

COMMITTEE REPORT

Date: 5 December 2024 **Ward:** Osbaldwick And Derwent
Team: East Area **Parish:** Murton Parish Council

Reference: 23/02030/FULM
Application at: Land Lying To The North West Of Murton Way York
For: Erection of a Battery Energy Storage System with associated infrastructure, site levelling works, access, landscaping and ancillary works.
By: Net Zero Fourteen Limited
Application Type: Major Full Application
Target Date: 1 July 2024
Recommendation: Refuse

1.0 PROPOSAL

1.1. Planning permission is sought for the erection of a Battery Energy Storage System with associated infrastructure, site levelling works, access, landscaping and ancillary works on a parcel of land on the northern side of Murton Way. The site measures approximately 3.4 hectares and comprises an existing agricultural field. The proposed development is temporary with an expected operational lifespan of 40 years. After this period the works will be decommissioned.

1.2. The site lies within the general extent of the York Green Belt and is unallocated in the Draft Local Plan 2018 (as amended 2023). The majority of the site lies within Flood Zone 1, however the red line boundary extends up to the beck which is in Flood Zone 3, however no built development is proposed on this land. To the west of the site lies an Industrial Estate. To the north west of the site lies a Traveller's Site. Agricultural fields predominately lie to the south and east of the site. A number of scattered dwellings lie to the south of Murton Way.

1.3. The proposed development is for the construction and operation of a Battery Energy Storage System (BESS) with a capacity of approximately 100 megawatts. The system will connect into the Substation at Osbaldwick, approximately 0.5km to the south of the site. Access will be gained to the site from Murton Way via a new access track opposite the cottages as Osbaldwick Road Crossing and will form a loop around the infrastructure. The development is within the centre of the application site. The compound consists of the following;

- 104no. containerised battery storage units arranged in rows;
- 13no. Transformer units which will be situated between 2no. SCS inverter units (total 26no. PSP inverter units);
- 26no. Battery interface cabinets;
- 1no. Transformer unit;
- 1no. 132kv Substation/HV Switchgear building;
- 1no. Customer Switchgear Container unit;
- 1no. Storage container;
- 1no. 240,000 litre water tank;
- Fencing
- Security (including CCTV)
- Landscaping, including cut and fill work

1.4. The following recent site history is relevant;

- 23/01626/EIASN; Screening for Environmental Impact Assessment for a Battery Energy Storage System. EIA not required: 22.08.2023.

2.0 POLICY CONTEXT

NATIONAL PLANNING POLICY FRAMEWORK

2.1. The revised National Planning Policy Framework (NPPF) was published in 2023 and sets out the government's planning policies for England and how these are expected to be applied.

2.2. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).

2.3. The Statutory Development Plan for the City of York comprises the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) and any made Neighbourhood Plan.

PUBLICATION DRAFT LOCAL PLAN (DLP 2018)

2.4. The Publication Draft Local Plan 2018 was submitted for examination on 25th May 2018. The plan has been subject to examination. Proposed modifications regarding policy H5 Gypsies and Travellers have recently been subject to consultation. The draft policies can be afforded weight in accordance with paragraph 48 of the NPPF.

2.5. Key relevant DLP 2018 policies are:

- D1 – Placemaking
- D2 – Landscape and Setting
- D6 – Archaeology
- GI2 – Biodiversity and Access to Nature
- GI4 – Trees and Hedgerows
- GB1 – Development in the Green Belt
- CC1 – Renewable and Low Carbon Energy Generation and Storage
- ENV1 – Air Quality
- ENV2 – Managing Environmental Quality
- ENV3 – Land Contamination
- ENV4 – Flood Risk
- ENV5 – Sustainable Drainage
- WM1 – Sustainable Waste Management
- T1 – Sustainable Access

MURTON NEIGHBOURHOOD PLAN

2.6 The Murton Neighbourhood Plan was submitted to City of York Council on 16th October 2024 for examination. In accordance with the Neighbourhood Planning Regulations, the Council is now undertaking a submission consultation for 6 weeks until 20 December 2024 prior to examination by an independent examiner. An emerging Neighbourhood Plan is likely to be a material consideration in planning decisions and should be accorded weight in accordance with paragraph 48 of the NPPF. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. The policies within the Neighbourhood Plan are therefore afforded limited weight at the present time.

3.0 CONSULTATIONS

INTERNAL

CYC Ecology

3.1. No objections, subject to Construction Environmental Management Plan and landscape and ecological management plan.

CYC Public Right of Way

3.2. No objections. There is a recorded public bridleway adjacent to the northern site boundary known as Osbaldwick 13 (28/13/10) and a recorded public footpath to the west of the site boundary known as Osbaldwick 6 (28/6/20). Advice provided regarding temporary closures, diversions and unauthorised deterioration. During construction the surface of the public rights of way adjacent to the site must not be disturbed/damaged/obstructed in any way, for example by drainage across the paths or through vehicle use, without the prior approval of a member of the Public Rights of Way Team.

CYC Archaeology

3.3. Recommend a condition for post-determination archaeological mitigation, specifically an archaeological watching brief.

CYC Public Protection

3.4. No objections to the application in terms of noise, but recommend a 4m high acoustic fence.

CYC Strategic Planning Policy

3.5. Advice regarding current stance of the Draft Local Plan, green belt policy and current status of policy CC1 (renewable and low carbon energy).

CYC Flood Risk Management Team

3.6. Based on submitted FRA (revision F, dated 1st July 2024) which shows a pumped surface water connection to the local watercourse at a restricted rate of 1.93 litres per second with appropriate attenuation up to and including the 1 in 100 year event with 40% climate change event is generally acceptable.

