culvert.	i

11	All available space in Riverside is being built on, leading to further urban sprawl and increasing the risk of flooding.	i
12	Would result in destruction of mature trees, needlessly cut down to construct the proposed drainage ditch. More trees should be planted in this area.	vi
13	The site currently plays an important part in the biodiversity of the area. It is home to and is a breeding ground for the Deerswood toads, lots of small mammals and is a hunting ground for a pair of Red Kites. It is a valuable recreation space for residents which would be significantly diminished by the proposed development.	vii
14	The toads currently have a lush green safe space to go to; however, if plans go ahead they will have a brick wall and a concrete jungle.	vii
15	Ray Mill Road East is narrow, access to site is difficult and additional housing will increase congestion and road noise. The increase in traffic is likely to be around 160 cars. Vehicles speed along Ray Mill Road East making the access into the site a dangerous junction, which is bound to result in an increase in accidents unless speed bumps are constructed and the speed limit reduced to 20MPH. It is already used as a 'rat-run'. Increase in homes will exacerbate these problems.	ix
16	The road safety audit by Gateway TSP refers to potential for road traffic accidents in regard to the junction of Ray Mill Road East and with the new on-site access road. The report was unable to determine the status of a nearby nursery school and stated if this were active then they would have real concerns and anticipated localised gridlock and accidents. The report also states that the width of the new on site road is inadequate for two HGV's to pass and anticipates issues with traffic backing back and blocking Ray Mill Road East with resultant chaos. We believe that the proposed off and on site road infrastructure has not been designed with safety considerations as a first priority as the comments in the Gateway report infer.	This safety audit was submitted with the originally refused application. Highways raised no objections to the previous scheme on that basis, and do not object to this scheme.
17	Ray Road will become a bottle neck and a road safety issue.	ix
18	Proposal is at odds with the RBWM Cycling Action Plan. There should be more green space and provision for cycling not more building and less green space.	ix
19	There should be at least two parking spaces provided per dwelling. The insufficient parking provision may lead to visitors parking on Ray Mill Road East, which is another potential source of accidents	ix
20	18-20 Ray Mill Road East have been redeveloped and No. 20 has no private driveway. If the access road and parking area to the rear is removed then the occupants will park outside the property and will cause a visual obstruction to the entrance/exit of the site.	ix
21	Ray Mill Road East is popular with cyclists and walkers to the riverside and the increase in traffic will make this experience unpleasant for these users	ix
22	Proposed development would put further strain on local schools, NHS services and the emergency services, which are already at full stretch.	The development is liable to the Community Infrastructure Levy. The money raised from this would go towards the provision of infrastructure.



23	The location of the foul sewage pumping station adjacent to Sutherland House would have a huge detrimental impact on neighbouring properties from foul smelling odour emitted from the vent pipe (as confirmed by a Cala Homes representative). If the pumping station is to be adopted by Thames Water it would need to be positioned a minimum of 15m from the nearest habitable building and also not located where it might be susceptible to flooding. Although it is not planned to be adopted it would stand less than 1.0m from the nearest new property and less than 10m from the nearest existing property. It would not be acceptable to allow people to suffer the constant odour of human waste/raw sewage in their homes. The fact that the system will not be publicly adopted does not negate the need for it to adhere to the Thames Water guidelines. The risk to public health should this system fail is too high. Any repairs and future maintenance would be the responsibility of unknown future management companies.	iv
24	The sewer on Ray Mill Road East gets blocked during flash floods. There is no capacity to cope with 80 additional dwellings.	iv
25	There are a number of empty office blocks in Maidenhead and if further residential development is required these blocks should be regenerated rather than building on ever decreasing green space. These have not been included in the Sequential Test.	Noted.
26	The site was rejected as a housing site in 2019 because of the loss of urban open space and former playing fields and due to its significant ecological value. There is no reason to reverse this decision.	The relevant emerging policies are set out above.
27	The withdrawal of the application before the last Council meeting was frustrating and left many questions unanswered. Concern regarding the moral way in which the meeting progressed. In light of this would question whether the process and any future planning meetings in relation to this development can be considered fair and independent given Councillors not entitled to vote were sitting on the panel for the meeting and when removed, CALA Homes withdrew their application immediately.	The previous application was withdrawn and correct process has been followed in the assessment of the current application.
28	Any current or future planning applications to redevelop this site should be rejected or put on hold pending a full review of the overall sustainability of the site in light of current climate change data.	The application cannot be put on hold.
29	The application is not materially different from the previous refusal (19/01140/FULL) and therefore the decision should be the same	Noted
30	Cover letter submitted with the application states that consultation has been carried out with Natural England who have agreed a mitigation strategy in the form of a financial contribution to improve open spaces in Maidenhead. How is offering financial incentives in other areas seen as either appropriate or in some way to be addressing the very real flooding risks and concerns of residents.	Flood risk and ecological mitigation are separate considerations and should not be conflated.

## Consultees

Consultee	Comment	Where in the report this is considered
Environment Agency	<p>The Flood Risk Assessment and Surface Water Drainage Strategy were not initially uploaded with this application and consequently the EA comments remain outstanding on the current application; however, the submitted details (now uploaded) are the same as those submitted in support of the previous application (20/03450/FULL) and the EA comments were as follows:</p> <p>Object, on the following grounds:</p> <ol style="list-style-type: none"> <li>1. The 2019 Thames 'Hurley to Teddington' model was published in January 2020, and it is this data that the FRA and flood compensation should be based upon. The applicant will need to update the proposed floodplain compensation scheme, including level for level compensation, voids, and the proposed culvert design.</li> </ol> <p>If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us in line with the Town and Country Planning (Consultation) (England) Direction 2009.</p>	<p>i</p> <p>It should be noted that given the objection of the Environment Agency, a resolution to approve would have to be referred to the Secretary of State.</p>
Lead Local Flood Authority	<p>The Flood Risk Assessment and Surface Water Drainage Strategy were not initially uploaded with this application and consequently the LLFA comments remain outstanding on the current application; however, the submitted details (now uploaded) are the same as those submitted in support of the previous application (20/03450/FULL) and the LLFA commented as follows:</p> <p>No objection, subject to a planning condition being imposed.</p>	<p>i</p>
Highway Authority	<p>Offers no objection, provided that a travel plan and S106 contributions are secured. They also recommend planning conditions for:</p> <ul style="list-style-type: none"> <li>• Access</li> <li>• CMP</li> <li>• Parking layout to be approved</li> <li>• Cycle parking to be approved.</li> <li>• Travel plan</li> </ul>	<p>See ix. If planning permission was being granted then a travel plan could be secured by planning condition.</p> <p>It is not considered</p>

		necessary to secure S106 contributions on highways grounds.
Council's Ecologist	Comments are still awaited on current application; however, the Ecologist commented as follows on the previous identical application (20/03450/FULL): No Objections, subject to conditions.	vii
Tree Officer	When consulted on the previous application (20/03450/FULL), raised concerns over the level of tree planting/landscaping proposed.	vi
Environmental Protection	Recommend the imposition of conditions requiring: - a) A site-specific Construction Environmental Management Plan. b) Control of vehicle collections/deliveries including to the building site. And Informatives covering dust control, smoke control and contaminated land.  Confirmed – no air quality management issues.	xii
Natural England	Having considered the Shadow HRA prepared by Hankinson Duckett Associates (June 2021) and subsequent Appropriate Assessment prepared by RBWM (received 15 <sup>th</sup> June 2021).  Are in agreement with the conclusions reached within both assessments. Provided that the applicant is prepared to make the discussed financial contribution towards the costs of SAC avoidance and mitigation measures at the local greenspaces of Maidenhead Town Moor and North Town Moor, and that this is secured via an appropriate legal agreement, the application will comply with the Habitats Regulations and Likely Significant Effect on Burnham Beeches SAC can be ruled out.	See vii
Housing Enabling officer	<u>Issues to be Clarified</u> <ul style="list-style-type: none"> <li>• For a social rent tenure, there will be many households in priority housing need who are not key workers.</li> <li>• Build to Rent – it is not clear what this entails and how it is delivered.</li> <li>• Nominating suitable households should be via the Housing Options Team and the Council's Housing Register.</li> </ul>	xi
Council's Emergency	When consulted on the previous application	See i

Planner	(20/03450/FULL), objected to the lack of a low hazard escape route in a flood event and had concerns over the proposed flood evacuation plan.	
Berkshire Archaeology	Recommends the imposition of conditions	

## 9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Development within the flood zone;
- ii Important Urban Open Space;
- iii Design;
- iv Residential Amenity;
- v Provision of open space for new residential development
- vi Trees;
- vii Ecology;
- ix Transport
- x Archaeology
- xi Provision of Affordable Housing
- xii Air Quality
- xiii Sustainability measures
- xiv Planning Balance and Conclusion.

