

SITE PLAN ATTACHED

**LAND REAR OF ELECTRICITY TRANSFORMER STATION WASH ROAD
MOUNTNESSING ESSEX**

**INSTALLATION OF A 49.9MW BATTERY ENERGY STORAGE SYSTEM AND
ASSOCIATED INFRASTRUCTURE**

APPLICATION NO: 20/01800/FUL

WARD	Ingatestone, Fryerning & Mountnessing	8/13 WEEK DATE	16 March 2021
PARISH	Mountnessing	Extension of time	tbc
CASE OFFICER	Mr Mike Ovenden		
Drawing no(s) relevant to this decision:	M002239-02 REV A; M002239-07 REV C; M002239 06 REV E; M002239-09 REV B; M002239 01 PL REV R;		

This application is reported to committee as it relates to development of land owned by the Brentwood Borough Council.

1. Proposals

This application relates to the installation of a 49.9MW battery energy storage system and associated infrastructure. Access to the site would be achieved direct from Wash Road, via the existing access to the substation site, it would then run along the northern boundary with the main body of the site to the rear (east) of the substation. The overall site area is 2.18 hectares, with the area proposed for the two battery compounds and the substation compounds being 4900 sqm (0.49 hectares) plus a temporary construction compound of 1880sqm. The northern battery compound and the substation compounds would be separated by the line of existing overhead lines from the southern battery compound by a gap of 13 m widening at the west end.

The site currently forms part of the Hutton Country Park which covers an area of 36 hectares. Of this approximately 11 hectares is to the north of the railway line, with the remainder to the south. The site to the north of the application site is open land, with the River Wid and Hunts Farm beyond, to the east by open land, to the south is the Shenfield to Billericay railway line section, to the west by Shenfield Electrical Substation with Wash Road beyond. There are no formal public rights of way on the application site

shown on the definitive highway map, though currently the site is open allowing people to roam.

The development proposes:

- 28 steel containers, each approximately 12.2m long, 2.44m wide, and 3.3m in height (including foundations) from ground level; dark green in colour
- The containers would be arranged in two lines of 14 units, each group contained by 2.1 m high fencing
- A steel transformer would be located between each container (28 in total), 2.59m in height from ground level, and as such do not exceed the height of the containers;
- Three Power Conversion System (PCS) cabinets would be sited next to each container (1.3m long, 1.5 wide, 2.6m tall on foundations);
- it is proposed to erect a 3m high acoustic fence immediately to the north of each of the two rows of containers
- Two 'customer substations' measuring 6m in length, 2m in width and 2.8m in height from ground level;
- A 132kV substation compound with ancillary Distribution Network Operator (DNO) substation structure approx. 3.95 high coloured green.
- The site area of the 132kV substation compound is approx 725sqm and adjacent to that would be DNO structure. The DNO Substation control room building would be 13m in length, 5m in width and 3.95m in height. The apparatus at the 132kV substation would be enclosed by palisade fencing between 1.8m and 2.4m in height, with the apparatus measuring between 3.43 and 5.54m.
- At the east end would be a 1275sqm attenuation pond

A security system using infra red sensors on 1200mm posts would be within the perimeter fencing and would not involve artificial light, noise or CCTV.

A landscaping strategy includes the planting of trees, hedges and wildflower mix, the creation of additional scrubland, and ecological improvements to the pond. The Energy Storage System (ESS) would be painted to reduce its effect on its surroundings, with the equipment being predominantly painted dark green.

Permission is sought for 40 years, after which all the equipment would be removed from the site and the ground made good.

2. Policy Context

Brentwood Replacement Local Plan 2005

- Policy CP1 General Development Criteria
- Policy GB1 New Development
- Policy GB2 Development Criteria
- Policy T2 New Development and Highway Considerations

- Policy LT1 Strategic Public Open Space
- Policy C3 County Wildlife Sites, Local Nature Reserves and Other Habitats and Natural Features of Local Value
- Policy C5 Retention and Provision of Landscaping and Natural Features in Development
- Policy IR3 Protecting the Best and Most Versatile Agricultural Land
- Policy IR6 Renewable Energy Schemes

Emerging Local Development Plan (LDP) to 2033:

The Brentwood Replacement Local Plan 2005 remains the Development Plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF). Due weight should be given to them, according to their degree of consistency with the NPPF - the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.