3.7. Site specific infiltration testing failed and therefore connection to the watercourse subject to consent from IDB is agreed.

3.8. Installation of penstock fitted in the flow control device manhole so that in the event of a fire the system can be closed to prevent/reduce the risk of adverse contamination of the watercourse.

3.9. The IDB have requested a discharge rate of 1.76l/sec however believe the difference between the 1.93l/sec and 1.76l/sec is minimal and the FRMT aren't concerned.

3.10. Recommend condition in the event of an approval.

CYC Urban Design and Conservation

3.11. Development Management to assess for the above.

CYC Housing Services Team (Landlord of adjacent Travellers Site)

3.12. Object due to failure to satisfy Policy CC1 requirement that the impact on local communities are demonstrated to be acceptable. Concerns regarding fire safety, noise (in particular impact on caravans) and environmental pollution.

3.13. The Outgang Lane access to the site is unsuitable in respect of a number of features that pose a high risk to residents' safety including a narrow, single track, lack of lighting and poor road surface. The risk would be heightened in the event of any incident such as a fire. Recommend improvements to Outgang Lane. Any use of Outgang Lane for the site development would be unsuitable.

CYC Landscape Architect

3.14. Adverse harm to the land use of the site is significant and should be given due weight in consideration of the planning balance. Significant adverse effect on the landscape character of the site. Moderately harmful visual impact is relatively localised but insignificant. The adverse effects on visual amenity, in particular from Murton Way, and properties oriented towards the application site, and to a lesser degree from Outgang lane PROW, should be given due consideration in the planning balance.

CYC Highways Officer

3.15. Subsequent to a site visit with the applicant's transport consultant and City of York Council's Streetworks team, at this point in time HDC can not justifiably object to the application on the grounds of unacceptable impact on safety or unacceptable cumulative impact on the network, if suitable traffic management is put in place (this can be conditioned or otherwise secured through a s278 agreement). Recommend conditions in the event of an approval.

EXTERNAL

Canal and River Trust

3.16. No requirement to consult.

Foss Internal Drainage Board

3.17. Recommend a drainage condition in accordance with agreed documents and a condition requiring 9m clear from the beck. Informative regarding discharge into watercourse.

Northern Gas Networks

3.18. Do not object to planning application.

North Yorkshire Fire and Rescue Service

3.19. The National Fire Chiefs Council (NFCC) publication Grid Scale Battery Energy Storage System Planning BESS Design Guidance (nfcc.org.uk) should be used as current best practice guidance in the design and installation of Battery Energy Storage System (BESS) sites.

The Coal Authority

3.20. No observations.

North Yorkshire Police

3.21. The security arrangements outlined in the application are appropriate. If approved, it is strongly recommended that the construction compound has onsite security to prevent the theft of plant, diesel fuel and materials.

Yorkshire Water

3.22. The submitted 'Flood Risk Assessment and Surface Drainage Strategy' P23-1507 (rev E) prepared by Pegasus, dated 28/03/2024' is acceptable.

3.23. There will be no foul discharge for the development and surface water will discharge through infiltration.

Environment Agency

3.24. No objection to the proposal as long as it is built in accordance with the submitted Flood Risk Assessment which shows all proposed development is located in Flood Zone 1. Recommend an informative regarding Battery Energy Storage Systems.

Murton Parish Council

3.25. Objects on the following grounds;

- Inappropriate development in the Green Belt.
- Detrimental impact on the rural separation between Osbaldwick and Murton.
- Understood another BESS application is due for farmland on the south side of Murton Way
- Loss of productive farmland is unacceptable
- Proposed 40 year time limit is unrealistic and the cost of rehabilitation of the site would be prohibitive.
- Once the land is industrialised it will never return to its former state or use.
- Access from Murton Way unacceptable.
- Fire Strategy Plan inadequate.
- Proposed screening would sacrifice more agricultural land.
- Recommend conditions in the event of approval

Osbaldwick Parish Council

3.26. Strongly object and support the submission by Murton Parish Council.

Natural England

3.27. No objection.

York Travellers Trust

3.28. Object on the following grounds;

- Continuing intensification of industrial activities in the vicinity of the Traveller Site is incompatible with the residential amenity and poses a significant material threat to human health and wellbeing.
- Noise Assessment Report indicates that the proposed development would require, amongst other things, the operation of multiple industrial cooling fans throughout its lifetime. It is advanced that these would operate 'without affecting the amenity of the closest residential receptors to the site.' It is not clear from the Report that the particular nature of the residential units has been taken into account as a part of the assessment. Caravans are significantly more vulnerable than bricks and mortar development to noise and vibration pollution.

- The Environment Agency has confirmed that Battery Storage Systems have the potential to pollute the environment, particularly where there is surface and ground water. There have been significant issues with drainage and standing water in the area around the Traveller Site for many years.
- Need to consult the Council's Housing Team (owners of the Traveller Site)
- Expect further reports to take into account cumulative impact of the proposed development with adjacent land uses and activities on the residential amenity of the Traveller Site.
- Expect a full Equality Impact Assessment.

4.0 REPRESENTATIONS

4.1. The application has been advertised via site notice, local press notice and neighbour notification letters.

4.2. 7 letters of objection (including Councillor Mark Warters) were received. Where the same person has commented multiple times this has been classed as one objection. The objections are summarised on the following grounds;

- The site isn't suitable for this type of development in the Green Belt.
- Does not preserve the openness of the Green Belt.
- Will industrialise an area of open countryside
- Will lead to coalescence.
- Lithium battery production is harmful to the planet.
- Water drainage on Murton Way a problem as the road gets flooded.
- Groundwater contamination into the beck.
- Concerns regarding site entrance, traffic, speeding, HGVs and accidents.
- The other battery site near Grimston Bar is noisy.
- Noise concerns arising from construction and development and cooling fans.
- Site entrance should be relocated to Outgang Lane.
- Connection and construction would be an inconvenience.
- Affect the outlook from property and value.
- Poor hedging would not screen the development and is not in ownership of the applicant.
- Proposed planting insufficient and will take a long time to grow.
- Pollution from construction vehicles.
- Road is part of the cycle network and traffic will pose a danger to cyclists.
- Heavy vehicles may impact surrounding properties.
- Safety concerns from proposed access point.
- Hedgerow removal required for site access.
- Loss of open, agricultural land
- Loss of natural habitat

- Light pollution
- Insufficient research for battery energy storage near dense areas of housing Murton
- Already have a BESS and believe at the time were told this is the capacity for the area.
- Risks in water from lithium pollution.
- Concerns regarding fire risk, thermal runaway and availability of Fire Services.
- Would reduce the re-opening of the DVL R as a light railway from Murton into York.
- Concerns regarding the validity of comments submitted by Shared Voices PR agency and the publication of these comments.

4.3. A total of 11 letters of support have been received on the following grounds (which includes one letter of support from the Landowner);

- Upgrade systems to help save the planet.
- Good location.
- Need for battery storage to help distribution of electric and balance the grid.
- Site is near the transformer station and next to the industrial estate.
- Landscaping will screen.
- Store excess energy generated from renewable sources.
- Ensures a consistent and reliable energy supply for the community.
- Create new job opportunities
- Help stabilize energy prices.
- Bring down bills.
- Developers have assured that they will adhere to strict environmental standards and implement measures to minimize any potential negative impacts.
- Good to see something being built rather than hotels and housing.

4.4. A petition has been received from the company 'Shared Voices', which was organised by the Applicant. 45 letters of support have been submitted which all come from a Shared Voices email address. The Local Planning Authority have been unable to verify the submissions (in terms of their accuracy and whether consent has been received). The letters were not submitted in the standard way for public consultation, therefore each letter cannot be registered or considered individually.

5.0 APPRAISAL

Key Issues

5.1. The key issues are as follows:

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- Principle of the development
- Green Belt
- Impact on the character and appearance of the area
- Trees
- Loss of agricultural land
- Flood risk and drainage
- Highways and access
- Amenity and public protection
- Ecology
- Archaeology
- Air quality
- The case for very special circumstances
- Public Sector Equalities Duty

Principle of the development

Policy

5.2. Policy CC1 of the Draft Local Plan (2018, as amended 2023) relates to renewable and low carbon energy generation and storage. The policy supports proposals for low carbon energy storage where the stated considerations are demonstrated to be acceptable; this includes impacts on local communities and residential amenity.

5.3. Paragraph 032 of the Planning Practice Guidance (PPG) states electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively – for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity.

Assessment

5.4. The proposal will store energy in times of high production, by connecting to the existing substation at Osbaldwick, over 0.5km from the application site and release the energy when needed. The proposal would support the electricity network by providing extra capacity when there are shortfalls, which is afforded substantial weight and is in line with the aims of policy CC1 of the Draft Local Plan (2018, as amended) and planning practice guidance in relation to energy storage.

5.5. The Agent attaches very substantial weight to the provision of renewable energy and states the scheme will provide power to 323,795 homes for two hours.

The proposal however is not a generator or provider of renewable energy, therefore moderate weight is given to this argument. The BESS does not produce renewable energy themselves and it cannot be guaranteed that all the energy stored here will be renewable. The BESS is not connected to a renewable energy development such as a solar farm or wind farm.

5.6. The applicant states they have a viable grid offer connection which is afforded some weight. The applicant attaches very substantial weight to the lack of alternate sites, however this is given limited weight as there are sites adjacent to Osbaldwick substation which have planning permission for the same type of development and there is also currently a pending planning application for a battery energy storage scheme next to the substation. Closer sites to the substation have not been explored in the alternative sites assessment.

5.7. Overall whilst acknowledging the development is not a source of renewable energy and clearly the proposal cannot guarantee that all energy stored at the facility will be from renewable sources, there are clear benefits of energy storage as outlined in the PPG for addressing energy security. The proposal would ensure a continuity of energy supply, in particular when there are shortfalls. Officers give the principle of development (storage of energy) substantial weight, however only moderate weight is given to the argument that the proposal would store renewable energy.

Green Belt

Policy

5.8. Paragraph 152 of the NPPF (2023) states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the NPPF states when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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.

5.9. Paragraph 154 of the NPPF states a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

a) buildings for agriculture and forestry;

- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

5.10. Paragraph 155 of the NPPF (2023) states certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) Mineral extraction
- b) Engineering operations
- c) Local transport infrastructure which can demonstrate a requirement for a Green Belt location
- d) The re-use of buildings provided that the buildings are of permanent and substantial construction
- e) Material changes in the use of land (such as changes of use for outdoor sport or recreation or for cemeteries and burial grounds) and
- f) Development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

5.11. This is reflected in policy GB1 of the Draft Local Plan (as amended) which is wholly consistent with the NPPF. In this context and as the time of writing this report and given that only one minor objection to policy GB1 remains, policy GB1 can be afforded moderate weight.

5.12. In line with the decision of the Court in *Wedgewood v City of York Council* [2020] EWHC 780 (Admin), and in advance of the adoption of the emerging Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes should take into account the Yorkshire and Humber Regional Spatial Strategy ("RSS") and may have regard to the emerging Local Plan (2018), insofar as can be considered against paragraph 48 of the NPPF (2021). Site specific features must also be considered. The *Wedgewood* judgement explains that regard may be given to the draft Local Plan (April 2005) (DCLP). Only very little weight should be attached to the Green Belt proposals contained within it and its related evidence, which are superseded by the 2018 Local Plan that is now at an advanced stage of examination.

Assessment

5.13. In considering the green belt status of the site, TP1: Green Belt Addendum provides material evidence (EX/CYC/59d1). At Section 6: boundary 21, land to the east of Osbaldwick Industrial Estate is assessed against green belt purposes. In relation to Green Belt purpose 1, land is unconstrained by development on more than one side and is therefore not contained.

5.14. In relation to Green Belt purpose 4, land should be kept permanently open to maintain York's compactness, to prevent the city coalescing with Murton village, retaining the 'clock-face' of historic villages within a rural setting. The site forms part of an area identified in evidence as necessary to preserve openness to prevent coalescence with the village of Murton. The proposed green belt boundary in this location functions in maintaining the rural character of Murton Way (which is the historic route between Osbaldwick Village and Murton) and preserving openness between York and Murton.

5.15. In relation to Green Belt purpose 3, this is agricultural land within which there are limiting urbanising influences; land functions as part of the countryside and contributes to the character of the countryside through openness, views and accessibility. Overall it is concluded that the site serves Green Belt purposes and as such is considered Green Belt for the purposes of this assessment.

5.16. The proposed development does not fall within any of the stated Green Belt exceptions set out in policy GB1 of the Draft Local Plan (2018, as amended 2023) and paragraph 154 and paragraph 155 of the NPPF (2023). The proposal is therefore considered inappropriate development in the Green Belt, which is harmful by definition. This is not disputed by the Applicant or Agent.

5.17. The proposal would be visible from several public viewpoints due to the number, height and siting of the infrastructure. Spatially, when viewing the development as a whole, it would take up a significant proportion of land. The proposed development would undoubtedly lead to a loss of visual and spatial openness causing significant harm to the Green Belt.

5.18. The site provides a clear separation between the village of Osbaldwick and Murton therefore preventing coalescence (conflict with purpose b of paragraph 143 of the NPPF). The development would result in the sprawl of the built up area (conflict with purpose a of paragraph 143 of the NPPF) and would result in countryside encroachment (conflict with purpose c of paragraph 143 of the NPPF). It would conflict with the three purposes of the Green Belt identified at this site, resulting in urban sprawl, countryside encroachment and coalescence.

5.19. To conclude on Green Belt matters, the proposal would be inappropriate development in the Green Belt and would be significantly harmful to its openness and purposes, contrary to the NPPF and policy GB1 of the Draft Local Plan (2018, as amended 2023). Substantial harm must be given to these harms to the Green Belt.

5.20. In line with paragraph 152 of the NPPF and policy GB1 of the Draft Local Plan (as amended), very special circumstances would need to be demonstrated to clearly outweigh the harm identified to the Green Belt and any other harm resulting from the proposal. Whether very special circumstances exist to justify this inappropriate development in the Green Belt are explored at the end of the report when all the key issues have been assessed and determined whether any other harm as a result of the proposed development has been identified.

Impact on the character and appearance of the area

Policy

5.21. Planning decisions should ensure developments will function well and add to the overall quality of the area (paragraph 135 of the NPPF). This is supported by Policy D1 of the Draft Local Plan (2018) which seeks to ensure the density, massing and design of development respects the local character and its setting. Landscaping is covered within policy D2 of the Draft Local Plan (2018) and this seeks to ensure high quality hard and soft landscaping including suitable lighting. Policy G14 of the Draft Local Plan (2018, as amended) seeks to retain existing healthy tree cover and ensuring any new landscaping is appropriate. Policy WM1 of the Draft Local Plan (2018) relates to waste management requires the integration of facilities for waste

prevention, re-use, recycling, composting and recovery in association with the planning, construction and occupation of new development for commercial sites.

5.22. In particular proposals for renewable and low carbon energy development, including ancillary development, will be permitted where impacts on York's historic character and setting, including the sensitivity of the scheme to the surrounding landscape and proximity to air fields and other sensitive land use are considered acceptable (policy CC1 of the Draft Local Plan (2018), as amended).

Assessment

5.23. The application site overlaps district-level, green infrastructure corridor 16 – Osbaldwick / Tanghall corridor. The public right of way / bridleway (ref: 28/13/10) runs along the eastern boundary of strategic housing allocation ST7. This neatly aligns with the formal extent of industrial development off Outgang Lane. The proposed development projects further east than this. The development disrupts the clarity of the belt of arable/pastoral fields lying to the east of the existing/proposed extent of the urban edge.

5.24. The site is identified as preventing coalescence between the village of Murton and Osbaldwick; the latter being conjoined with the urban extent of the city. The peripheral band of fields between the A64 / ring road and the edge of the city that provides the impression of its rural context.

5.25. The battery storage containers are 2.7m in height. Acoustic fencing on the north and south sides of the containers would be 4m in height. The substation in the southwest of the site, almost opposite Gell's Farm, is 6.7m at its highest point. This would therefore project over the top of the hedgerows. The BESS compound would be enclosed with 2.4m high metal palisade fencing. Taking into account the scale and design of the infrastructure, the landscape would become industrialised to the detriment of its setting.

5.26. It is proposed to include a significant amount of landscaping to hide the infrastructure (shrub planting, trees and filling of gaps), however the storage units would still be prominent in views in particular in the winter months. The use of landscaping in this regard, in what is a predominately open field, would appear at odds with the existing landscape character and what forms the clear distinction between the villages. However the vegetation alone does have some landscape and ecological benefits. The principal concern in this regard is the use of the proposed landscaping to hide the development and the uncharacteristic nature of its use in this setting.

5.27. The most northerly corner of the proposed development encroaches into the dismantled railway line, (which was once the Derwent Valley Light Railway) thus disrupting the line of this historical feature that is still legible in the landscape and reflects the historic cultural link between York and the railway industry. A half-mile length of the DVLR line runs from Murton Way, where it meets the site on the opposite side of the road, and continues eastwards under the A64, adjacent to the Yorkshire Museum of Farming outside of Murton. The line of the DVLR between Osbaldwick and Elvington has been interrupted by a few buildings and development. However, the majority of it is a legible feature of the landscape – at the very least aurally. The proposed development reduces the intactness of this marked/identifiable landscape (and also its future potential to contribute to an extended linear recreational network). This presents some harm, although is limited.

5.28. The Landscape Officer concludes the proposal would lead to a moderate adverse level of effect on the land use and infrastructure of the site, resulting from the loss of a simple arable field, typical for this rural periphery of the City and the introduction of utilitarian industrial structures and hard surfacing. The Landscape Officer states this aspect of harm is significant. The Landscape and Visual Assessment submitted by the Applicant concludes that long-term there would be a moderate adverse level of effect upon the landscape character of the site itself.

5.29. Officers conclude that the harm to the landscape character is significant. The proposal would undoubtedly and adversely change the character and appearance of the site, due to the nature, scale and siting of the proposed development. The most adverse visual effects being experienced from Murton Way and from Outgang Lane PROW bridleway, both of which are actively used, in particular Murton Way which is pedestrian and cycle route (National Cycle Route Network 66), as well as a main vehicular access road. It would appear at odds in this setting by way of its industrial appearance and cannot be supported.

5.30. The LVA, submitted by the applicant, does not give an accurate representation of viewpoints, as the viewpoints were taken in August when vegetation was in full leaf. During months when leaf cover is absent or reduced, viewpoints of the development will be more prominent and there will be a greater awareness of the infrastructure, in particular from Murton Way.

5.31. Overall the proposed development would have a considerably adverse impact on the landscape character of the site, due to the addition of built forms that would be detrimental to the landscape character of the site. The proposal would extend the sense of industry associated with Osbaldwick industrial estate and Osbaldwick substation, into what is currently an arable field that is contiguous with the open countryside surrounding the city of York, which would be more pronounced in

dormant seasons. The proposal is therefore contrary to paragraph 135 of the NPPF (2023) and policies CC1, D1 and D2 of the Draft Local Plan (2018, as amended).

Loss of agricultural land

Policy

5.32. Paragraph 180(b) of the NPPF (2023) states planning decisions should contribute to and enhance the local environment by recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Best and most versatile agricultural land is classed as land in grades 1, 2 and 3a of the Agricultural Land Classification.

5.33. Footnote 62 of the NPPF states where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

5.34. In particular policy CC1 of the Draft Local Plan (2018, as amended) states renewable and low carbon development will only be acceptable where impacts on agriculture are deemed acceptable.

Assessment

5.35. The application site is undeveloped Grade 3 agricultural land and the proposal would see the temporary loss of 3.4 hectares of good to moderate agricultural land. Even once the site is de-commissioned it is not considered the site could be restored back to its original state in the exact same manner and would take a considerable period of time, due to the amount of hard surfacing and planting proposed. Moderate harm is afforded to loss of 3.4 hectares of Grade 3 agricultural land in York. The proposal is in conflict with policy CC1 of the Draft Local Plan (2018) and paragraph 180 (b) of the NPPF (2023).

Flood risk and drainage

Policy

5.36. Policy ENV5 of the Draft Local Plan (2018) emphasises the need for Sustainable Drainage Systems (SuDS) in new development. Existing land drainage systems should not suffer any detriment as a result of development. Landscaping

should be designed to reduce surface water flooding and to enhance local biodiversity. Areas of hardstanding such as driveways and parking areas should be minimised and porous materials used.

5.37. In line with Policy ENV4 of the Draft Local Plan (2018) a site specific flood risk assessment that takes account of future climate change must be submitted with any planning application related to sites in Flood Zone 1 larger than 1ha.

Assessment

5.38. The application is accompanied by a Flood Risk Assessment (revision F, dated 1st July 2024). Site specific infiltration testing failed and therefore connection to the watercourse would be subject to separate consent from the Foss IDB. The drainage strategy shows discharge to watercourse showing a pumped surface water connection to the local watercourse at a restricted rate of 1.93 (one point nine three) litres per second with appropriate attenuation up to and including the 1 in 100-year event with 40% climate change event. The Flood Risk Management Team states this is generally acceptable in principle and recommend conditions in the event of an approval. The Foss IDB have requested the rate should be 1.76 l/sec however the difference between the 1.93 l/sec and the 1.76 l/sec is very minimum and the Flood Risk Management Team are not duly concerned.

5.39. The proposal seeks to install a penstock fitted in the flow control devise manhole so that in the event of a fire the system can be closed to prevent/reduce the risk of adverse contamination of the watercourse which is agreed.

5.40. The drainage strategy proposed is considered acceptable and in the event of approval could be secured by condition.

Highways and access

Policy

5.41. Paragraph 115 of the NPPF states 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. Policy T1 of the Draft Local Plan (2018) requires safe and appropriate access, layout and parking arrangements.

Assessment

5.42. The existing access from Murton Way is to be widened. The Highways Officer confirms a suitable means of traffic management can be implemented to enable the site access to be widened and the vehicles expected to deliver the BESS components to safely gain entry into and egress from the site.

5.43. The Highways Officer raised concerns regarding the bridge limits (in terms of its weighting) however this an environmental restriction which the Developers would have to adhere to regardless, or if it is unsuitable the developers would have to find alternative road access or limit their weighting of their vehicles. This therefore would not be a reason for refusal on highway grounds and would be covered by general construction traffic management to the site. This could be added as a condition in the event of an approval.

5.44. Traffic generation from the proposed use once in operation would be low. Sufficient car parking for maintenance / servicing of the proposed use is available within the site.

Amenity and public protection

Policy

5.45. Paragraph 135 (f) of the NPPF (2023) seeks to ensure planning decisions create places with a high standard of amenity for existing and future users. Policy ENV2 of the Draft Local Plan (2018) states development will not be permitted where future occupiers and existing communities would be subject to significant adverse environmental impacts such as noise, vibration, odour, fumes/emissions, dust and light pollution without effective mitigation measures. This is further supported by part ii of policy CC1 of the Draft Local Plan (2018, as amended).

5.46. Policy ENV3 of the Draft Local Plan (2018) states where there is evidence that a site may be affected by contamination or the proposed use would be particularly vulnerable to the presence of contamination, planning applications must be accompanied by an appropriate contamination assessment.

5.47. Paragraph 032 of the PPG encourages the local planning authority to consult with their local fire and rescue service as part of the formal period of public consultation prior to deciding the planning application. This is to ensure that the fire and rescue service are given the opportunity to provide their views on the application to identify the potential mitigations which could be put in place in the event of an incident, and so these views can be taken into account when determining the application. Local planning authorities are also encouraged to

consider guidance produced by the National Fire Chiefs Council when determining the application.

5.48. Policy CC1 of the Draft Local Plan (2018) states proposals for renewable and low carbon energy storage developments will be supported and encouraged, subject to demonstrating that impacts are acceptable where relevant. Developments should be sited a suitable distance from major residential areas and have suitable fire suppression procedures.

Assessment

Fire Safety

5.49. The Local Planning Authority consulted North Yorkshire Fire and Rescue Service who advised that “The National Fire Chiefs Council (NFCC) publication Grid Scale Battery Energy Storage System Planning BESS Design Guidance (nfcc.org.uk)” should be used as current best practice guidance in the design and installation of Battery Energy Storage System (BESS) sites. Version 1 was published in April 2023. Version 2 was consulted upon in August 2024 and at the point of writing this report was not published. For the purposes of this report version 1 has been used as the basis for assessment.

5.50. The Applicant has submitted a NFCC compliant report detailing how the development is in accordance with the above referenced guidance. However Officers raise the following concerns;

- The Agent states the North Yorkshire Fire Service raise no objection to the scheme (in the additional cover letter submitted 31st October 2024). To confirm and clarify the North Yorkshire Fire Service provided observations only and referenced the BESS Design Guidance. They did not provide a viewpoint on the application.
- The NFCC guidance requires at least 2 separate access points to the site to account for opposite wind conditions/direction. Only one access point is proposed from Murton Way. The applicant argues there are two points of access into the compound, however these are reliant on the one single access point from the public highway. The number of access points would contravene the expert national guidance and is not demonstrated to be safe.
- The NFCC guidance states there should be a minimum of 6m between the BESS Units to prevent further unit to unit spread in the event of a fire. The battery units are arranged in clusters of 8no. and within the groups each unit is located in close proximity to each other. Some are next to each other and at its maximum some are approximately 2.5m. Each group of 8no. is separated by

approximately 5.8m. The guidance suggests where reductions are proposed there must be clear, evidenced based, case for reduction and this should be designed by a competent Fire Engineer. The NFCC compliant report submitted by the applicant states “This separation of 1.5m for LFP BESS is further articulated and supported in the Department of Energy Security and Net Zero guidance document Health and Safety for Electrical Energy Storage Systems [Ref. 9]. The BESS units for the development will be LFP and the distance between BESS units is 6.0m distance between blocks, with the units at a minimum of 3.0m spacing, being orientated such that no vents are opposite each other, providing compliance against the updated FM Global Specification.” This evidence is provided by a Principal Consultant at a Risk Consultancy Firm. The Local Planning Authority are not convinced by this evidence and it is unclear whether the author is a Fire Engineer. The detailed layout of battery containers would contravene the expert national guidance and has not been demonstrated to be safe.

- The NFCC Guidance states turning circles, passing places etc size is to be advised by Fire Risk Service depending on the fleet. The NFCC compliant report submitted by the applicant states they will liaise and consult with the FRS to establish if the arrangements are satisfactory. This has not taken place pre planning application and the Local Planning Authority are therefore not convinced that the turning circles and passing places are safe.

5.51. Whilst it is acknowledged a fire safety plan (covering matters such as detection, suppression, evacuation and monitoring techniques) could be conditioned in the event of an approval, Officers raise concern with regards to the principle layout of the proposal, turning areas, passing places and the access which raise safety concerns, as set out above. The PPG and the North Yorkshire Fire Service are clear that the Grid Scale Battery Energy Storage System Planning BESS Design Guidance should be taken into account when determining applications. In this instance it has not been demonstrated that the development will be made safe from fire hazards in conflict with policy CC1 and ENV2 of the Draft Local Plan (2018, as amended) and paragraph 032 of the Planning Practice Guidance.

Noise

5.52. The application is accompanied by a Noise Impact Assessment (dated 10/10/2023). The assessment demonstrates that nearby residential receptors will not be affected by noise from the facility as the BS4142 assessment provided demonstrates that the noise levels produced are all below background noise levels. In the event of an approval, a 4-metre-high acoustic fence is required (with no gaps and should be of at least 10kg/m² density).

5.53. Concerns are raised in the representations regarding noise and the close proximity to the nearby Travellers site at Outgang Lane. The likely effects and issues arising from the scheme on any groups with protected characteristics, as defined by the Equality Act 2010, should be identified and assessed; this will include impacts on residential amenity and human health resulting from emissions, electromagnetic fields, noise, odour, water pollution and disposal of waste. NSR 5 and 6 in the submitted noise report represent the area of the Travellers site. The existing background noise level in this area (this is the noise level at the quietest time of the measurement period) was 42dB during the day and 40dB at night. The noise level from the battery storage plant is 37dB at these locations and this is below the existing background noise levels, therefore it is unlikely that the noise from the battery storage will be audible above the existing noise levels. There will be no change to the noise levels at the Travellers site and therefore no specific requirements in terms of the caravans. Public Protection raise no concerns with the submitted Noise Report and its contents, but recommend in the event of an approval an acoustic fence is conditioned. Subject to condition, it is to be concluded that the proposal would provide satisfactory living conditions for adjacent residents, with regards to noise and disturbance in line with policy ENV2 and CC1 (part ii) of the Draft Local Plan (2018) and paragraph 135(f) of the NPPF (2023).

Ecology

Policy

5.54. Policy GI2 of the Draft Local Plan (2018) relates to biodiversity and access to nature. Paragraph 186 (d) of the NPPF (2023) seeks to ensure development contributes and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. This application is not required to provide statutory biodiversity net gain given the date of submission (November 2023).

Assessment

5.55. The application is accompanied by an Ecological Impact Assessment, which identifies ecological receptors that require protection throughout the construction phase of the project (e.g. nesting birds and reptiles). In the event of an approval, a Construction Environmental Management Plan could have been conditioned.

5.56. The application is accompanied by a Biodiversity Net Gain report (rev P02). The current landscaping design will see significant gains in habitat (25.56%) and hedgerow (28.26%) units. This is given moderate weight in the overall planning

balance.. To ensure wildlife mitigation, compensation and enhancement measures, including the projected Biodiversity Net Gain (BNG) provisions are managed and maintained, and in the event of an approval a Landscape and Ecological Management Plan could have been conditioned.

Archaeology

Policy

5.57. Policy D6 of the Draft Local Plan (2018) relates to archaeology. Development must not result in harm to the significances of the site or its setting. It should be designed to enhance or better reveal the significances of an archaeological site or will help secure a sustainable future for an archaeological site at risk.

5.58. Where harm to archaeological deposits is unavoidable, detailed mitigation measures must be agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

Assessment

5.59. With regards to archaeology, there have been few archaeological interventions in the vicinity of this site and none within the red line boundary itself. Any surviving archaeological resource will relate to a late prehistoric and Romano-British landscape. To the south, extensive excavations have taken place at the Heslington East University Campus while to the north, a Roman settlement has been identified on the Roman road running towards Stamford Bridge.

5.60. The site does not appear to contain any significant upstanding ridge and furrow. Any surviving archaeology is likely to be shallow in nature and will be destroyed by the proposed development. The physical impacts of the scheme include the creation of the access road, erection of infrastructure and cabling across the site.

5.61. The applicant has confirmed that the access road will require an excavation depth of 500mm. This should remove top and sub soil to reveal any archaeological features which may survive beneath. That the batteries, cabinets, water tank and other structures will be stood on a plinth which will only require shallow scraping to level the ground. The Archaeologist does not believe that this will impact on archaeological levels.

5.62. The cabling will require burial at 0.75-1m below ground level (BGL). The deeper cabling will link the site to the grid and will follow the line of the access road. These works may reveal and potentially remove any archaeological resource in these areas. It has not been clarified how much cabling is required across the main body of the site but it is expected this will be extensive although contained within narrow trenches. This will be difficult to monitor archaeologically and unlikely to produce useful results.

5.63. The archaeological impact of the scheme is relatively low. In terms of a sizeable area to examine following stripping, the access road would be most useful to monitor archaeologically. An archaeological watching brief should be maintained during the stripping of the access road. In the event of an approval, this could be conditioned.

The case for very special circumstances

Policy

5.64. Inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations (paragraph 152 and 153 of the NPPF, 2023).

Assessment

5.65. The following harm has been identified;

- Substantial weight is given to the harm arising from being inappropriate development in the Green Belt, the significant loss of openness of the Green Belt and harm to three of the Green Belt purposes contrary to the NPPF (2023) and policy GB1 of the Draft Local Plan (2018, as amended 2023).
- Significant adverse impact on the landscape character, the land use and the proposed infrastructure of the site, resulting from the loss of a simple arable field, typical for this rural periphery of the city and the introduction of utilitarian industrial structures and hard surfacing. Substantial harm is identified.
- The detailed layout of battery units, turning circles, passing places and number of access points would contravene the expert national guidance and have not been demonstrated to be safe. Substantial harm is identified.
- Moderate harm is afforded to the temporary loss of 3.4 hectares of Grade 3 agricultural land in York.

- Limited harm arising from the reduction in intactness of the Derwent Valley Light Railway. This is a historic and legible feature in the landscape and also reduces its future potential to contribute to an extended linear recreational network.

5.66. The following benefits are identified:

- Substantial weight is given to the storage provision of energy to address UK energy security (which is released back into the network when needed), however only moderate weight is given to the argument that the proposal would store renewable energy. The BESS does not produce renewable energy themselves and it cannot be guaranteed that all energy will be stored here will be from renewable sources.
- Viable and accepted grid connection offer.
- Moderate beneficial impact arising from the proposed landscaping.
- Moderate beneficial impact arising from biodiversity net gain.
- Limited economic benefit (construction would be short term and minimal staff required when in operation).
- Temporary and reversible nature (however this is a limited benefit only as 40 year timescale is still considered a long time for operation and the site is unlikely to be returned to the exact same condition as before).

5.68 Taking the above into account and recognising that it is a matter of planning judgement, it is not considered that these benefits either individually or cumulatively are sufficient to clearly outweigh the harms to the Green Belt and other harms identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Public Sector Equalities Duty

5.67. Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share relevant protected characteristic and persons who do not share it.

5.68. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to the characteristic;
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.69. The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.70. Officers have given due regard to the equality implications of the proposals in making this recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

6.0 CONCLUSION

6.1 To conclude the proposed battery energy storage system would be inappropriate development in the Green Belt. In addition, the development would be significantly harmful to the openness of the Green Belt and conflict would arise with purposes a, b and c of paragraph 143 of the NPPF. Substantial weight is attached to the harm to the Green Belt. The benefits associated with the proposal, set out at paragraph 5.66 above, would be insufficient to clearly outweigh the harms identified at paragraph 5.65 of the report. Consequently the very special circumstances necessary to justify the inappropriate development in the Green Belt do not exist. The proposal is therefore contrary to paragraphs 152-155 of the NPPF (2023) and policy GB1 of Draft Local Plan (2018, as amended 2023).

6.2 The proposed development would have a considerably adverse impact on the landscape character of the site, due to the addition of built forms of an industrial appearance that would be detrimental to the landscape character. The proposal would extend the sense of industry associated with Osbaldwick industrial estate and Osbaldwick substation, into what is currently an arable field that is contiguous with the open countryside surrounding the city of York. The proposed development would be a prominent encroachment into the open countryside and would be viewed as an incongruous feature in the landscape,

in particular in dormant seasons. It would not be sympathetic to local landscape character and is a considerable distance from the existing energy infrastructure to the south. The proposal is therefore contrary to paragraph 135 of the NPPF (2023) and policies CC1, D1 and D2 of the Draft Local Plan (2018, as amended).

- 6.3 The detailed layout of battery containers, turning points, passing places and number of access points would contravene the expert national guidance and have not been demonstrated to be safe. The Planning Practice Guidance and the North Yorkshire Fire Service are clear that the Grid Scale Battery Energy Storage System Planning BESS Design Guidance should be taken into account when determining applications. In this instance it has not been demonstrated that the development will be made safe from fire hazards in conflict with policy CC1 and ENV2 of the Draft Local Plan (2018, as amended), the Grid Scale Battery Energy Storage System Planning BESS Design Guidance and paragraph 032 of the Planning Practice Guidance.
- 6.4 The application site is undeveloped Grade 3 agricultural land and the proposal would see the temporary loss of 3.4 hectares of good to moderate agricultural land. The proposal is in conflict with policy CC1 of the Draft Local Plan (2018) and paragraph 180 (b) of the NPPF (2023).
- 6.5 The application is therefore recommended for refusal on the above four grounds.

7.0 RECOMMENDATION: Refuse

1 The proposed battery energy storage system would be inappropriate development in the Green Belt. The development would be significantly harmful to the openness of the Green Belt and conflict would arise with purposes a, b and c of paragraph 143 of the NPPF of including land within the Green Belt. Substantial weight is attached to the harm to the Green Belt. The benefits associated with the proposal, would be insufficient to clearly outweigh the harms identified. Consequently the very special circumstances necessary to justify the inappropriate development do not exist. The proposal is therefore contrary to paragraphs 152-155 of the NPPF (2023) and policy GB1 of Draft Local Plan (2018, as amended 2023).

2 The proposed development would have a considerably adverse impact on the landscape character of the site, due to the addition of built forms of an industrial appearance that would be detrimental to the landscape character. The proposal would extend the sense of industry associated with Osbaldwick industrial estate and Osbaldwick substation, into what is currently an arable field that is contiguous with the open countryside surrounding the city of York. The proposed development would be a prominent encroachment into the open countryside and would be viewed as an incongruous feature in the landscape, in particular in dormant seasons. It would not be sympathetic to local landscape character and is a considerable distance from the existing energy infrastructure to the south. The proposal is therefore contrary to paragraph 135 of the NPPF (2023) and policies CC1, D1 and D2 of the Draft Local Plan (2018, as amended).

3 The detailed layout of battery containers, turning points, passing places and number of access points would contravene the expert national guidance and has not been demonstrated to be safe. The Planning Practise Guidance and the North Yorkshire Fire Service are clear that the Grid Scale Battery Energy Storage System Planning BESS Design Guidance should be taken into account when determining applications. In this instance it has not been demonstrated that the development will be made safe from fire hazards in conflict with policy CC1 and ENV2 of the Draft Local Plan (2018, as amended), the Grid Scale Battery Energy Storage System Planning BESS Design Guidance and paragraph 032 of the Planning Practise Guidance.

4 The application site is undeveloped Grade 3 agricultural land and the proposal would see the temporary loss of 3.4 hectares of good to moderate agricultural land. The proposal is in conflict with policy CC1 of the Draft Local Plan (2018) and paragraph 180 (b) of the NPPF (2023).

8.0 INFORMATIVES: Notes to Applicant

1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

- Advised of the recommendation and accepted amendments (however they did not overcome all of the refusal reasons).

Notwithstanding the above, it was not possible to achieve a positive outcome,

resulting in planning permission being refused for the reasons stated.

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