### **i Development within the flood zone**

9.2 According to the Environment Agency flood map for planning, the application site is situated within flood zone 3 (high risk flooding). It should be noted that the Council's Strategic Flood Risk Assessment which was published in 2018 shows the site to be located within flood zones 2 (medium risk flooding) and 3. The Environment Agency Flood Map for planning is more up to date than the Council's Strategic Flood Risk Assessment and should be used for the purposes of determining this application.

9.3 Within the submitted Planning Statement, it is stated that the previous officers report referred to the use of the Lower Thames Flood Model as more up-to-date than the Council's strategic flood risk assessment and should be used for the purposes of determining the previous planning application. The Planning Statement sets out that since then, the Council's response to the emerging local plan Examination in Public has questioned the model's robustness and reliability, and that this clearly raises doubts over any reliance upon the Lower Thames Flood Model for determining the current application.

9.4 It should be noted that as part of the Stage 2 Examination Hearings of the BLP, an action agreed was that the Council would consider the latest flood modelling and mapping information published by the Environment Agency and its implications for the Plan, to ascertain whether: (a) the sites proposed to be allocated in the proposed changes version remain deliverable from a flood risk perspective, both in terms of the approximate dwelling capacity, and the long term safety of development proposed, with no increase of flood risk elsewhere; (b) the BLPSV housing site

allocations proposed to be removed from the Plan on flood risk grounds were now not sequentially preferable to those proposed to be allocated in the proposed changes version. This demonstrates that the emerging BLP has taken into account the most recent flood data in considering allocations. It is considered that the 2019 Lower Thames Flood Model should be used to assess flood risk issues for this planning application.

- 9.5 Policy F1 of the Adopted Local Plan relates to flood risk. The key objectives of Policy F1 do not conflict with those of the National Planning Policy Framework on flood risk, although the policy criteria do not fully reflect the Sequential and Exception Tests or acknowledge the impacts of climate change. As such, Policy F1 is given weight, but not full weight.
- 9.6 The NPPF and PPG are material considerations of significant weight in the determination of this application. This National guidance requires the application of both the Sequential Test (this aims to steer new development to areas with the lowest risk of flooding) and, for residential development in flood zone 3a, the Exceptions Test also needs to be passed.
- 9.7 Paragraph 167 of the NPPF explains that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and that development should only be allowed in areas at risk of flooding where, in the light of a Flood Risk Assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b) the development is appropriately flood resistant and resilient, such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d) any residual risk can be safely managed; and
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

#### Sequential Test

- 9.8 As the proposed development is located within the flood zone, it is a requirement of the NPPF (paragraph 162) for the Sequential Test to be applied. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The NPPF explains that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. According to the Environment Agency Flood Maps for planning, the entire site is located within flood zone 3, as such, alternative sites located in flood zones 1 and 2 (as shown on the Environment Agency Flood Maps for Planning) would be sequentially preferable to this application site.
- 9.9 The NPPG provides further information on how to undertake the Sequential Test, but it is for the applicant to undertake the assessment, and then it lies with the LPA to assess whether there are reasonably available sites at a lower risk of flooding that could accommodate the development. The applicant has submitted a flood risk sequential test with the application.
- 9.10 Sites at a lower risk of flooding that are situated within the Green Belt (where the land had no development on) were discounted, as a development scheme such as this would be inappropriate within the Green Belt.
- 9.11 A site in Windsor (Shirley Avenue) has been discounted as being sequentially preferable for the reason of *'the lack of availability and alongside the position that the addition of the 87 dwellings envisaged through application 19/01657 would be unable to address the very significant shortfall in the Borough's housing land supply confirms that this site is not sequentially preferable to the application site.'* It is not agreed that an alternative site should be discounted even if with its development it would not meet the shortfall in the 5 year housing land supply. This is not the purpose of the flood risk sequential test. Notwithstanding this, the density of development is

higher at this site in Windsor (the scheme consists of multi-storey flats) and is not comparable to the type and density of housing proposed in this scheme. As such it is agreed that this site can be discounted. There is also another alternative site (Grove Park, White Waltham). This site is not situated in the flood zone and was granted outline planning permission for up to 79 dwellings and a nursery. The agent makes several points as to why this site is not sequentially preferable. Whilst officer's do not agree with all of the points made, the one point that they do agree on is that for the scheme granted outline planning permission at Grove Park, four affordable units would be provided on-site (this was what was considered to be viable at this site), whereas this scheme would deliver 38 affordable units, which is a significant amount more. As such, it is not considered that this scheme could be provided at the Grove Park site.

- 9.12 Sites have been considered that are proposed for housing development within the emerging Borough Local Plan, however, some of the larger sites allocated within the housing allocations are within the Green Belt at the current time. It is not until the Borough Local Plan is adopted that these sites will be removed from the Green Belt.
- 9.13 It is considered that at the time of writing, there are no other reasonably available sites at a lower risk of flooding that could accommodate the proposed development.
- 9.14 Some objectors have questioned why vacant office spaces within Maidenhead Town centre cannot be redeveloped to provide the housing. However, it is not known if a residential development would be acceptable on such sites, and within the town centre a higher density of development would likely be provided. As such, offices within the town centre would not be considered as appropriate alternative sites that are reasonably available.

#### Exceptions Test

- 9.15 As it is considered that the Sequential Test is passed, it is then necessary to consider whether the Exceptions Test is passed as the scheme is for more vulnerable development in flood zone 3. For the Exceptions Test to be passed, it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; **and**
  - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

*Whether the development would provide wider sustainability benefits to the community that outweigh the flood risk*

- 9.16 With regard to the first part of the Exceptions Test, the applicant has set these out at pages 94-96 of the Housing Need and Flood Sequential and Exception Test Statement, and these are summarised below.
- The scheme is located on an under-utilised site in a highly sustainable location; the scheme is inherently sustainable and therefore contributes towards the desire for sustainable development enshrined in the NPPF.
  - The scheme would generate a net increase of 80 residential dwellings on a site inside the settlement boundary. The scheme will make a material contribution towards to the local housing need.
  - The scheme will contribute to the Council's lack of a 5 year housing land supply.
  - The proposal will provide much needed affordable homes. This will exceed the 30% requirement and will target local needs.
  - It will provide significant growth within Maidenhead, which is an objective within the emerging Local Plan.
  - The existing site makes no contribution towards the area. The opportunity exists to make a high-quality open space on the eastern part of the site which will provide significant benefits to the local community.
  - The scheme will provide economic benefits during the construction phase, and when the new residents move in.

- 9.17 It is considered that the development of 80 residential units would make a reasonable contribution to the Council's 5 year housing land supply. The scheme (subject to the signing of a legal agreement) would provide affordable housing in excess of the Council's Local Plan policy requirements, and the scheme would provide economic benefits during the construction phase, and when future occupiers move into the properties.
- 9.18 It is not agreed that the existing site makes no contribution towards the area. The other benefits listed are considered to be wider sustainability benefits. However, part b of the Exceptions Test must also be passed.
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 9.19 The NPPG explains that for the second part of the Exceptions Test to be met, the proposed development must show that the development will be safe, and that any residual risk can be overcome. It sets out that the site specific FRA should cover the following:
- the design of any flood defence infrastructure;
  - [access and egress](#);
  - operation and maintenance;
  - design of development to manage and reduce flood risk wherever possible;
  - resident awareness;
  - [flood warning and evacuation](#) procedures; and
  - any funding arrangements necessary for implementing the measures
- 9.20 The Flood Risk Assessment refers to 2007 modelled flood data.
- 9.21 In January 2020, the 2019 Thames 'Hurley to Teddington' model was published, and the Environment Agency advises that it is this flood model that should be used to inform the flood risk assessment. The 2019 Thames flood model is a 1D/ 2D flood model, that has a range of flood levels across the site from 24.74m AOD to 24.91m AOD. The applicant questions why there is a range of flood levels across the site and have stated they propose to use the lower range of flood levels between 24.74mAOD and 24.76mAOD for the entire site.
- 9.22 As such, the application fails to demonstrate that adequate flood compensation (based on the 2019 flood model) with appropriate allowance for climate change can be provided.
- 9.23 Correspondence from the applicant to the Environment Agency explains that the voids will be constructed with the opening up to the 1% AEP 'plus additional relevant climate change allowance' and be 1 metre wide with an opening every five metres. The plan referenced in Appendix C of the addendum letter (drawing number ZZ-SE-DR-A-XX-003, revision P1, dated 29 August 2019) shows the typical section through the void and references the 1% AEP plus a 35% allowance for climate change flood level to be 24.56 m AOD. This is not the correct 1% AEP with a 35% allowance for climate change flood level/s. As the correct climate change flood level/s is higher than 24.56 m AOD, the voids would not provide sufficient mitigation and there would be a loss of floodplain storage as a result of the proposed development. Further, the voids would not be providing direct mitigation for the loss of floodplain storage in the higher order flood events not mitigated for through level for level compensation.
- 9.24 Notwithstanding the fact that the proposed flood compensation scheme fails to take account of the 2019 flood model, and so is inadequate on this ground, officers are also concerned about the measures that form part of the proposed flood compensation scheme. The proposed compensation scheme comprises:
- 1.Changes to ground levels across the part of the site proposed for development, including land that would be within the private garden areas of the proposed dwellings.
  2. The use of voids in the construction of the dwellings.