The emerging Local Development Plan went through Pre-Submission (Publication Draft) Stage (Regulation 19) consultation early in 2019 with a further focused consultation, following revisions to the detailed wording of some of the proposed housing allocations, later in the year. The plan was submitted to the Planning Inspectorate in February 2020. The Examination in Public hearing sessions opened in December 2020, concentrating on strategic matters, with hearings on more detailed matters held in February and March 2021, as set out in draft timetabling by the Secretary of State. The Inspector has asked for more information on some issues with further hearing sessions expected to take place in July 2021. Provided the Inspector finds the plan to be sound, it is projected that it could be adopted by the Council towards the end of 2021.

As the emerging plan advances and objections become resolved, more weight can be applied to the policies within it. At this stage there are outstanding objections to be resolved, nevertheless, the Plan provides a good indication of the direction of travel in terms of aspirations for growth in the Borough and where development is likely to come forward through draft housing and employment allocations. While the examination is a further step in progress towards adoption, because the plan has yet to complete its progress through the Examination in Public it is still considered that it currently has limited weight in the decision making process.

National Policy

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

3. Relevant History

None on site.

- Electricity Transformer station on adjacent land dating from 1958.
- 17/01477/FUL Permission for Installation of a battery storage facility with associated works and buildings and create new vehicular access on land to west of Wash Road

4. Representations received

- Surprised that an environmental Assessment and a safety risk assessment were not submitted with the application
- The application makes no mention of the actual type of Battery system
- Concerns raised with regard to pollution, explosion
- Object; does not comply with current or emerging planning policy
- 'Very Special Circumstances' are overstated and do not outweigh the partial loss of a local nature reserve, open space or wildlife habitat
- Applicant is not proposing additional land as compensation merely some planting, bat and bird boxes
- Will result in creep of industrialisation and green belt erosion
- When the borough Council bought the land in 1992 when establishing the country park, it was said it would protect it from industrial development
- If the Council is now proposing to sell the land it should publish its rationale and fully disclose its commercial interest
- Does this affect the Agreement made with the landowner (Tarmac) that if any planning application is granted on Hutton Country Park the Agreement with Tarmac would be cancelled and the land would immediately revert to Tarmac? If it does I would strongly object.
- I understood the land to be protected from development by way of a covenant.
- I understand the requirement for energy storage but this is not the appropriate site
- This is a public park and it should stay that way
- Preferable to put it on industrial or agricultural land
- It is a well used and loved local facility and a wildlife habitat.
- Accessibility to this local natural environment/asset has been invaluable to residents' mental health and well being particularly during the ongoing periods of prolonged lockdown/restrictions due to Covid restrictions.
- The proposed development will substantially change this natural environment.
- Concerned about the safety of such a site directly adjacent to the railway line and on public land.
- Land is in Flood zone 3 "an area with a high probability of flooding", which is blindingly obvious if you happen to be on Wash Road after a heavy rainfall event.
- I would suggest that placing a 132kV Substation and twenty eight LV transformers in a flood zone is a very bad idea
- Will it lead to other similar developments elsewhere?
- Construction will disturb wildlife, cause traffic problems and make the potentially dangerous junction worse.
- Comments about limited publication and timing of the application

- Natural England is a statutory consultee
- Brentwood Borough Council should consider whether the proposal will compromise the management of all or part of the LNR for its conservation purpose. If the Council decides that this development will compromise its management for the conservation purpose, the Council should advise that this development is located elsewhere if at all possible.
- Efforts should be made to conserve green space for future generations especially within a country park and which is home to the local ponies.
- On 14 January 2020 the council's Environment, Housing and Enforcement
- Committee approved a plan to plant woodland on the country park, including the area in this planning application. They planned a public consultation to take place at Hutton Community Centre in March but it was stopped by the COVID lockdown. Anesco says it's been working with the council since June 2018- and we know that a lease has been prepared for the land to be disposed of-so, did councillors know about this proposal when they planned to consult the public on tree planting? Would the public have been innocently misled into thinking we would get trees instead of industry? How deep is the council's interest in this scheme? Will all this be discussed openly at Planning Committee?

5. Consultation Responses

- **ECC SUDS (Lead Local Flood Authority/LLFA):**

The original consultation response was to issue a holding objection to the granting of planning permission. Having reviewed the Flood Risk Assessment and the associated documents, the no longer objections subject to four conditions:

1. Submission of a detailed surface water drainage scheme for the site
2. Scheme to minimise off site flooding during construction
3. Submission of detailed maintenance plan
4. Recording of yearly maintenance logs post development

- **Essex Badger Protection Group:**

Important that a proper badger survey is undertaken prior to any works taking place, including site clearance work.

- **Assets Manager (Brentwood Borough Council):**

We are aware of this application having agreed the deal for the initial option Agreement and lease after, subject to the necessary consents being obtained

- **Parish Council:**

Mountnessing Village Council does not object to this application but would ask that full risk assessments are carried out to ensure that flooding issues in this locality are not exacerbated by this new construction.

- **Highway Authority:**

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal will utilise the existing vehicle access, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following condition:

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. Suitable construction vehicle routes for all construction vehicles, to be agreed with the Highway Authority.
- ii. the parking of vehicles of site operatives and visitors
- iii. loading and unloading of plant and materials
- iv. storage of plant and materials used in constructing the development
- v. wheel and underbody washing facilities

Reason: To ensure that the construction traffic is managed and to ensure that on street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

- **Environment Agency:**

Initial holding objection.

Following discussions between the EA and the applicant, a revised proposal has been submitted (drawing M002239 01 PL REV R) which is acceptable to the EA and consequently the objection has been removed.

- **Natural England:** No comments to make on this application.
- **Environmental Health & Enforcement Manager:** None received
- **Essex Wildlife Trust:** None received
- **Bats - Mrs S Jiggins:** None received
- **Network Rail:** No objection in principle - informatives provided.

- **Arboriculturalist:**

The site is part of Hutton Country Park and is within the designated Local Nature Reserve and Local Wildlife Site. There is public access to this part of the site via an underpass under the railway. The Design and Access Statement describes the site as comprising 'agricultural land that is currently in arable use'. The area however comprises pasture which is part of the country park.

While stating that there are no public rights of way through this part of the site it does not address the existing public access to this part of the country park. Other than one mention of the underpass under the railway being retained (paragraph 2.4.4) no other acknowledgement is made of the existing public access to this area and how it will be affected by the scheme.

The landscape plan contained within the ecology assessment refers to enhanced pedestrian links through this part of the site; however no details are provided about what measures this would entail. It is assumed that other than the fenced off containers the rest of the area will still retain public access. The landscape plan differs from the block plan in that it does not show the attenuation pond and swale. How this element is designed is important for minimising the effects on public access and maximising ecological benefits. The size and position of the proposed containers and fencing means that they will not be visible from south of the railway or from Wash Road and therefore the scheme would not have significant visual effects. A detailed ecological assessment has been undertaken. The majority of the site is neutral grassland, which is typically not species-rich. Heavy horse grazing was restricting the value of the grassland further. It concluded that the scheme would result in the permanent loss of 0.675ha of grassland and the removal of sections of hedge and scrub. While the effects on hedges and ponds will be fully mitigated the opportunities to enhance the grassland is more limited.

Consideration should also be given to what other measures can be adopted to enhance the grassland within the country park, e.g. by introducing yellow rattle or managing the horse grazing. It is unfortunate that the scheme will result in the loss of part of a Local Wildlife Site and Country Park and introduce additional electricity infrastructure into the green belt; however it is accepted that the adverse landscape and ecological effects will be limited and confined to part of the site which is less well-used and screened from wider viewpoints.

6. Summary of Issues

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Replacement Local Plan 2005. Planning legislation states that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the National Planning Policy Framework 2019 (NPPF) and National Planning Practice Guidance (NPPG). Although individual policies in the

Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 2 above.

Green Belt

The site is in the greenbelt which washes over the locality. This is shown on the map that accompanies the local plan. There is no proposal to remove the site from the greenbelt in the emerging LDP. The government attaches great importance to the greenbelt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Greenbelt is a spatial designation not a qualitative one, therefore the requirement to protect the greenbelt and its openness applies equally to attractive and less attractive areas of greenbelt. Policies GB1 and GB2 aim to control development in the green belt but support a limited range of development, subject to being appropriate to the green belt and protecting its openness. These policies are broadly consistent with the NPPF, but where there is a difference between it and the development plan, the NPPF, which is newer than the development plan, takes preference. The later document is a more up to date and concise statement of greenbelt policy.