- 9.25 The FRA, and response from the applicant to the EA comments are set out below:
- 1 They would expect a planning condition/legal agreement/maintenance plan to ensure the voids remain open for the lifetime of the development.
  1. They would suggest a planning condition and Article 4 direction was used to ensure ground levels in private gardens are not altered. They also state rights of access would be reserved in favour of the management company within each plot transfer, and that regular inspections of the garden levels would be carried out by the management company to ensure that homeowners are complying with the terms of the transfer.
  2. Permeable fencing will be installed across the site. Rights of access would be reserved in favour of the management company within each plot transfer. It is asserted that regular inspections of the permeable fencing would be carried out by the management company to ensure homeowners were complying with the terms of their plot transfer.
- 9.26 Any future changes to ground levels within private gardens is likely to affect the flood storage capacity. The applicant states that the management company would be responsible for checking ground levels are not altered within the gardens, however, ensuring the management company would undertake sufficient checks on this for the lifetime of the development is considered to be very difficult to secure, and difficult for the LPA to monitor and enforce.
- 9.27 The applicant proposes that any solid fencing erected on the boundaries of future gardens would not be permitted, as this could impact on the operation of the flood compensation scheme. The applicant has indicated that all fencing could be designed to be permeable, and this could be secured through a legal undertaking, with the appointed management company charged with ensuring appropriate checks are made. Similar to checking ground levels in private gardens, officers consider that it would be difficult for the LPA to ensure that these checks were being undertaken (and enforced upon if necessary) for the lifetime of the development, particularly in relation to fencing located within private residential gardens.
- 9.28 The applicant has proposed to include a culvert through the road for hydraulic connectivity to the compensation area on the other side of the access road. The Environment Agency advises that the updated Thames model should be used to assess whether the structure would increase the risk of off-site flooding up to the 1% AEP with a 35% allowance for a climate change flood event. It has not been demonstrated that the proposed raised road would allow for the free flow of flood water through the raised road, which is required to prevent an increase in flood risk elsewhere.
- 9.29 Dwellings within the development are designed with voids which form part of the proposed flood compensation scheme. The supporting text for Local Plan policy F1 indicates that flood compensation schemes must be carried out on a level for level basis (paragraph 2.4.10). Level for level compensation is the matching of volumes lost by lowering of ground levels on land connected to the floodplain and above the 1% annual probability flood level plus an appropriate allowance for climate change, whereas voids are considered to be mitigation of risk by design rather than a direct replacement for the loss of storage volume and there is no guarantee that the floodplain will be retained in the same way as the effectiveness of voids would depend on keeping the voids open and on proper maintenance for the lifetime of the development.
- 9.30 To summarise, the proposed flood compensation is not based upon the most up to date flood data. As more recent flood data held by the Environment Agency is now publicly available, it is considered the Flood Risk Assessment and flood compensation should be based on this data. The more recent flood data increases the predicted flood levels across the site compared to the previous flood data, and as such the compensation proposed would not adequately compensate for the loss of the floodplain storage as a result of this development based on the 2019 flood model. Notwithstanding the foregoing there remain the concerns expressed above regarding the likelihood of the various measures of flood compensation and mitigation being properly managed and maintained in the future.

#### Access and Egress

- 9.31 Based on the 2007 flood model, the application fails to demonstrate that future occupiers would have a low hazard escape route.



- 9.32 In the event that there is a 1 in 100 year flood event, the FRA acknowledges that in such a flood event, there is **not** a low hazard escape route from the site to an area wholly outside the flood zone.
- 9.33 The FRA sets out that the route for future occupiers to leave the site and travel to an area outside of the floodplain would be:
- users would need to travel for approximately 500m along the following route to the west of the site:
  - Turn left (west) out of the site entrance, following Ray Mill Road East for 130m;
  - Turn left (south) along Blackamoor Lane for 100m; and
  - Turn right (west) along Ray Mill Road West for 270m (crossing the Strand Water).
- 9.34 The guidance document 'FD2320 Flood Risk Assessment Guidance for New Developments' which is used to assess the safety of escape routes, sets out that generally, assuming a very low velocity of floodwater, floodwater depths need to be 250mm or less to demonstrate that they can be regarded as '**safe**' to all users.
- 9.35 The applicant submitted a route, and what the flood depths would be during a 1 in 100 year flood event (with 20% climate change allowance added). For the most part, the flood depths along the route on Ray Mill Road East and Blackamoor Lane would vary between 0.05-0.49 metres. Along Ray Mill Road West, the flood depths would vary between 0.45- 1.14 metres. It is considered reasonable to assume the flood flow velocities would be 0.00m/s, and so for the most part of Ray Mill Road East and Blackamoor Lane, according to the guidance document, there would be a danger to some (danger to some presents a danger to children, the elderly and the infirm). The danger would increase as occupiers walked along Ray Mill Road West, the velocity of the flood waters would probably be at 0.00m/s, but by the Strande Water, the velocity may be higher at 0.25 m/s. Taking into account the predicted flood depths and velocities, this part of the route would present a danger for some and a danger for most (danger for most presents a danger to the general public).
- 9.36 The Environment Agency advise that they have compared the deepest level along the access route shown on the Off Site Safe Access drawing (deepest flood depth is shown to be 1.14 metres) to the flood level from the 2019 Thames model in the same location, which increases the flood depths. The deepest floodwater along the route when considering the 2019 Thames flood data is 1.58 metres. Depths of 1.58m with a zero or low velocity would be considered 'danger for most' or 'danger for all' according to Defra document FD2320. There is no plan showing flood depths across the escape route using the 2019 flood model, and so the flood depths along this route are likely to be higher than indicated in the Flood Risk Assessment.
- 9.37 Future occupiers of the proposed dwellings would not have a low hazard escape route in a serious flood event from the site to an area outside of the floodplain. As such, occupiers would either remain on site within their homes, or as the application proposes, a flood evacuation plan would be used to manage how future occupiers respond to flood events. Flood evacuation plans are normally secured by a legal agreement if found to be an acceptable way to manage the safety of future occupiers on the site.
- 9.38 The aim of the Flood Evacuation Plan is to provide a site-wide system for monitoring and disseminating flood warnings, and to subsequently identify safe route(s) into and out of the site to an appropriate safe refuge area in the event of an extreme flood event. The Flood Evacuation plan sets out that the plan would become a 'live' document, to provide advice and guidance to occupants in the event of an extreme flood. However, there are serious concerns over how effective this flood evacuation plan would be when used in practice.
- 9.39 The dwellings would be occupied by independent households, and so managing what residents do in a serious flood event would be more difficult to control compared to a managed facility.

- 9.40 The applicant sets out that the Management Company will take an active role in the flood management of this site, ensuring that residents are aware of the measures that are in place to protect them. CALA Homes can covenant that all new residents sign up to alerts through the management company to ensure that there is a clear and transparent line of communication. They explain that the management company will take on an active role within the site and with new and neighbouring residents. The role will be an educating and informing role to ensure people understand how/when they should respond to the unlikely event of a flood warning. Part of the role would be to give residents the necessary warnings of a flood event and the literature to ensure they know how to understand. This active role with residents and the local community should result in less pressure on emergency services in the unlikely occurrence of a flood event. The proposition that the management company takes an active role in educating neighbouring properties about flood risk, is not something that could be enforced by the LPA, also there would be no obligation for occupiers to engage with the management company about flood risk and evacuation. Whilst the management plan could set up measures for when future occupiers of the development should leave their homes in a flood event, there is no way to enforce future occupiers to leave their homes, the management company could only strongly advise.
- 9.41 The NPPG states that the emergency services are unlikely to regard developments that increase the burden and risk to emergency staff as being safe. Therefore, it is considered that due to the failure to provide a safe route of access and egress and reliance on a Flood Emergency Plan that the proposed development would not be considered safe for its lifetime.

### **Sustainable Drainage**

- 9.42 The Lead Local Flood Authority comment on Sustainable Drainage and raise no objection to the Sustainable Drainage Scheme proposed, provided a condition is imposed to get the further detailed design.

### **Residual Risk**

- 9.43 Residual risk is defined in the NPPG as those risks remaining after applying the sequential approach to the location of development and taking mitigating actions.
- 9.44 There is no substantive assessment of residual risk submitted with the application or information on how residual risk would be safely managed. However, as the proposal fails to demonstrate that flood risk can be safely managed during a 1 in 100 flood event plus climate change then it follows that the proposal would not be safe when considering any additional residual risk.
- 9.45 Therefore it is not considered that the scheme passes the Exceptions Test, as it has not been demonstrated that the development would be safe for future residents, and that it would not increase flood risk elsewhere. The scheme also fails to comply with paragraph 167 of the NPPF.

### **ii Important Urban Open Space**

- 9.46 The site is designated as an Important Urban Open Space within the Adopted Local Plan. Policy R1 of the Adopted Local Plan sets out that the Council will not approve proposals that would result in the loss of existing areas of important urban open land, unless it is replaced by new provision which is at least comparable in terms of facilities, amenity and location, or they can be retained and enhanced through redevelopment of a small part of the site. This policy has different tests on open space from the NPPF. The policy also affects housing land supply matters and as such it is given reduced weight in the determination of this application.
- 9.47 Policy IF4 of the Borough Local Plan Proposed Modifications identifies this land as open space, and allocates it as a green infrastructure site providing a local 'pocket park', a habitat area, and for flood attenuation.
- 9.48 Policy IF4 of the BLP (proposed modifications) sets out that development involving the loss of open space will only be granted permission where:

- *There is clear evidence, for example from the latest published Open Space Study, that the*

*existing facility is no longer required to meet current or projected needs, including for biodiversity improvements/off-setting; or*

- *The existing facility would be replaced by equivalent or improved provision in terms of quality and quantity in a suitable location within walking distance of the existing facility, or*
- *The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

9.49 Policy IF4 of the Borough Local Plan (PC) is given significant weight. The criteria of this policy for assessing the loss of open space is broadly in line with that of Paragraph 99 of the NPPF, and as such the assessment and conclusion of the loss of open space remains the same as in the previously refused application. Policy IF4 also designates this site as open space. The site was not designated in the Borough Local Plan as upgraded open space to address any identified open space/biodiversity deficits in the area but was designated to provide positive planning.

9.50 The NPPF at paragraph 99 sets out that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

9.51 In this case, the proposed development would reduce the amount of open space. 1.3 hectares of the site is proposed for housing development, with the remainder of the site being retained for public open space. The planning statement sets out what is proposed for the public open space and this is summarised below:

- Softening of existing boundary fencing with mixed hedgerows;
- Existing hoggin path retained and extended around the site to improve public access;
- Retention and enhancement of existing woodland copse;
- Existing varied grassland to be retained and enhanced to create a diverse sward;
- Perennial and annual wildflower areas to be provided to act as a buffer to the built development;
- Provision of interpretation boards with site information;
- Retention and tidying up of habitat piles, including brush and fallen logs; and Specimen hazel retained with scrub understorey to provide cover for nesting birds and invertebrates.

9.52 It is important to consider how the existing open space is currently used. Although the site was historically a playing field, this is clearly not the case anymore. The site now comprises overgrown grassland, scrub and scattered trees, with pathways. Part of the site is currently fenced off (for wildlife/ecology reasons).

9.53 It has been established through case law, that the interpretation of the NPPF does not necessarily mean that all open space should be retained in a development scheme. In this case. The applicant provided a copy of this judgement within their planning statement. The judgement relates to a case where a redevelopment scheme would have resulted in less open space than existed. At Paragraph 37 of the judgement, it is set out that:

*'The claimant submits that the natural and so correct meaning of paragraph 74 requires any development to provide open space which is at least equivalent to that lost both in quantity and quality. It is not a correct interpretation to allow a smaller quantity because of enhanced quality. The claimant has referred to observations of a MP who was making particular reference to allotments saying that it meant that open spaces were not to be lost. However, I think that that is an over mechanistic approach. No doubt when spaces are fully used such as allotments or playing fields or entirely accessible recreation areas it will be difficult if not impossible to justify a*

*loss of quantity. But it is in my view appropriate in a case such as this to consider the reality which is that the existing spaces were largely unused by the general public. The requirement in such circumstances for equivalent quantity is too restrictive and would, if applied to the letter, prevent sensible development when in reality there has been no overall loss. Accordingly, I do not think the inspector erred in dealing with open space.'*

- 9.54 The proposed development does not seek to remove all of the public open space, and so it should be assessed against paragraph 99 of the NPPF (paragraph b). The amount of open space will be reduced, however, the size of the space to be retained largely matches the area of the open space that is currently accessible to the public. With regard to the quality of the public open space, the proposal is to enhance the retained area of open space, through making ecological enhancements and managing the space for the public and also providing visitor information. Taking into account the current use of the site, and considering the enhancements proposed to the open space, it is considered that the scheme would meet the requirements of paragraph 99 (b) of the NPPF.
- 9.55 Given the comments above, the scheme would only be in compliance with paragraph 99 (b) of the NPPF, on the basis that the quality of the open space would be enhanced. A legal undertaking to secure the provision, enhancement and maintenance of the open space would need to be entered into if planning permission was being recommended.

### **iii Design**

- 9.56 As set out within section 3 of this report, the built character of the area is varied and there are a range of densities and scale of buildings surrounding the application site. As such, it is considered that there is some scope to consider a varied scale and density of the development at this site. It is also considered that the application site is quite self-contained, and so rather than the scheme being read within the streetscene of properties on surrounding roads, the scheme would create its own character.
- 9.57 Adopted Local Plan policies DG1 (Design), H10 (housing layout and design) and H11 (Housing design) are large largely consistent with the aims of the NPPF.
- 9.58 The NPPF at Section 11 sets out that the effective use of land should be encouraged. Based on the area proposed to be developed for housing, this would provide a density of circa 62 dwellings per hectare, which is a relatively high density of development, in comparison to the dwellings to the east, west and north of the application site which ranges from 14-21 dwellings per hectare. However, the land to the south, which gained planning permission in 2007, has a density of circa 71 dwellings per hectare (based on the number of dwellings and site area permitted under application 07/01239).
- 9.59 The proposed dwellings are relatively tall, as they have been designed to incorporate flood resilience and resistance measures. Even the smaller scale dwellings in this scheme are taller than a typical two storey dwelling with accommodation in the roof.
- 9.60 However, there is no objection to the dwellings being taller, given that this scheme would create its own character. The larger scale buildings in the south of the site would respond to the larger scale buildings situated beyond the southern boundary of the application site.
- 9.61 Looking at the relationship of the dwellings between plots 4 and 5, the rear elevation of the dwelling on plot 4 would face the side elevation of the dwelling on plot 5, with a gap of around 1 metre between these two elevations, which is very limited spacing, and creates a cramped and poor relationship between these two dwellings. In addition, owing to this poor relationship, the rear elevation on plot 4 has been designed to have limited fenestration with only two windows proposed which would serve non-habitable spaces in this dwelling, and this is a symptom of the cramped relationship, as a rear elevation is a primary elevation where main windows should be located. Plots 10 and 11 have a similarly poor arrangement.
- 9.62 With regard to the car parking, policy DG1 (6) sets out that landscaping proposals should form an integral part of a development's overall layout, and criterion 7 of DG1 sets out that developments

should provide adequate car parking, and such provision should be well landscaped and lend itself to a reasonable degree of surveillance. In this scheme, plots 22 through to plot 30 would be dominated by hardstanding to accommodate car parking, as would plots 12 through to 20. In these areas, it is not considered that meaningful landscaping would be provided in some parts of the site.

- 9.63 Although in principle, a higher density of development is accepted on this site, because of the density of development on the land to the south, for the reasons set out above, which include close and awkward relationships between several of the dwellings, a dominance of hardstanding in parts of the site, and a lack of meaningful landscaping across certain parts of the site, this proposal is considered to represent poor design. Although it this is not considered to be harmful to the surrounding street scenes, this site will have its own character, and it is important that the scheme exhibits good design.
- 9.64 The dwellings would have pitched roofs, which is a common roof form within the locality. All of the dwellings would be in brick, but some will be partly finished in cladding and tile hanging, which adds variation to the appearance of the dwellings, and avoids a monotonous appearance.
- 9.65 The scheme has positives in that it creates active frontages, and corner buildings are designed to create interest. Parking areas generally have good natural surveillance from residential properties.
- 9.66 It is considered that there would be a limited level of harm from the scheme being cramped. This harm would be contained within the site, and not impact on the wider character of the area or adjacent street scenes. This weighs against the scheme and is considered in the planning balance.

#### **iv Residential Amenity**

- 9.67 It must be considered whether the proposed development would provide an adequate standard of amenity for future occupiers of the residential units, and also for neighbouring properties to the site, this is required by paragraph 130 (f) of the NPPF. The Borough Design Guide SPD (adopted) also provides guidance on residential amenity.

#### Daylight and Sunlight.

##### **Neighbouring properties**

- 9.68 A Daylight & Sunlight Report has been submitted with this planning application. The assessment was conducted in accordance with the guidelines set out in the 2011 Building Research Establishment report 'Site layout planning for daylight and sunlight - A guide to good practice'. This report concludes that the proposed development will have no material impact on the daylight or sunlight amenity to any property surrounding the site and is fully compliant with the BRE guidelines. The impact on daylight and sunlight to neighbouring properties is considered to be acceptable.

##### **Future occupiers of the proposed dwellings**

- 9.69 The report sets out that in relation to sunlight, the BRE guidelines state that sunlight to kitchens and bedrooms is less important. The results show that the living rooms served by windows with a southerly aspect will have access to very good sunlight levels. As would be expected, those with a northerly aspect will experience lower levels of sunlight, however, for the houses that have north-facing living rooms at first floor level, they also have large south-facing ground floor kitchen/dining rooms that will have access to very good sunlight levels, compliant with the BRE guidelines.
- 9.70 The Assessment shows the sunlighting to the garden areas for the proposed dwellings. The BRE guidelines set out that it is recommended that gardens (this usually includes the main back garden of a house) at least half of the amenity area (i.e. the garden) should receive at least 2 hours of sunlight on the 21<sup>st</sup> March. The following plots do not comply with this recommendation:

Plot number	% of the garden area that would receive more than 2 hours of sunlight on the 21 <sup>st</sup> March 2019.	Recommended % of the garden area that would receive more than 2 hours of sunlight on the 21 <sup>st</sup> March 2019.
5	22.4	50
8	0.2	
9	5.9	
10	25	
11	9.1	
31	25.7	
32	25.5	
33	17.6	
34	13.2	
35	23.2	
37	7.6	
39	29.3	
41	9	

9.71 It is accepted that in June the gardens will receive more sunlight, however, the BRE guidelines set out that the assessment should be based on March 21<sup>st</sup> and a number of these plots would fail to meet this test within the BRE guidelines. In particular plots 8, 9, 11, 33, 34, 37 and 41 would have a low level of sunlighting to their rear garden areas. This does not create a very good standard of amenity for future occupiers of these plots. This weighs against the scheme and is considered in the planning balance.

Impact on privacy of existing neighbouring properties

9.72 Given the relatively deep gardens that neighbouring properties have to the north, east and west of the application site, and the distance that the proposed dwellings would be sited off these boundaries, it is not considered that unacceptable overlooking to these neighbouring properties would arise.

9.73 The proposed flats in the southern part of the application site would overlook a car parking area to the south, and beyond the car parking area are rear gardens. There would be a distance of circa 18 metres from the rear elevation of the proposed flats to the boundaries of these rear gardens (numbers 11-29 Kingfisher Drive). Owing to the scale of the proposed flats, there would be some views towards the rear gardens of these properties, but it is not considered to constitute a level of overlooking that would warrant the refusal of this application.

Standard of amenity for future occupiers

9.74 House type B are proposed town houses. They are 3 storeys high, with heights ranging from 11.5-12 metres. Some of these house types are situated within the centre of the site (plots 32, 33, 34, 35, 42, 43, 44, and 45) would have a back-to-back relationship, with a distance of 25 metres between the rear elevations, which is just short of the 26 metres recommended in the Borough Design Guide.

9.75 The scheme proposes a relatively high density of housing on this part of the site.

9.76 The proposed flats over garages (labelled 47 and 48) would not have any form of outdoor amenity space for future occupiers.

9.77 The proposed apartment block to the south of the site, labelled 49-80 would have extremely limited outdoor amenity space around it, and no balcony areas. The amenity space for the proposed flats in this block would fail to accord with principles 8.5 and 8.6 of the Borough Design

Guide SPD, as it provides no balconies for the flats, and the outdoor communal space around this block measures circa 197 square metres, which falls short of the standard required by principle 8.6 of the SPD, which requires 320 square metres for the 32 flats in this block.

- 9.78 The lack of outdoor amenity space for a number of the future occupiers, particularly those who would occupy the flats is not a positive aspect of the scheme. The provision of outdoor amenity space is considered in the planning balance.

#### Location of the proposed pumping station and impact on residential amenity

- 9.79 In the previous application (19/01140/FULL) the applicant advised that the pumping station will not be adopted by (transferred to) Thames Water, in part because there is inadequate space for the parking of vehicles to meet Thames Water's standard. The pumping station will remain the responsibility of the residents. Environmental Protection advise that historically this has been a problematic arrangement. Maintenance has not always been adequate causing the pumping stations to fail leading to flooding with sewage and odours. Environmental Protection strongly recommends that the pumping station is built to Thames Water's standard and is adopted by them. There is still a query about where the residents' contractor vehicle will park to service the pumping station. The applicant has confirmed that there isn't a specific parking space for the contractor due to the limited maintenance required for the pumping station. Small pumping stations similar to that proposed serving small/medium sized developments are not particularly complex, and require only routine maintenance, generally on an annual basis, modern pumping stations are controlled by telemetry whereby the pump station manufacturer/installer is made aware immediately upon a fault developing, which in some cases can be reset remotely without attendance being required. In the event that the contractor needs to come to site, they pull into the area around the FOG.
- 9.80 However, the foul drainage including the pumping station will have to meet building control requirements and as such it is not considered that this could constitute a reason to refuse the planning application.

#### **V Provision of open space (required for new residential development)**

- 9.81 Policy R4 of the Adopted Local Plan sets out that for new housing developments on sites over 1 hectare in size, 15% of the site should be in the form of open space. This scheme complies, as the amount of the site allocated for public open space exceeds this percentage.
- 9.82 Under Policy R5, new developments for a site of this size should provide a Local Equipped Area of Play. However, as the Public Open Space needs to be designed to be sensitive to the ecological constraints of this site, a Local Equipped Area of Play is not proposed in this case.

#### **Vi Trees**

- 9.83 Policy N6 of the Adopted Local Plan provides guidance on development and trees. The Policy is considered to be broadly in compliance with the aims of the NPPF.
- 9.84 The trees within G2 (labelled on the tree survey) are located on the southern part of the application site and comprise a scattered group of young trees, predominately Common Ash with a few Pedunculate Oak which are shown to be removed to make way for the proposed flats and car parking area.
- 9.85 Tree groups G4 (Common Ash), and G1 (Aspen) are shown for retention. Tree group G3 (Common Ash) would need to be removed because of the proximity to the proposed SUDS basin. The tree officer advises that part of G4 will also be lost due to the SUDS drainage feature.
- 9.86 None of the trees on site are protected by a Tree Preservation Order, and there is no objection to their loss.

- 9.87 Replacement tree planting is shown to be provided within the application site, although there are concerns that the soft landscaping in the proposed developed part of the site would not be successful. The Council's tree officer advises that the soil volumes within the proposed developed area would be insufficient, and that the soil volumes are likely to be reduced further due to haunching for kerbs and utilities/drainage runs.
- 9.88 It is considered that the soft landscaping within the proposed developed part of the site would be limited. This is connected to the concerns over the cramped form of development. This is discussed in the planning balance.

### **Vii Ecology**

- 9.89 Paragraph 180 of the NPPF sets out that when determining planning applications, local planning authorities should apply the following principles:
- 1 *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*
  - 2 *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*
  - 3 *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

Paragraphs 181 and 182 of the NPPF sets out that:

*The following should be given the same protection as habitats sites:*

- a) *potential Special Protection Areas and possible Special Areas of Conservation;*
- b) *listed or proposed Ramsar sites; and*
- c) *sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.*

*The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*

### **Chiltern Beechwoods SAC**

- 9.90 The site lies within 5km and within the zone of influence of the Chiltern Beechwoods Special Area of Conservation (SAC), which is a European Designated site. The primary reason for designation is the Semi-natural dry grasslands and scrubland facies: on calcareous substrates (Festuco-Brometalia); Dry grasslands and scrublands on chalk or limestone Asperulo-Fagetum beech forests; Beech forests on neutral to rich soils *Lucanus cervus*; Stag beetle beetle) . The Natura 2000 data form for the SAC reports that the main threats relate to Forest and Plantation management & use, invasive non-native species, problematic native species, Interspecific floral relations and modification of cultivation practices. Where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, the Conservation of Habitats and Species Regulations 2017 (as amended) requires an appropriate assessment to be made in view of that site's conservation objectives. Paragraphs 180 and 181 of the NPPF state that development resulting in the loss or deterioration of Special



Areas of Conservation should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. In this case the proposed development, along and in combination with the linked proposals, is not considered to have a significant effect on the Chiltern Beechwood SAC, due to the main threats to the SAC, and the distance of the proposal from the SAC and therefore an Appropriate Assessment is not required.

### Burnham Beeches SAC

- 9.91 The proposed development is located approximately 5.5 km to the south-west of the site at its closest point to the Burnham Beeches SAC, which is a European Designated site. The SAC is designated for supporting an extensive area of former Beech wood-pasture and is one of the richest sites for saproxylic invertebrates in the UK, including 14 Red Data Book species. It also supports nationally important epiphytic communities.
- 9.92 The main threats to this area are problematic native species, other ecosystem modifications, changes in biotic conditions, Outdoor sports and leisure activities, recreational activities, and Air pollution, air-borne pollutants.
- 9.93 The impacts of recreational and urban growth at Burnham Beeches SAC carried out by Footprint Ecology in 2019 as part of the evidence base for the Chiltern and South Bucks' Local Development Plan recognises that new housing within 5.6km of the Burnham Beeches SAC can be expected to result in an increase in recreational pressure.

These impacts, which have the potential to adversely affects its interest features, include:

- Increased fire risk
  - Contamination (from dog fouling and litter)
  - Trampling/wear (e.g. loss of vegetation, soil compaction, erosion, damage to trees from climbing); Harvesting (e.g. fungi, wood);
  - Difficulties in managing the site (e.g. maintaining the grazing regime);
  - Disturbance (e.g. affecting the distribution of livestock and deer).
- 9.94 In light of this evidence relating to the recreation impact zone of influence, the competent authority (the LPA) must apply the requirements of Regulation 61 of The Conservation of Habitats and Species Regulations 2017 (as amended), to this proposed development. The authority must decide whether a particular proposal, alone or in combination with other plans or projects, would be likely to have a significant effect on the SAC.
- 9.95 The screening exercise undertaken means that the Council cannot rule out likely significant effects on the SAC, and as such an Appropriate Assessment was undertaken. It is concluded that without appropriate avoidance and mitigation that the development would adversely affect the integrity of the SAC. However, with mitigation (in the form of financial contributions to make enhancements to Maidenhead Town Moor and North Town Moor), it is considered that this would divert recreational pressure from arising from the proposal, and as such with mitigation in place the scheme would not have an adverse impact on the integrity of the SAC. The applicant has agreed to providing this mitigation, but this would need to be secured by a legal agreement if planning permission was to be forthcoming. Natural England have advised that they are satisfied with the proposed mitigation.
- 9.96 The site does not contain any "priority habitats" as defined in the NPPF, and other than slowworms and toads is unlikely to support any protected or priority species.
- 9.97 All native species of reptile and most amphibians are protected from killing or injury under the Wildlife and Countryside Act (1981) as amended. In addition, all common native species of reptile, and common toads (which are in large-scale decline across the UK), are Species of Principal Importance under Section 41 of the NERC Act 2006, i.e. they are "Priority Species" as per the NPPF, and receive further protection through national planning policy.

- 9.98 The site hosts a population of toads which are known to breed in Summerhill Lake approximately 100m to the north and is likely to be of importance for this species during its terrestrial life stages.
- 9.99 The site prior to a translocation exercise contained a low population of slow worms and a population of toads. In 2016, a translocation of the slow worms and toads was undertaken at the site. The slow worms and toads were translocated to the eastern section of the site following the enhancement of this area for slow worms (construction of log piles and hibernacula, planting of scrub and appropriate management of the grassland). This receptor area will not be built on and will remain open space managed for wildlife.
- 9.100 A translocation of slow worms and toads from the development area to the adjacent open space was undertaken in 2016 and since then a reptile proof fencing has been installed and maintained around the development site. The open space area was enhanced prior to the translocation and included scrub planting, incorporation of log piles and hibernacula and grassland management in order to enhance the area for these species. Since then, the toad population has been monitored (using data from the Deerswood toad patrol) and the applicant's ecologist has concluded that the population of toads at the site has remained relatively consistent following the exclusion from a proportion of the site.
- 9.101 As well as the ecology reports submitted with the previous application, the applicant has submitted an updated Phase 1 Ecology Survey technical note (Austin Foot Ecology, December 2020), updated reptile survey report (Austin Foot Ecology, October 2020), and, an ecology technical note regarding the proposed SUDS ponds (Austin Foot Ecology, February 2021).
- 9.102 The updated ecology and reptile reports state that during walkover surveys of the site in 2020, a single slow worm and several common toads were found within the fenced off area. It is thought these may be remnants of the original population which eluded capture during the 2016 translocation. It is considered that adopting precautionary methods during site clearance works should be sufficient to protect any remaining individuals, and these should be included as part of a Construction Environmental Management Plan (CEMP).
- 9.103 An Ecological Mitigation and Management Plan (EMMP) outlines the further mitigation with regards to slow worms and toads during the construction and operational phases of the development and includes a precautionary working method in order to avoid killing or injuring slow worms and toads, sensitive timing of works, gaps under new fencing to allow wildlife movement across the site, permeable paving, wildlife friendly curbs, incorporation of amphibian ladders into all drains (which will be monitored on an annual basis) and monitoring of the population of slow worms every 2-3 years. In addition, details of the management of the open space area for wildlife is detailed within the EMMP and includes the creation of a wildflower area, continued grassland management, newly planted trees, creation of a swale/ drainage basin and hedgerow planting. It is considered that with the proposed enhancements to the open space with the measures detailed in the EMMP that adequate compensation can be provided. A condition would need to be imposed to secure the EMMP. The number and species of trees proposed would need to be sensitive to the ecological sensitivities of the site. A final scheme for the open space would need to be submitted for approval by the LPA.
- 9.104 The technical note regarding the SUDS features states these will be created to enhance biodiversity on the site. In accordance with paragraph 180 of the NPPF, which states that "*opportunities to improve biodiversity in and around developments should be integrated as part of their design*", other biodiversity enhancements, including integral bird and bat boxes on the new houses, and native and wildlife friendly landscaping, should also be incorporated into the scheme design. The recommendations given in the EMMP and updated ecology documents, and further biodiversity enhancements (including their ongoing management), should be incorporated into a Landscape Ecological Management Plan (LEMP) which could be secured by planning condition, if planning permission was to be given.
- 9.105 The site did not have the potential to support roosting bats. However, there was some foraging and commuting habitat on site, particularly around the boundaries of the site. Lighting, without appropriate mitigation could have a detrimental effect on bat species by disturbing foraging and

commuting lines and discouraging bats from roost sites. It is considered that a condition could be imposed to secure a sensitive external lighting strategy to avoid any adverse impact.

## **Viii Transport**

9.106 Paragraph 111 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 of the NPPF sets out that for specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance including the National Design Guide and the National Model Design Code.

### Traffic movements

9.107 The Transport Assessment sets out that during the morning peak hour a total of 80 two-way trips are expected to be made by all modes and for all journey purposes. During the evening peak hour this reduces to 70 two-way trips. During the 07:00-19:00 period, a total of 653 trips by all modes would be expected to arise from the proposed development.

Junction Assessments were undertaken on the following:

- Ray Mill Road West / Blackamoor Lane;
- Ray Mill Road East / Blackamoor Lane; and
- Ray Mill Road East / Ray Park Avenue.

Junctions have been assessed during the following time periods:

1. AM weekday peak (08:00 to 09:00 hours); and
2. PM weekday peak (17:00 to 18:00 hours).

9.108 In considering the impact of development on junction operation, the ratio of flow to capacity (RFC) value has been used as the basis for assessing junction performance and determining which junctions should be considered for mitigation works. In considering junction performance, the following tests have been applied as a starting point:

-Where appropriate, the RFC or DoS value on approaches is maintained below 0.90, although it is acknowledged that values of up to 1.00 are considered acceptable in certain circumstances where, for example, queues can be safely stored within the highway; or  
-Where baseline RFC or DoS values are already greater than 0.90, development does not result in a material worsening of the existing performance of the junction.

9.109 The following scenarios were assessed:

-2024 assessment year traffic flows (“2024 Assessment Year”).

-2024 assessment year plus Proposed Development traffic forecasts (“Assessment Year plus Proposed Development”).

9.110 The junction capacity assessments indicate that the assessed junctions (with the proposed development) would not reach beyond a Ratio to Flow Capacity (RFC) of 0.66, which is below the limit of 0.90.

9.111 The Transport Assessment sets out that the existing highway network currently operates within capacity during the observed peak hours, with minimal queuing noted on the highway network, and that this situation is predicted to continue with the proposed development traffic added to the network. The Highway Authority therefore raises no objection on this ground.

- 9.112 A swept path analysis has been submitted with the Transport Assessment which shows that a refuse vehicle can manoeuvre within the site, and can enter and leave Ray Mill Road East in a forward gear.

#### Car Parking

- 9.113 Policy P4 of the Adopted Local Plan requires developments to provide car parking in accordance with the Council's Adopted Standards. The parking standards are set out in the Council's Parking Strategy 2004. However, the Council's parking standards include maximum parking standards, which the NPPF sets out should only be imposed if there is clear and compelling justification that they are necessary for managing the local road network. Policy P4 of the Adopted Local Plan is therefore not given full weight.
- 9.114 The application site is located within a reasonably sustainable location, within a 15 minute walking distance to Maidenhead Town centre. The site is also around a 3-4 minute walk to bus stops. However, when assessed against the Council's Parking Strategy 2004, the site is not considered to be in an area of good accessibility, as it is not within 800 metres of a train station with a regular train service. As such, according to the Parking Strategy 2004, assessed against the maximum parking standards a total of 172 car parking spaces are required. The scheme provides for a total of 161 car parking spaces. Although there would be a shortfall of 11 car parking spaces, when assessed against the Council's Parking Strategy, the NPPF is clear that maximum standards should only be imposed when there is compelling justification to do so. In this case, it is not considered to be a compelling justification to impose the maximum parking standards. It is not considered that the parking provision proposed, would result in an overspill of car parking onto the road network that would subsequently result in a danger to highway safety.
- 9.115 The proposed scheme would also result in the loss of an existing parking area which was used in association with the family centre on Ray Mill Road East. As set out in section 5, planning permission was recently granted for the change of use of the family centre to the 2 dwellings. The former parking area to the family centre was not included within the application site for this scheme, and does not rely on this area for car parking for the dwellings. As such, the loss of this parking area is considered to be acceptable.

#### Cycle parking

- 9.116 The Transport Assessment sets out that cycle parking will be provided as part of the proposed development. For houses and flats above garage (FOG), space will be provided within the curtilage. For apartments, 1 space will be provided per apartment resulting in a total of 32 cycle parking spaces. Cycle parking for apartments will be provided in covered and secure locations. It should be noted that any structures in the gardens of private dwellings would not be acceptable within the flood zone. Final details of the external cycle storage have not been agreed for the apartments. Depending on the final design, the external cycle stores may further increase the built footprint within the flood zone. In terms of the number of cycle stores, the Council's Sustainable Design and Construction SPD requires 1 cycle space per residential unit. Whether the number of cycle parking spaces could be provided in accordance with the requirements of this SPD is questionable, however, given the SPD is not part of the development plan, it is not considered that the scheme could be refused on this ground. Certainly, a proportion of secure cycle storage could be provided, and this final design would need to be secured by planning condition.

#### **Ix Archaeology**

- 9.117 The site lies within the Thames valley. It therefore lies over the floodplain and gravel terraces which have been a focus of settlement, agriculture and burial from the earlier prehistoric period to the present day. If planning permission was to be granted, a condition would need to be imposed to secure a written scheme of investigation.

#### **X Provision of Affordable Housing**

- 9.118 Local Plan policy H3 requires the provision of 30% of the total units provided on site as Affordable Housing. As a material consideration, paragraph 64 of the NPPF states that where major development involving housing is proposed, at least 10% of the homes are expected to be available for affordable home ownership, as part of the overall affordable housing contribution from the site unless this would exceed the level of affordable housing required in the area or prejudice the ability to meet the identified affordable housing need within the Borough.
- 9.119 The NPPF 2021 provides a definition of affordable housing in the glossary. The application proposes that there would be 18 shared ownership units and 20 affordable rented properties (this would meet the definition of Affordable rent in the NPPF). The number of affordable units proposed would exceed the 30% required by Policy H3 of the Adopted Local Plan. The scheme would provide 47% on site affordable units. The provision of affordable housing would need to be secured by a suitably worded legal agreement. It is acknowledged that the Council has undelivered on affordable units within the Borough.
- 9.120 The Council's housing enabling officer advises if the proposed social rented housing is to be restricted to occupation by 'key workers', as is suggested in the planning statement, then there needs to be clarity on the definition and the nominations process to identify suitable households, and that local housing demand via the Housing register and rent levels will also need to be assessed.
- 9.121 The provision of affordable housing is considered to be a significant benefit of the scheme. It is considered further in the planning balance.

### **Xii Air Quality**

- 9.122 Local air quality conditions and the impacts from vehicle exhaust emissions were assessed and the results indicated that predicted annual mean nitrogen dioxide, PM10 and PM2.5 concentrations at receptor points were below the relevant air quality objectives in both the base year 2019 and 2024 scenario. The findings and conclusion of the air quality assessment that the development construction and operational impact on air quality is considered to be not significant is accepted. A condition would need to be imposed to secure a dust management plan for the construction period should permission be forthcoming.

### **Other considerations**

#### **Sustainability**

- 9.123 The Council has published an interim sustainability position statement. This is a material consideration. Whilst the earlier application for this scheme was submitted prior to this position statement being published, the statement is a material consideration in the determination of this application.
- 9.124 The NPPF advises that Local Planning Authorities should expect new development to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. The Borough Wide Design Guide includes advice on Solar Design and Climate Change and minimising energy consumption through the promotion of dual aspect living accommodation.
- 9.125 The Sustainable Design and Construction SPD, Requirement 3 - On-Site Renewable Energy Generation sets out that all developments involving 10 or more dwellings or 1,000m<sup>2</sup> or more gross non-residential floorspace will be expected to secure at least 10% of their expected energy demand from on-site renewable or low carbon sources.
- 9.126 The applicant has submitted an energy statement. It sets out that in order to meet the 10% Energy from renewables requirement, a further 57856 kWh will need to be offset. A full assessment of appropriate technologies has been undertaken, concluding Solar PV, Showersave Waste Water Heat Recovery (WWHR) the most suitable for this development, providing a 58631.2kWh energy and 13938 kgCO<sub>2</sub> carbon reduction. If planning permission was being recommended for approval, the details of the renewable energy technologies to be used or other

measures to meet the Interim Sustainability Position Statement . The applicant has agreed that in the event of permission being granted, an updated energy statement would be required to be submitted by condition and an offset contribution would also be secured.

### Local Financial Considerations

9.127 The planning statement sets out that the New Homes Bonus is a material consideration to the application that should be afforded moderate weight. It is stated that £810,000 would be generated. The New Homes Bonus qualifies as a local finance consideration, but it has to be considered if it is material to the determination of this application. No information has been provided by the applicant which sets out how the money would be spent in the area subject to this application and it is not considered that the money is necessary to make the development acceptable in planning terms. It is therefore not considered that the New Homes Bonus is a material consideration to the determination of this application.

## **10. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

10.1 The development is CIL liable. The proposed floorspace of the dwellings is circa 8,446 square metres. The applicant sets out the development would generate CIL contributions, and this should be afforded moderate weight as a material consideration. It is recognised that this is a Local Finance Consideration for the purposes of Section 70 of the Town and Country Planning Act 1990. However, the planning statement does not set out how much CIL would be generated from the proposal, or what local infrastructure improvements the money would go towards. This is not given weight as a material consideration.

## **Xi Planning Balance and Conclusion**

### **11. Housing Land Supply**

11.1 Paragraphs 10 and 11 of the NPPF set out that there will be a presumption in favour of Sustainable Development. The latter paragraph states that:

*For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- *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.*

11.2 Footnote 8 of the NPPF (2021) clarifies that:

*'out-of-date policies include, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer..).'*

11.3 The BLPPC is not yet adopted planning policy and the Council's adopted Local Plan is more than five years old. Therefore, for the purposes of decision making, currently the starting point for calculating the 5 year housing land supply (5hr hls) is the 'standard method' as set out in the NPPF (2021). The Council is unable to demonstrate a five year housing land supply.

11.4 However footnote 7 of the NPPF further clarifies that section d(i) of paragraph 11 of the NPPF (2021) is not applied where 'policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed'. This includes areas at risk of flooding, and habitats sites (the SAC).