The batteries are considered to represent “buildings” as defined in the Planning Act. The NPPF (para 145) advises that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt, subject to seven exceptions. The proposal does not meet any of the stated exceptions and is ‘inappropriate development’ in the green belt.

Furthermore, paragraph 147 confirms that “*When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources*”. Therefore, there is no debate in this case – the proposal is inappropriate development in the green belt.

When considering inappropriate development the NPPF directs the following:

“143. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

*144. 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.**”*

This is accepted by the applicant. The applicants case rests on whether very there are

special circumstances (VSC) to the required threshold. This is assessed later in the report. Before that other planning matters are considered.

Renewable energy and climate change

Policy IR6 *Renewable Energy Schemes* is supportive of proposals relating to renewable energy. While this application isn't directly related to renewable energy – its batteries would be filled with electrical energy from the grid irrespective of source – this type of installation is generally considered to support the growth of renewable energy and enable a greater level of reliance on low carbon generation as it broadens the time during which such energy can be utilised and overall helps the move away from high carbon sources of energy generation. In summary, it allows the storage of excess energy from the grid during times of surplus generation and its release back into the grid at times of higher demand and lower generation – for example in the evening.

Paragraph 148 (Meeting the challenge of climate change) of the NPPF states:

148. The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

To explain the proposal, the following is an extract from the applicants Planning Statement:

“1.11 Energy Storage is an advanced green technology which has the ability to store and release energy into the grid when required. Energy Storage Systems ('ESS') do not produce any emissions during operation and therefore help contribute towards the binding climate change and emissions targets the UK has committed to under the Climate Change Act 2008. The benefits of large and small scale ESS on the National Grid are being proven to reduce stress on the network and improve efficiency. Large scale storage systems have a complicated interaction with the grid which enables the balancing and redistribution of power, minimising electrical waste in the system.

1.12 There is a disparity between the key times in the daily cycle of energy consumption, and potential energy production from renewable sources such as wind and solar. The significant benefit ESS provides is the ability to redistribute this energy from when it is generated to when it is needed. There are times when the energy system can be charged using excess energy from the grid produced from high wind or solar energy production when, previously, this energy would have gone to waste. Instead, this energy can be stored in the ESS and then discharged to the grid during times when the renewable energy generation does

not meet demand. Being able to discharge this energy when needed reduces the need for other carbon intensive generators to fire up, thereby saving further significant CO2 emissions.

1.13 Unlike large coal or gas power stations, ESS generators have the ability to discharge energy immediately when required by National Grid. This means they are an extremely powerful grid balancing tool that can provide fast frequency response. The grid has to be maintained in a constant state of readiness which is able to respond, for example, to an energy intensive industry switching on or off unexpectedly. Not keeping the grid in this balance would lead to power surges or temporary blackouts. ESS has the ability to rapidly discharge to the grid or to absorb power for redistribution later, thereby helping to keep the grid in balance. This reduces energy waste and improves efficiency.

1.14 Sustainability is at the core of these developments and, as such, it is important to note that at the end of the operational lifecycle of the ESS the units are recyclable. The batteries in the containers are based on established technology which is already fully recycled. Increasingly there are examples of large scale energy storage being repurposed for smaller household demands, extending their life and extending their benefits.”

The applicant considers the proposal to be sustainable development, with economic, social and environmental objectives.

The proposed development would be sited close to an existing substation as the distribution of electricity is most efficient when close to the point of generation. In addition, there is sufficient capacity for the injection of the energy into the grid at the substation with minimal cable works and disruption.

Policy IR6 *Renewable Energy Schemes* says proposals for renewable energy schemes will be permitted provided there is no unacceptable detrimental impact on:

- (i) Health, the environment or amenity by reason of pollution, odour and noise;*
- (ii) Visual amenity or the character and appearance of the surrounding area;*
- (iii) The local highway network including the convenience and safety of road users;*
- (iv) Telecommunications Networks, Radar Installations and Flight Paths For Aircraft;*
- (iv) Statutorily Protected Nature Conservation Sites, Landscape Character, Historic Settlements, or Buildings/Areas of Architectural, Historic or Archaeological Importance.*

Where appropriate, any schemes will need to comply with policies GB1 and GB2, i.e. green belt policies.

With regard to items (i), (iii) and (iv) no evidence has been provided to indicate the proposal fails in that regard. Character and nature conservation is addressed below. No

representation has been made with regard to archaeology and matters of greenbelt are addressed elsewhere in this report.

Character, appearance and residential amenity

Policy CP1 is supportive of development proposals provided they protect the character and appearance of the surrounding area, protect the amenities of neighbours, are of a high standard of design, take account of the need to conserve or enhance biodiversity, have satisfactory access and parking and can be accommodated by local highway infrastructure.

Part of the character of the area comes from its situation within the greenbelt but as indicated above it is inappropriate development in the greenbelt. Due to its distance from dwellings, it would not result in overlooking or loss of sun light or daylight. The development has satisfactory access and parking and can be accommodated by local highway infrastructure. Those aspects of the proposal would not be contrary to Policy CP1 and the highway and parking matters not contrary to policies T2 or T5.

Officers have tried without success to see if it were possible to negotiate a different form of proposal, in alternative locations, and more compact layouts but that has not been possible. Policy CP1 in this context is primarily about character of the area and visual amenity which are related to the impact of the proposal on the character and openness of the greenbelt. The proposed site is screened from longer views, partly by the railway embankment, partly by existing hedges. However, visually this proposal would impose itself on the currently open land north of the railway and detract from its character.

The application is accompanied by a noise assessment. The closest residential property is approximately 300m from the site, with the more densely populated area of Hutton over 500m away (e.g. Mount Pleasant to Goodwood Avenues). The nearest existing Noise Sensitive Receptors (NSRs) are dwellings located at Hunts Farm, approximately 250m to the north. Due to the distance from the closest receptors, it is not anticipated that there would be any noise impacts resulting from the development, particularly when taking the existing Shenfield Grid and Railway line into consideration, though the character of noise from the railway is sporadic.

Flood risk

The Development Plan policies relating to flood risk were not saved beyond 2008 as national policies on flood risk and surface water run off were considered to be sufficient to not require a repetition in policy. The Environment Agency has been consulted on the application as have the local Lead Flood Authority (Essex County Council). The Environment Agency and the LLFA both initially issued holding objections, the latter has been withdrawn subject to conditions. The EA has also withdrawn its holding objection, based on a revised position of the equipment into flood zone 1 – the area shown to be at the lowest risk from flooding from rivers.

Landscape, ecology and amenity

From representations, the country park is evidently well loved and the Leisure, Arts and Communities pages on the Council's website refers to its history, character and qualities. It recognises that it is a valued resource used for walks, nature watching and dog walking. It also lists plants and animals that may be seen on the site.

The definitive Essex County Council highways map shows no public rights of way over or adjacent to the site. However, as a local authority managed country park it is available and used for public enjoyment. This includes a pedestrian route under the railway embankment and around the application site. Representations refer to have its availability has been particularly valued during the coronavirus period.

Policy LT1 *Strategic Public Open Space* identifies that specific areas of open space, specifically including Hutton Country Park, shall be managed and improved to provide greater public access and further opportunities for informal recreation. The proposal would reduce the area accessible by the public, degrading the appearance of the site and the enjoyment of adjacent land and contains no proposal for further opportunities for public informal recreation. The proposal is therefore contrary to Policy LT1.

Policy C3 states that development, that would have an unacceptable detrimental impact, directly or indirectly, on a site including a local nature reserve will not be permitted unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard. Suitable mitigation would be required in all cases. Policy C5 relates to the retention and protect of natural features. The proposal indicates that mitigation is proposed and these details could be required by condition.

The landscape plan contained within the ecology assessment refers to enhanced pedestrian links through this part of the site but provides little detail on proposed enhanced pedestrian links. Other than the fenced off compounds the rest of the area would still retain public access, though the development would detract from the setting of those routes. The landscape plan differs from the block plan in that it does not show the attenuation pond and swale. How this element is designed is important for minimising the effects on public access and maximising ecological benefits. The size and position of the proposed containers and fencing means that they will not be visible from south of the railway or from Wash Road and therefore the scheme would not have significant visual effects from that area.

The applicant considers the site not to be constrained on ecological grounds subject to the provision of suitable mitigation. The majority of the site is neutral grassland, which is typically not species-rich and cattle grazing has further restricted its value. It concluded that the scheme would result in the permanent loss of 0.675ha of grassland and the removal of sections of hedge and scrub. While the effects on hedges and ponds will be fully mitigated the opportunities to enhance the grassland is more limited.