- 11.5 Where there are such restrictive policies in play, and their requirements are not satisfied by the development proposal, the “tilted balance” does not apply, and the planning balance is to be carried out having regard to the statutory test in section 38(6) of the 2004 Act. In this instance, subsection d(i) of paragraph 11 is engaged as flood risk policies in the NPPF provide a clear reason for refusing the development proposed. In addition, without a legal agreement securing the mitigation to off-set the impact of the development on the Burnham Beeches SAC, this also means paragraph 11 d(i) is engaged.
- 11.6 It is considered that the proposed scheme causes some level of harm to the character of the area, through being cramped, however, given the site is well contained and would create its own character, and given the density of development to the south, it is not considered that the scheme would be of such a poor design to warrant refusal on this ground.
- 11.7 The scheme also does not provide a high standard of amenity for all future occupiers of the site, which is mainly because of the lack of amenity space for future occupiers of the proposed flats; this conflicts with guidance contained in the Adopted Borough Design Guide SPD. In this instance the harm to residential amenity to some of the future occupiers is not considered to constitute a reason for refusal, as there are open spaces within walking distance of the site.
- 11.8 There are benefits that weigh in favour of supporting the scheme, which include:
- the contribution the new dwellings would make to the supply of housing within the Royal Borough, which would make a reasonable contribution to the Council’s 5 year housing land supply, this is afforded significant weight;
  - the provision of affordable homes (which exceeds the percentage required by the Local Plan Policy) and which is needed within this Borough this is given significant weight as a benefit;
  - the economic benefits that would arise from the scheme, which is given moderate weight, as it is not considered 80 households would make a significant contribution to the economy, and the construction jobs associated with the development would only be temporary.
  - Providing a range of housing types, sizes and mix in response to identified local needs. This scheme would provide a mix of affordable and market housing, and would provide a range of 1, 2, 3 and 4 bedrooms dwellings. With regard to the market housing, the largest proportion of this type of housing would be 4 bedroom dwellings. The Local Housing Needs Assessment (2019) sets out that based on the evidence it is expected that the focus of market housing provision will be on 2 and 3 bedroom properties. With regard to the mix of affordable housing, most would be 1 and 2 bed units that would be affordable, with only 4 dwellings (3 bed) to be affordable. This would not meet the recommended mix set within the Local Housing Needs Assessment. Whilst a range of housing types and mix would be provided, it is given moderate weight as a benefit.
- 11.9 It is not considered that these benefits would outweigh the significant flood risk concerns, which is that the development would not be safe for its lifetime and would increase flood risk elsewhere. This is given greatest weight. The scheme fails to accord with Policy F1 of the Adopted Local Plan, and there are not considered to be material considerations which would indicate planning permission should be approved.
- 11.10 Overall, taking account of the Framework and the above considerations, including the benefits of the development, it is considered that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan. It is therefore recommended that planning permission is refused for the reasons set out in Section 13 of this report.

## **12. APPENDICES TO THIS REPORT**

- Appendix A - Site location
- Appendix B – Proposed Block Plan
- Appendix C – Elevations

## **13. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED**

- 1 The application site is located in Flood Zone 3 where there is a high risk of flooding and the

proposal is for a more vulnerable type of use. The application has failed to demonstrate that safe escape from the site and safe access to the site could be achieved in the event of a flood, resulting in lives and properties being put at risk. In addition, the application has failed to demonstrate that it would not reduce the capacity of the site to store water in the event of a flood and not displace that flood water outside the site further increasing risk to lives and properties. Accordingly, the application has failed to demonstrate that the proposal would be safe over its lifetime and that it would not increase flood risk elsewhere. The proposal is contrary to Policy F1 of the Adopted Local Plan. The scheme also fails to pass the Exceptions Test as required by the National Planning Policy Framework. The scheme therefore fails to comply with paragraphs 163, 164, 165 and 167 of the National Planning Policy Framework (2021).

- 2 In the absence of a legal agreement the proposed development fails to secure a satisfactory level of affordable housing. The proposal is therefore contrary to policy H3 of the Windsor and Maidenhead Local Plan, 1999 (including Adopted Alterations 2003), and paragraph 65 of the National Planning Policy Framework (2021).
- 3 In the absence of a legal agreement, the scheme fails to provide a sufficient open space as required by paragraph 99(b) of the National Planning Policy Framework 2021.
- 4 In the absence of a signed legal agreement, the scheme without mitigation would likely impact upon the integrity of the Burnham Beeches Special Area of Conservation Area (SAC).



Appendix A- site location plan



**Appendix B- Proposed site layout**



## Appendix C- Proposed elevations

### Proposed apartment block



Front Elevation  
1:100



Right Side Elevation  
1:100



Rear Elevation  
1:100



Left Side Elevation  
1:100

### Example of House type A.



Front Elevation  
1:100



Left Side Elevation  
1:100



Rear Elevation  
1:100



Right Side Elevation  
1:100

Example of house type B



Front Elevation  
1:100



Left Side Elevation  
1:100



Rear Elevation  
1:100



Right Side Elevation  
1:100

Example of house type C



Front Elevation  
1:100



Left Side Elevation  
1:100



Rear Elevation  
1:100



Right Side Elevation  
1:100

Example of house type D



Front Elevation  
1:100



Left Side Elevation  
1:100



Rear Elevation  
1:100



Right Side Elevation  
1:100



Example of house type E



Front Elevation  
1: 100



Left Side Elevation  
1: 100



Rear Elevation  
1: 100



Right Side Elevation  
1: 100

Example of house type F



Front Elevation  
1: 100



Rear Elevation  
1: 100



Left Side Elevation  
1: 100



Right Side Elevation  
1: 100



## Planning Appeals Received

8 October 2021 - 5 November 2021

### MAIDENHEAD

The appeals listed below have been received by the Council and will be considered by the Planning Inspectorate. Should you wish to make additional/new comments in connection with an appeal you can do so on the Planning Inspectorate website at <https://acp.planninginspectorate.gov.uk/> please use the Plns reference number. If you do not have access to the Internet please write to the relevant address, shown below.

**Enforcement appeals:** The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN

**Other appeals:** The Planning Inspectorate Temple Quay House, 2 The Square Bristol BS1 6PN

**Ward:**  
**Parish:** Maidenhead Unparished  
**Appeal Ref.:** 21/60064/REF      **Planning Ref.:** 21/00218/CLA      **Plns Ref.:** APP/T0355/W/21/SSM      **Ref.:** 3275978  
**Date Received:** 14 October 2021      **Comments Due:** 18 November 2021  
**Type:** Refusal      **Appeal Type:** Written Representation  
**Description:** Change of use of the ground floor shop and garage to 2no.dwelling (C3) and associated operational development  
**Location:** **M H Dormer Electrical Contractors 6 Harrow Lane Maidenhead SL6 7PE**  
**Appellant:** Mr Malkit Purewal **c/o Agent:** Mr Jonathan McDermott The Town Planning Experts  
 14 St Georges Business Centre St Georges Square Portsmouth PO1 3EZ

**Ward:**  
**Parish:** Maidenhead Unparished  
**Appeal Ref.:** 21/60065/REF      **Planning Ref.:** 21/00567/CLA      **Plns Ref.:** APP/T0355/W/21/SSM      **Ref.:** 3276034  
**Date Received:** 14 October 2021      **Comments Due:** 18 November 2021  
**Type:** Refusal      **Appeal Type:** Written Representation  
**Description:** Class M: Change of use from A1 (retail) to C3 (dwelling) to create 6 No. dwellings with associated works.  
**Location:** **Best-one 3A Altwood Road Maidenhead SL6 4PB**  
**Appellant:** Mr Neil Chadda **c/o Agent:** Mr Ben Larcombe CSJ Planning Consultants 1 Host Street Bristol BS1 5BU

**Ward:**  
**Parish:** Bray Parish  
**Appeal Ref.:** 21/60066/ENF      **Enforcement Ref.:** 21/50122/ENF      **Plns Ref.:** APP/T0355/C/21/3284003  
**Date Received:** 26 October 2021      **Comments Due:** 7 December 2021  
**Type:** Enforcement Appeal      **Appeal Type:** Written Representation  
**Description:** Appeal against the Enforcement Notice: Without planning permission, the erection of a marquee structure within the curtilage of a listed building, attached to outbuildings associated with the public house, with facilitating metal support poles, ground anchors and two timber structures used as entry/exit points.  
**Location:** **The Crown High Street Bray Maidenhead SL6 2AH**  
**Appellant:** James Lee **c/o Agent:** Mrs Maria Boyce ArkleBoyce Matthew Murray House Unit 9 First 97 Water Lane Leeds LS11 5QN

## Appeal Decision Report

8 October 2021 - 5 November 2021

### MAIDENHEAD

**Appeal Ref.:** 21/60044/PRP **Planning Ref.:** 20/02133/TPO **Plns Ref.:** APP/TPO/T035  
A 5/8180

**Appellant:** Mr James Aston **c/o Agent:** Mr Neil Wilson Beechwood Tree Care Ltd 2 Playhatch  
Farm Cottages Playhatch Reading RG4 9QX

**Decision Type:** Delegated **Officer Recommendation:** Partial  
Refusal/Partial  
Approval

**Description:** (G1) x2 Ash and x2 Oak - crown reduce the crown spread on the tennis court side to  
between 3.5m-4m.

**Location:** **Five Oaks Farm Shurlock Road Waltham St Lawrence Reading RG10 0HP**

**Appeal Decision:** Dismissed **Decision Date:** 8 October 2021

**Main Issue:** The Inspector concluded that the works to the trees would result in harm to the  
sylvan character of the area and that insufficient justification has been provided.

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