Mitigation is proposed to improve the quality of the habitat, including species-rich wildflower grassland proposed within the compound, with further seeding in the area proposed as a temporary construction compound. Bird and bat boxes are proposed, as well as a new area of scrub proposed to the west of the substation. Further to that, enhancements are proposed to the existing pond, through scrub removal and replacement planting, and further pond creation is proposed north of the site.

Consideration should also be given to what other measures can be adopted to enhance the grassland within the country park, e.g. by introducing yellow rattle or managing the horse grazing. The scheme would result in the loss of part of a Local Wildlife Site and Country Park and introduce additional electricity infrastructure into the green belt.

The applicant considers that the proposed habitat enrichments would provide an overall enhancement to the Country Park. The landscape officer advises that this is not clear as the submission stands and would need to be addressed by appropriate planning conditions. Natural England, local wildlife trust and other wildlife groups have been notified of the application but offer few comments.

Transport and parking

The application is accompanied by a transport statement which includes an assessment of crash data revealing no clusters of accidents or accidents with common causation factors, that would indicate a deficiency in the highway; the construction period of 20 weeks; the route for HGV construction vehicles – over a two day average of 3 HGV movements - via the nearby junction 12 of the A12 and a negligible traffic flow once the site is operational. This type of development requires minimal management and maintenance once operational, with approximately 1-2 visits per month and as such are very non-intensive in terms of vehicular movements. The highways authority raises no objections subject to a condition requiring a Construction Management Plan.

Other matters

Policy IR3 relates to the protection of the best and most versatile agricultural land. The site appears to be classified as Class 3, but is not in agricultural use and the proposed development is reversible. On that basis there are no objections raised on this ground.

Some representations relate to comments attributed to the Council over the years about how it intended to manage the site, how this proposal contradicts those comments, the Council's commercial interests in this application as landowner and whether there are covenants on the site limiting its use or development potential. These are not planning matters. Representations query the safety aspects of the proposal, for example adjacent to the railway. Network rail has been consulted and raises no objections in principle.

Assessment of Very Special Circumstances

The proposal is - as agreed by the applicant - inappropriate development. Therefore, the acceptability of the proposal is wholly reliant on very special circumstances meeting the threshold set out in paragraph 144 above i.e. that ***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.***

The applicant has miss-stated the test in the NPPF relating to inappropriate development by stating “The level of harm is clearly limited and does not significantly and demonstrably outweigh the benefits that will arise from the development.” This turns round the test in the NPPF. The test is highlighted in bold in the above paragraph. In other words, the development is inappropriate development, as all parties are agreed. The development does not need to be demonstrated to be harmful as that is already made clear in the NPPF which states inappropriate development is by definition harmful (paragraph 143). The development on the other hand needs to demonstrate very special circumstances that clearly outweigh the harm to the green belt and all other harm. The last sentence is particularly worthy of note. Even were there to be very special circumstances they would need to *clearly outweigh* the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, which is a much higher threshold than an ‘on balance’ judgement.

Due to its scale, it would have a significant effect on the openness of the green belt. It is on land the public currently has access to but would be denied, though would remain in public view at close quarters from land that would remain accessible to walkers etc. The proposal would result in three fenced compounds containing utilitarian plant and equipment that would in effect spread development from the existing substation, with gaps, across to the east. While not permanent, the temporary period would be for the projected operational life of 40 years, a length of time which the term ‘temporary’ has limited meaning to those visiting the site or visiting the locality. It is the second such development in the locality (opposite side of Wash Road, adjacent to the industrial estate) and would be the third site dealing with the energy gap between renewable generation and demand for electricity (i.e. the Sewage Treatment Works at Mountnessing). These other permissions indicate that the local planning authority is making a contribution to dealing with developments that are related to addressing the delivery of power in the context of climate change.

To weigh against that harm the applicant has identified the following matters as very special circumstances, not already covered above:

- Its contribution to helping meet the demands of addressing climate change is in its favour and suitable alternative sites having grid connections may not be common.
- Difficulty in providing the facility in a built up area, which leads to rural locations which in boroughs like Brentwood leads to green belt locations.
- Existing features, e.g. the railway line, the River Wid limit siting choices and other locations maybe be more visible.

The applicant also comments that sites can only be developed where there is a willing land owner and where there are no construction hazards. These appear true but do not amount to very special circumstances. Likewise, the ecological benefits are not clear but could be achieved through planning conditions requiring submission of details and subsequent implementation. Improvements to ecology are becoming common requirements in planning decisions and while this would be a positive aspect of the scheme but is not a very special circumstance.

Having considered the information provided by the application the necessary 'out weighing' of the harm to the green belt and all other harm has not been achieved. On that basis the proposal is recommended for refusal.

If the committee reaches the view that the proposal does meet the test of very special circumstances *clearly outweighing the harm to the green belt and all other harm*, and consider resolving to grant planning permission, it will need to consider whether to grant permission subject to conditions and if so what those conditions would be, before proceeding to the vote.

The Secretary of State for Housing, Communities and Local Government

If the committee resolves to refuse the application, the decision may be issued as for any other application.

However, if the committee resolves to grant planning permission for the development, then, prior to issuing a decision, this local planning authority must notify the Secretary of State of the intention to grant permission, in accordance with the requirements of The Town and Country Planning (Consultation) (England) Direction 2009.

The Direction defines this form of development as "Green Belt development" which consists of or includes inappropriate development on land allocated as Green Belt in an adopted local plan and which consists of or includes development that exceeds the following thresholds:

- (a) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.

The view expressed in this report is that the proposal would have a significant impact on the openness of the greenbelt, irrespective of any justification. Therefore, notification of the Secretary of State would be required.

The Direction specifies the information that must be sent to the Secretary of State including a statement of the material considerations which the authority considers

indicate the application should be determined otherwise than in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004 (i.e. the requirement to determine the application in accordance with the adopted Development Plan). Given the recommendation of refusal the report to committee does not contain such a statement. If the committee were to come to the view that the planning merits of the case justify the grant of planning permission its reasons should be recorded when making its resolution, as advised above, and this record would act as the statement on behalf of the local planning authority and sent to the Secretary of State as part of the notification.

The purpose of the Direction is to give the Secretary of State, by his power of “call-in”, the opportunity to make his own determination under S.77 of the Town and Country Planning Act 1990. The direction to notify the Secretary of State operates on the basis of intervention/non-intervention rather than approval/refusal. The Secretary of State’s presumption is not to intervene and leave matters to be determined locally.

The local planning authority cannot grant planning permission on the application until the expiry of a period of 21 days beginning with the date which the Secretary of State tells the authority in writing is the date he received the required documentation unless the Secretary of State has notified the authority that he does not intend to issue a direction under section 77 of the Town and Country Planning Act 1990 (i.e. that the Secretary of State will determine the application) in respect of the application, in which case the authority may proceed to determine the application, or directs that he requires additional time.

Finally, if the Secretary of State allows the determination of this local planning authority to stand then it will issue the decision notice subject to appropriate planning conditions.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U0040314 Inappropriate development in MGB

The proposal is unacceptable because it would result in development in the greenbelt outside any exception listed in the National Planning Policy Framework. The proposal therefore represents inappropriate development in the greenbelt which the Framework states is by definition harmful. The applicant has not demonstrated that the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by very special circumstances. The proposal is therefore contrary to Policies CP1, GB1 and GB2 of the Brentwood Replacement Local Plan 2005 and Chapter 13 of the National Planning Policy Framework.

R2 U0040326 - Detract from Hutton Country Park

The proposed development would detract from the character of the area, not protect this area of strategic public open space or allow it to be managed and improved to provide

for greater public access and further opportunities for informal recreation. Therefore, the proposal is contrary to policies CP1 and LT1 of the Brentwood Replacement Local Plan 2005.

Informative(s)

1 INF05 Policies

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, GB1, GB2, T2, LT1, C3, C5, IR3, IR6, National Planning Policy Framework (NPPF) 2019 and NPPG 2014.

2 INF20 Drawing Numbers (Refusal)

The drawing numbers listed above are relevant to this decision

3 INF23 Refused No Way Forward

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and clearly identifying within the grounds of refusal either the defective principle of development or the significant and demonstrable harm it would cause. The issues identified are so fundamental to the proposal that based on the information submitted with the application, the Local Planning Authority do not consider a negotiable position is possible at this time.

BACKGROUND DOCUMENTS

DECIDED: