

## **Planning Committee**

**17 January 2025**

**Reference:** 2023/1294/01/DET

**Proposal:** Erection of battery storage system, associated development and infrastructure (including landscaping and access)

**Location:** Land to the South of Former Glassworks, Northumberland Road, Lemington, Newcastle Upon Tyne, NE15 8SX

**Applicant:** Balance Power Projects Limited

**Report by:** Assistant Director Planning

**Ward Implications:** Lemington

**Development Management Area:** SLR

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## **Introduction**

1. This planning application relates to a proposal for a Battery Energy Storage System (BESS), which is proposed to be in situ for a 40-year period. The proposal includes associated infrastructure, earthworks, landscaping, and main access, on land adjacent to the north of Newburn Haugh Industrial Estate.
2. Members of the Planning Committee will recall that they carried out a site visit on 13 September 2024.

## **Site Description**

3. The 1.17 hectare site is located to the north-east of Riversdale Way and the Newburn Haugh Industrial Estate and is undeveloped scrub and grassland, though it has previously been developed and formed part of the Tyne Ironworks. The application site is not an allocated site in the Local Plan, although the southern part of this application site was subject to a previous planning approval in (2020/0045/01/DET) for a gas-powered standby generation facility.
4. The site lies adjacent to a number of industrial and commercial uses accessed via an unnamed road from the A6085 Northumberland Road. To the south and west is land operated by the MGL Group for a range of for the production of aggregates and its associated offices. There is a larger range of industrial and commercial uses within

the Newburn Riverside Industrial Estate further to the south. Further to the north-west is the Newburn Haugh Industrial Estate. Also to the north-west is the recently completed Glassworks business units.

5. The application site is designated both as the City West Wildlife Enhancement Corridor and as part of the Strategic Green Infrastructure Network (River Tyne Corridor). The Lemington Gut Local Wildlife Site (LWS) is immediately to the east of the site. The site and its immediate surroundings are relatively flat, dropping away sharply towards the Gut and to the MGL mortar plant.
6. The route to the development would be via an existing access road off the A6085 Northumberland Road to the north, traversing through an existing site currently being used for vehicle storage and repair, and as a timber yard.
7. There are two designated heritage assets in the vicinity; to the north of the site is the Grade II\* Listed Lemington Cone, which dates from 1787 and was part of the former Northumberland Glass Company glassworks; the Grade II listed Former Iron Works Manager's House, built circa 1830 for Spencers' Iron Works, located to south-east of the application site. In addition, the Tyne Iron Works Locally Listed buildings are also situated to the north-east of the application site.

## **Proposal**

8. The proposed battery storage facility comprises of 28 No. prefabricated / modular storage container units (9.7 metres by 1.7 metres, and 3 metres in height) including batteries supported by 14 No. transformers. Supporting infrastructure includes a 132kV substation, private substation, control room, Distribution Network Operator (DNO) room, auxiliary transformers and a storage building covering 217 square metres. The structures and buildings would be 4-metre maximum in height.
9. The development compound would be enclosed by fencing (including a dark green 4m high acoustic fence), matching gates and incorporate closed-circuit television, and a landscaping scheme. A secondary access/egress point (for emergency use only) would be provided to the south of the site which would utilise an existing road within the MGL aggregates site linking on to Riversdale Way. The development also includes a scheme for management of surface water drainage. Landscaping is proposed along the southern, western and northern boundaries, and the application also includes a scheme of off-site habitat creation works to achieve a Biodiversity Net Gain.
10. The Design & Access Statement supporting the application provides an explanation of how the battery storage unit would operate. The BESS would connect to the National Grid at Newburn Haugh Primary Substation, located approximately 500 metres to the south-west. BESS plants enable electricity from the grid to be imported and stored at times of low demand / high generation, which can then be exported back into the grid at times of higher demand / system stress.
11. A BESS is referred to by the National Grid as a 'balancing service' that will assist the operation of the grid in balancing electrical capacity at times of system stress. BESSs are able to provide flexible backup power to the grid at very short notice and respond rapidly to the short-term variations that are related to local and national energy demand and fluctuations in the output from renewable energy sources. The principal role of a BESS is thus to contribute towards ensuring that there is a reliable and constant supply of electricity across the transmission network.

12. The applicant's supporting Design & Access Statement estimates that the proposed development would provide Grid stability for circa 112,350 houses, saving approximately 6,950 tonnes of carbon per annum, during the operational phase of the development.
13. The full period of construction is anticipated to take up to 52 weeks, with 5.5 construction days per week. The BESS facility would be unmanned during its operational phase, requiring only periodic site maintenance.

## **Relevant Planning History**

14. The following applications are considered to be relevant to the assessment of this application:

### **Application Site**

2020/0045/01/DET - Erection of a synchronous gas-powered standby generation facility (maximum 7MW export capacity), ancillary infrastructure, equipment, access and 2.4m high boundary fence and gates. Approved with conditions, June 2021.

### **Other Relevant Sites**

2020/1520/01/OUT - Outline planning application for development of up to 900 residential dwellings, (Use Class C3) land for a primary school (Use Class F.1), 1,100 sqm of local community and health facilities (Use Classes E/F.2) of which less than 500 sqm would be retail and leisure provision, associated access roads, landscaping, public realm, open space and infrastructure works. All outline matters reserved except for points of access (on land to the south/south-west of the application site). Live application, yet to be determined.

## **Consultation and Publicity**

15. The application has been advertised by means of a press and site notice as a major development.
16. Three objections have been received on behalf of the adjoining landowner (MGL Demolition). The main points raised are:
  - Argues that the application is lacking information vital to assess this scheme;
  - States that the application site boundary appears to stray into MGL's land;
  - Whilst acknowledging it is not necessarily material to planning, MGL also appear to benefit from an easement along the shared boundary with the application site to allow free passage with our without vehicles, which is proposed to be fenced off/blocked up by a section of the BESS development;
  - Suggests that the ownership certificates/requisite notices on the application form may therefore have been filled out incorrectly;
  - Raises concerns regarding the suitability of the emergency access;
  - Questions the detail around the ecology appraisal and arboricultural survey and the lack of assessment around noise and its impact upon protected species in the

nearby Local Wildlife Site. and possible encroachment of the development onto the Lemington Gut LWS.

- Raises concerns about battery safety;
- Suggest that industrial/brownfield sites can be problematic for BESS. While attractive given the reduced environmental planning concerns (compared to greenfield sites), from a safety perspective, consideration should be given to the nature of surrounding sites and increased risk of hazards;
- Notes that the site is located within a heavily industrialised setting, with industrial processes occurring within the immediate vicinity, and transportation, storage, and management of raw materials. States that battery storage would occur within 12.3 and 15.8 metres of operational development (boundary treatments on the MGL site), and suggests that a greater distance (25 metres) should be provided, referring to NFCC guidance;
- Notes guidance from the National Fire Chiefs Council which provides recommendations for BESS developers to ensure the risk of fire is minimised;
- While two separate access points are shown on the plans, reservations are held regarding the suitability of the emergency access route, as it does not connect into an existing suitability surfaced road, crosses a section of unregistered land, experiences significant changes in levels, and the adopted highway is 170 metres away;
- States that roads should have passing places suitable for fire vehicles. The main access road is one-way and appears to be substandard for two-way traffic movements with no passing places indicated;
- Suggests that while tracking information has been provided to show vehicles can turn safely within the site to access/egress via the main entrance, evidence has not been provided in respect of the emergency access to the south;

17. **Local Ward Members** were consulted upon the application. No responses have been received.
18. **Health and Safety Executive** has confirmed that the proposals do not fall within the scope for statutory consultation with them.
19. **Historic England**- Have raised no objection in respect of impacts upon the setting of the Grade II\* Lemington Cone.
20. **The Coal Authority** response raises no objections, subject to the imposition of conditions (referred to in the assessment section of the report).
21. **Tyne and Wear Fire and Rescue Service** has raised no objection to the proposal. Advisory information was provided for developers of BESS (which has been forwarded to the planning agent). A subsequent response was also provided confirming that the Fire Service has no objections to the proposed (secondary) emergency access.
22. **National Grid Electricity Transmission** (NGET) have no objection to the proposal. They have noted that the application site is near to their Stella North substation and associated assets. If the application requires a connection into Stella West substation the applicant will have to have an agreement with NGET for the connection into the substation and for the use of NGET land.

23. **National Gas** confirmed that no national gas transmission assets were affected by the proposed development.
24. **Environment Agency** has no objections, but offers advice to the applicant relating to groundwater, producer responsibility regulations, and waste duty of care (covered by other legislation), which can be included as informative notes.
25. **Northumbria Police (Architectural Liaison Officer)** has no objections. Advisory information has been provided to the applicant.
26. **Transportation Development (acting as local highway authority)** has no objections to the proposal, subject to the imposition of conditions.
27. **Newcastle and Northumberland Society** have commented:
- Acknowledge that installations of battery storage serve an important function in the effort to reduce climate change impacts;
  - No objection in principle to this scheme;
  - Acknowledge multiple sites of historic significance in the area and welcomes the attention to detail applied to this proposal in identifying heritage assets nearby.
28. **Newcastle Conservation Advisory Panel**; have confirmed that they:
- Support the aims of the scheme;
  - Request that conditions are included to ensure that any archaeological assets are given appropriate protection.
29. **Flood Management (acting as local lead flood authority)** has no objections to the proposal subject to the imposition of conditions (and a section 106 agreement to secure a contribution for SuDS maintenance).
30. **Public Safety and Regulation (Noise)** has no objections to the proposal subject to the imposition of conditions.
31. **Public Safety and Regulation (Contamination)** has no objections to the proposal, subject to conditions requiring a further Investigation and Risk Assessment, and submission and implementation of a remediation scheme (if required) and reporting and remediation of any unexpected contamination.
32. **Climate Change Team** welcomes the development of a battery storage system in Newcastle that will utilise the storage of low carbon energy and refers to guidance relating to CSUCP Policy CS16 and national planning policies.

## **Planning Policy and Guidance**

### **Planning Policy Background**

33. In England there is a hierarchical structure of policy covering national and local planning. At a national level, the National Planning Policy Framework (NPPF) sets out the Government's planning policies and how these are expected to be applied. At a local level, development plans set out planning policy for the area.

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the statutory development plan unless material considerations indicate otherwise. In Newcastle upon Tyne the development plan comprises the Core Strategy and Urban Core Plan for Gateshead Newcastle upon Tyne 2010-2030 (CSUCP) and the Development and Allocations Plan 2015-2030 (DAP).

### **National Planning Policy Framework**

35. The Government's planning policies for England are set out in the National Planning Policy Framework (NPPF). It sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. To achieve this the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives) - an economic, social and environmental objective. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
36. The NPPF has a presumption in favour of sustainable development. For decision-taking this means approving development that accords with the development plan without delay, or where there are no relevant development plan policies or where the policies which are most important for determining the application are out-of-date, granting planning permission unless:
- (i) the application of policies in this Framework that protect areas or assets of particular importance (such as habitat sites, Green Belt land, Local Open Space, designated heritage assets and areas at risk of flooding) provide a clear reason for refusing the development proposed; or
  - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.
37. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
38. Further government guidance on a range of planning related subjects is set out in National Planning Policy Guidance (NPPG). Also material is the National Design Guide which identifies the characteristics of well-designed places and the Government's priorities for well-designed places.

### **Core Strategy and Urban Core Plan (CSUCP)**

39. The CSUCP forms Part 1 of the Local Plan and comprises strategic planning policies for the whole city and detailed policies for the city's urban core area. The following CSUCP policies are material to the consideration of this application:

CS1 Spatial Strategy for Sustainable Growth

- CS3 Spatial Strategy for Neighbourhood Area
- CS5 Employment and Economic Growth Priorities
- CS13 Transport
- CS14 Wellbeing and Health
- CS15 Place Making
- CS16 Climate Change
- CS17 Flood Risk and Water Management
- CS18 Green Infrastructure and the Natural Environment
- DEL1 Planning Obligations

The CSUCP can be viewed [here](#)

### **Development and Allocations Plan (DAP)**

40. The DAP is part two of the Council's Local Plan and provides detailed policies for managing development, together with site allocations and designations which will support the strategic policies in the CSUCP. The DAP was adopted on 24 June 2020.
41. The following DAP policies are material to the consideration of this application:
  - DM10 Pedestrian and Cycle Movement
  - DM12 Parking and Servicing
  - DM14 Mitigation and Highway Management
  - DM15 Conservation of Heritage Assets
  - DM16 Conservation and Enhancement of the Setting of Heritage Assets
  - DM17 Preservation of Archaeological Remains and Archaeological Work
  - DM18 Building Recording
  - DM20 Design
  - DM23 Residential Amenity
  - DM24 Environmental and Health Impacts of Development
  - DM26 Flood Risk and Water Management
  - DM27 Protecting and Enhancing Green Infrastructure
  - DM28 Trees and Landscaping
  - DM29 Protecting and Enhancing Geodiversity, Biodiversity and Habitats
  - DM34 Recycling and Refuse Storage Provision

The DAP can be viewed [here](#).

### **Supplementary Planning Documents (SPD) and other relevant Local Planning Guidance documents**

42. Supplementary Planning Documents (SPDs) provide detail to support policies contained in the city's local plans. In addition, there are a number of other Council approved documents to support the policies of the local plan. For this reason, both the SPDs and other guidance documents listed below are a material consideration in the assessment and determination of any planning application and can be viewed [here](#).
  - Archaeology and Development  
The Archaeology and Development SPD was approved on 17 May 2007. The SPD explains why archaeological remains are important; indicates where important deposits might be expected to be encountered; and explains how archaeological issues will be dealt with within the planning process.

- **Designing for Community Safety in Newcastle upon Tyne**  
The Designing for Community Safety SPD was produced following consultation with officers involved in Planning, Urban Design, the Community Safety Unit and the Architectural Liaison Service of Northumbria Police. This SPD gives guidance on the design and layout of the physical environment so as to reduce crime, the fear of crime and antisocial behaviour and is used to assess and determine planning applications.
- **Planning Obligations**  
The Planning Obligations SPD sets out the council's approach to securing contributions and necessary infrastructure arising from developments through section 106 of the Town and Country Planning Act and in conjunction with the council's Community Infrastructure Levy.

### **Other Guidance**

- **Local Training and Employment Planning Guidance**  
This guidance provides advice and assistance to developers and end users, outlining how Newcastle City Council will work with and support employers to maximise local employment and training opportunities for new developments.
- **Transport Assessments, Travel Plans and Parking**  
This document provides developers with guidance on how to ensure schemes meet policy objectives, foster sustainable travel choices and to ensure that planning applications are submitted with the necessary information. The intention of this document is to improve transportation and accessibility outcomes arising from new development.
- **Sustainability Statements Planning Process Note**  
This process note identifies how developments should address the requirements of Policy CS16 in being able to function in a changing climate and to address the impacts of climate change emissions.

### **Planning Assessment**

43. The material issues relevant to the determination of this application are as follows:

- Principle of the development;
- Sustainability and climate change;
- Design, layout and visual impact;
- Impact upon heritage assets;
- Landscape impacts;
- Ecology and biodiversity net gain;
- Highways and transportation;
- Residential amenity;
- Noise and air quality;
- Flood risk;
- Land contamination and stability;
- Economic impacts;
- Planning obligations and Community Infrastructure Levy; and
- Other material considerations.



## **Principle of the Development**

44. Policy CS1 requires development to be directed to sustainable locations to create and sustain thriving communities and a more prosperous economy for the city. All development must be fully inclusive; well- connected and accessible by sustainable modes of transport; being well designed to promote community cohesion, wellbeing and to reflect and enhance the area's character and natural environment; and designed to reduce carbon emissions and adapt to the effects of climate change.
45. Policy CS5 emphasises the major role of Newcastle in the economic growth of the North East, and seeks to continue to develop a diverse economy with accessible employment and significant increases in the number of businesses and jobs. The proposals would create employment opportunities during the construction phase of the development, while the positive contribution that the proposed BESS facility would make towards delivering a stable, reliable energy supply for the UK.
46. The site is not allocated for any particular use in the CSUCP or DAP (aside from a small part of the proposed access road which would cross land allocated for employment use). In such cases, the key consideration is to ensure that the proposed development is compatible with its surroundings. In this regard, the site is in an area where a mix of industrial and business uses are evident. The site itself is vacant land, formerly in industrial use.
47. The lies adjacent to allocated and protected mineral infrastructure site (under Policy DM32 of the DAP) immediately to the south, and employment sites (allocated under Policy DM2 of the DAP) to the west and north-west. To the south-east, and to the south beyond the mineral infrastructure site, is the Newburn Riverside employment area, comprising protected and allocated employment land. These allocations would not be materially impacted by the proposed development.
48. The closest residential properties are approximately 300 metres to the north and are separated from the site by existing industrial and commercial uses. The closest site allocated for residential development under CSUCP policy AOC1 is approximately 250 metres to the south-west and is separated by existing industrial and commercial uses. An outline planning application is currently before the Council to determine for development of up to 900 residential dwellings, a primary school, and 1,100 sqm of local community and health facilities on this allocated housing site. This is a material consideration in determining the application for the BESS. In terms of land use, there is not considered to be an objection to the principle of the use. Impacts on the amenity of existing and future occupiers of residential properties are considered later in this report.
49. Under DAP Policy DM27, the site forms part of the Strategic Green Infrastructure Network (SGIN) and a Green Infrastructure Opportunity Area (GIOA). It is also part of a Wildlife Enhancement Corridor (WES) allocated under DAP Policy DM29. These allocations cover a broad area, including many of the neighbouring protected and allocated employment sites. These allocations do not prevent the area from being developed for the proposed use in principle; however, they are a material consideration, and the detailed merits of the impacts on the SGIN GIOA and WEC are considered later in this report.

50. It is noted that planning approval 2020/0045/01/DET for the erection of a gas-powered standby generation facility on the southern portion of the application site was granted in June 2021. This permission has not been implemented however, and has now lapsed.
51. The proposed BESS facility comprises battery installations and ancillary buildings to support their operation. It is considered that the proposed use satisfactorily reflects the largely industrial surroundings in this location and is an appropriate location, in principle, for the proposed installation. The site would only remain operational for a maximum 40-year period, after which it is proposed to remove all structures associated with the use from the site. It is therefore necessary to ensure the applicant can secure the removal of the equipment off the site at the end of its operational life. This requirement will be secured through the terms of a section 106 agreement.
52. Policy CS16 seeks to optimise the use of local renewable or low carbon energy. The focus of the proposed development is to facilitate renewable and low carbon energy more generally and provide resilience on the local grid network, providing public benefits associated with ensuring that the public at large have access to a continuous electricity supply via the National Grid. In other words, this proposal has national energy supply benefits, to which positive weight should be given in decision-making.
53. In terms of wider planning policy requirements, the proposed BESS installation is not a form of development specifically referenced in the NPPF or accompanying PPG. However, the Government issued an Overarching National Policy Statement for Energy in January 2024 which does reference electricity storage as being required to meet the nation's energy objectives. Furthermore, whilst not specifically referencing electricity storage, the NPPF does set out, at paragraph 161, that the planning system should support the transition to a low carbon future, including supporting renewable and low carbon energy and associated infrastructure. Furthermore, at paragraph 168, it is stated that significant weight should be given to the benefits associated with renewable and low carbon energy generation (to which the BESS relates) and the proposal's contribution to a net zero future.
54. Having regard to these considerations, the nature of the scheme would be compatible with the main neighbouring industrial uses in principle, subject to more detailed assessment of matters in the following sections. The development itself would support the wider use of renewable energy for the region and is therefore supported by the wider objectives of Policy CS5. Taking all of the above into account it is considered that the principle of the development is in accordance with the NPPF and policies CS1, CS5 and CS16.

### **Sustainability and Climate Change**

55. The NPPF (at paragraph 161) states that the planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks 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.
56. Policy CS16 requires development to be able to function in as changing environment and to address impacts on climate change through demonstrating a range of

measures have been taken into consideration in designing the development. Policy DM20 requires development to deliver high quality and sustainable design by incorporating measures to address the impacts of climate change and adverse microclimatic conditions.

57. Consultation has been carried out with the Climate Change Team. The development of a battery storage system in Newcastle will help enable the storage of low carbon energy in the city, and harness excess electricity production from the grid, as well as prevent disruption during higher peak demand.
58. Information on sustainability has been incorporated within the supporting Design and Access Statement, which the Climate Change Team have confirmed is valid. Most of the site will be unheated, and energy demand will be minimal, limited to a modest welfare/control room that will be in use infrequently. Any energy requirements would be significantly outweighed by the energy benefits of the scheme. Due to the nature of the proposed development and use, many of the Policy CS16 requirements to not apply.
59. The proposal accords with criterion 6 of CS16 which requires development to optimise the use of local renewable or low carbon energy. Policy CS16 requires the incorporation of low carbon or renewable energy solutions as part of a wider development. As the sole focus of the proposed development is to facilitate renewable energy provision more generally and provide resilience on the local grid network, which will increase certainty of supply to existing homes and businesses in times of peak demand as the UK moves away from gas powered electricity generation, then, significant beneficial weight should be given to the benefits to combat the effects of climate change in decision-making.
60. Taking all of the above into account it is considered that in terms of measures to combat climate change and subject to conditions as set out above, the development is in accordance with the NPPF and Policy CS16.

### **Design, Layout, and Visual Impact**

61. The NPPF sets out that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
62. The NPPF goes on to advise that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. [Section 17 of the Crime and Disorder Act 1998 \(as amended\)](#) also requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and to do all they reasonably can to prevent crime and disorder.
63. Policy CS15 requires development to contribute to good place-making through the delivery of high quality and sustainable design and the conservation and enhancement of the historic environment. Development should respond positively to

local distinctiveness and character and be safe, accessible, respect significant views and take the opportunity to include public art features.

64. Policy DM20 relates to design, requiring development to deliver high quality and sustainable design. High quality design should create attractive places through meeting a number of criteria to ensure good architecture and effective landscaping contribute towards a well-designed city. To achieve this development will be required to set a high standard of design which respects its surroundings. DM20 requires that the best buildings, positive site features, landscape and historic features are retained, where possible.
65. The structures on site would comprise of 28 modular storage container units, 3 metres in height, including batteries, and supported by transformers. Substations, a control room, network operator room, and a storage building would also be included, at no more than 4 metres in height above ground level. A 4-metre-high dark green painted acoustic fence would surround the site, with the eastern boundary to contain foliage.
66. The applicant has provided a Landscape and Visual Appraisal. This includes a Zone of Theoretical Visibility and an Assessment of Key Views of the proposal. It is considered that this gives a reasonable impression of the relative impacts of the development in relation to its surroundings. While this assesses the impacts of an earlier design of the scheme, it is still considered to provide a suitable basis for assessment of the current proposals being determined.
67. The site is largely screened from view when passing along Lemington Road to the north. Passing views are available down across the site from certain points along this road, as Lemington Road is situated at a higher land level. There would also be some visibility of the site beyond Lemington Road to the north. More immediate views of the site are from the south and the west, which are obscured significantly by existing structures and topography. Views of the site can be gained from the east and north-east directions, and from wider viewpoints in other directions.
68. The design of the proposed installation is by necessity functional. The proposed modular storage container units and the ancillary buildings, which would support the BESS, would be of an industrial appearance which is befitting of the surroundings and adjacent similar uses. The proposed fence is deemed necessary for acoustic reasons, and also beneficial for security. Both the dark green colour and foliage proposed along the eastern boundary would help to soften the visual impact of the proposed compound in wider views.
69. Landscape Officers have considered the proposal's visual impact, and landscaping details included within the proposed Landscape Strategy. They have concluded that the proposals would be acceptable subject to the imposition of conditions, noting that the landscaping proposals, which have been enhanced during the application process, include the provision of landscaping along the northern, western and south-western boundaries that will have a beneficial impact in screening of the structures. The proposal to provide the acoustic fence in a dark green colour, with foliage on the eastern elevation is also positive, however, specific details of this proposed planting and subsequent maintenance have not been provided and would also need to be made a condition of approval. Further commentary is included in the section of the report on landscaping and green infrastructure.

70. Notwithstanding the concerned raised by the adjoining landowner the Tyne and Wear Fire Authority have reviewed the details supplied and have no objection to the details contained in the application in fire safety terms. It is noted that also the Fire Authority have a right of access over any land in order to deal with a fire if one should occur. The Health and Safety Executive confirmed that the scheme does not fall within their remit and offered no comments. On this basis officers have no evidence to indicate that there is a safety issue in respect of the proposal.
71. Taking all of the above into account, it is considered that in relation to design aspects of the application and subject to conditions as set out above, the development would, on balance, be in accordance with the NPPF and policies CS15 and DM20.

### **Impact upon Heritage Assets**

72. Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that the local planning authority, when considering proposals for works which affect listed buildings or their setting, that they must have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses. This requirement is translated into the NPPF.

The NPPF advises that when determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
73. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
74. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
75. Policy CS15 requires development to contribute to good place-making through delivery of high quality and sustainable design, the conservation of the historic environment and by taking a proactive approach to sustaining the historic environment in a manner appropriate to the significance of the relevant heritage asset. It seeks to ensure that the significance of heritage assets and their settings are conserved and enhanced, and their value maximised. Policy DM15 covers how development affecting a heritage asset will be managed. Policy DM16 provides further detail as to

how the impact of developments upon the setting of the heritage assets will be assessed, taking into account the significance of the affected heritage assets, including their character and appearance, and the local characteristics of the area.

76. Policy DM17 requires development that may affect a known or potential area of archaeological remains to be safeguarded. Policy DM18 requires building recording to take place where a development would result in works to a designated or non-designated heritage asset.
77. The applicant's archaeological heritage impact assessment for the site identified the high potential for surviving post-medieval archaeological remains associated with coal transportation and the staithes at Lemington Gut. In addition, recent archaeological investigation work to the north has identified higher level of survival of structural remains associated with the Lemington Glass Works than was previously believed.
78. Considering the scope of the proposed application and the possibility of surviving archaeological remains within the site, archaeological trial trenching needs to be carried out (with appropriate reporting) in order to establish the presence or otherwise of archaeological remains. If archaeological remains are present, then further work may be required to determine their significance and to record and advance understanding of the significance of any heritage assets to be lost (NPPF paragraph 218).
79. A planning condition is also recommended requiring a programme of archaeological building recording to be carried out prior to commencement of the development. Subject to conditions being included requiring these works to be carried out prior to commencement of development, the proposals are considered to be acceptable in respect of archaeological impacts.
80. There are no designated heritage assets within the site boundary, however it is acknowledged that the site is located within the vicinity of Lemington Glass Cone (Grade II\*) and the Managers House and Office of Former Iron Works (Grade II). The locally listed Tyne Iron Works is also situated to the north of the site.
81. The application site, as existing, has a minor adverse impact upon the setting of the Lemington Cone when viewed from the south and from views from the north. Whilst the proposed BESS would not be visually rich in terms of design or appearance, it being a functional installation, it is in-keeping for what was historically an industrial landscape, with much of the site's environs being used by a variety of manufacturers. In this context it is considered that the proposed BESS would not result in harm to the setting of the iron works heritage assets within its vicinity.
82. The development would result in an impact to views of the Lemington glass cone from south of the application site. Having regard to advice from Historic England (who raise no objection) and NCC's Conservation Officers, it is considered that the harm caused through its functional design would be minor in the scale of less than substantial harm due to the distance from the site, the limited views affected and wider industrial site setting. As any harm to the setting of listed building must be given significant weight in the assessment of a planning application, then the harm to the setting of this heritage assessment must be considered against any public benefits arising from the development in accordance with paragraph 215 of the NPPF. This planning balance assessment considered later in the report.

83. Taking the above into account, it is considered that in relation to heritage and historic environment aspects of the application, while not harm would arise to the archaeological value of the site and setting of Grade II listed former Iron Works buildings, the proposed buildings, by reason of their scale and design, would result in harm (less than substantial) to the setting of the Grade II\* listed Lemington Cone. As a result, the application is contrary to policies CS15, DM15 and DM16 and in accordance with policies DM17 and DM18.

### **Ecology and Biodiversity Net Gain**

84. The NPPF sets out that planning decisions should contribute to and enhance the natural and local environment including by; protecting and enhancing valued landscapes and sites of biodiversity; and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressure. When determining planning applications if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
85. Policy DM29 requires developments to be supported by up-to-date ecological assessment of likely impacts. Development which directly or indirectly causes significant harm to a designated ecological site, protected species, priority habitat or species and Wildlife Enhancement Corridors should be avoided and will not be permitted unless adequate mitigation or compensatory measures are secured. Development is also required to protect and enhance habitats and provide net gains in biodiversity.
86. The application submission is accompanied by an Ecological Appraisal and a Biodiversity Net Gain Assessment.
87. The site lies immediately adjacent to the boundary of Lemington Gut Local Wildlife Site (LWS). The Ecological Appraisal includes concerns about potential impacts on the adjacent LWS from the deposition of dust during the construction phase of the development. In addition, there is the potential that works within the site could result in impacts on the LWS through runoff from the site, particularly within the construction phase. It is therefore recommended that potential impacts on the LWS during the construction phase are mitigated through methods to be outlined within a Construction Environment Management Plan.
88. The site lies within the City West Wildlife Enhancement Corridor (WEC). The area where the site is located is classified as a green corridor, identifying it as being of higher value to biodiversity. Developments within these areas should aim to retain and protect biodiversity assessments to maintain connectivity through the corridor.
89. Japanese knotweed has been recorded within the site. This is an invasive non-native species listed in Schedule 9 of the Wildlife and Countryside Act 1981. The requirement for an appropriate remediation strategy has been included within the Ecological Appraisal report. This is welcomed and can be included as a pre-commencement condition.
90. The submitted Ecological Appraisal considers that the site has negligible potential to directly support bats species but does recognise the role of the site as part of an

ecological corridor which could be utilised by bat species. As such, the report recommends that a sensitive lighting scheme is designed for the site to minimise light spill on sensitive habitats. This is welcomed and can be made a condition of approval. Measures to protect other protected species have been identified and can be secured by way of condition.

91. The criteria assessment for the baseline habitats submitted within the applicant's Ecological Appraisal and Biodiversity Net Gain Assessment are accepted. The development will result in the loss of an area of grassland within this area. The site is comprised of areas of 'other neutral grassland' and areas of hard standing. The grassland is not considered to meet the definition for a priority grassland type. In order to contribute to the connectivity through the WEC the development includes grassland improvements within and around the periphery of the site, which has been maximised, while still being able to accommodate the development proposal. The proposals also include enhancements in the form of planting of a proposed native scrub mix along the northern edge of the application site. However, off-site mitigation will also be required to compensate for some grassland loss.
92. The Biodiversity Net Gain Assessment shows that the proposals would result in an overall net loss in biodiversity on-site. The results of the assessment show that the current baseline value of the site is 2.68 habitat units. The application proposals will result in the delivery of 1.55 habitat units on site, which equates to an overall loss of 1.13 units on-site, equating to a 42.01% on-site loss in habitat.
93. An additional 1.39 units of medium distinctiveness grassland units are required, which would need to be secured through an offsite compensation scheme for the project to deliver the required 10% net gain to biodiversity, in accordance with the requirements of the NPPF, underpinned by Schedule 7A to the Town and Country Planning Act 1990 (under Schedule 14 of the Environment Act).
94. The BNG metric provided within the applicant's BNG Assessment is considered to be acceptable. A 10% net gain overall would be achieved through a combination of on-site and off-site provision.
95. The applicant has confirmed that the off-site delivery of the habitat units would be provided through reservation of Biodiversity Units from the Environment Bank's Bingfield Habitat Bank within Northumberland. This would need to be secured through a legal agreement.
96. The applicant will also be required to maintain the on-site landscaping and Biodiversity Net Gain Enhancements for a period of 30 years from commencement of use of the site for the approved purposes. To demonstrate the effectiveness of this, the applicant will need provide a report every five years explaining the effectiveness of the landscaping and biodiversity measures, and also provide a commuted sum to cover the Council's costs of reviewing these reports. These requirements would be secured through a section 106 agreement.
97. Issues relating to impacts on designated sites and protected species can be dealt with through the production of a Construction Environmental Management Plan, along with other planning conditions to mitigate potential impacts on the adjacent designated site, and protected species within the locality of the site. Planning conditions need to be imposed to secure compliance with the recommendations set out within the Ecological Impact Assessment, the submission of a Construction Environmental Management



Plan, and the details of the management and maintenance of the proposed on-site biodiversity enhancement measures over a 30-year period.

98. The concerns of the objector around the impact of noise and development on the nearby Lemington Gut Local Wildlife Site (LWS) and protected species are noted. However there is no evidence of Great Crested Newts (GCN) on the site and no standing water is visible in this area from the site or from aerial images. If standing water did occasionally form in this area it is likely to be ephemeral. GCN are species highly sensitive to water conditions in the area and the brackish waterbodies in the vicinity are not generally considered to be suitable for them due to the salt content. Similarly in relation to noise, taking into account the enclosure of the site by a 4m high acoustic fence it is not considered that there would be a material impact from noise to protected species. The actual Gut lies several metres below the level of the development site and no development is proposed within the LWS.
99. Taking all of the above into account, subject to conditions and planning obligations referred to above, it is considered that in terms of ecology, the impacts on the LWS and the WEC and the requirement to secure biodiversity net gain, the development is in accordance with the requirements of the NPPF, and policies CS18, and DM29.

### **Landscape and Green Infrastructure Impacts**

100. The NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and sites of biodiversity and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressure. When determining planning applications if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
101. Policy CS18 seeks to secure a high quality and comprehensive framework of interconnected green infrastructure. This is achieved by, amongst other things, maintaining, protecting and enhancing the city's strategic green infrastructure network and green infrastructure assets.
102. Policy DM27 requires development to protect, maintain and enhance existing green infrastructure assets and contribute to delivering new green infrastructure assets. Policy DM28 requires development to protect, enhance and manage existing trees and landscape features. Development which would unacceptably harm, or result in the loss of trees or landscape features, will not be permitted unless: development cannot be reasonably located elsewhere; the need for and benefits of development clearly outweigh any harm; and appropriate mitigation and/or enhancement measures are provided. Development will be required to include new trees and landscape features, where appropriate.
103. As referred to within the Design, Layout and Visual Impact section of the report, the application is also supported by a proposed Landscape Strategy to be implemented as part of the proposed development. This includes new specimen tree planting, native shrub mix, and neutral grassland. Advice on the application proposals has been provided by Landscape and Ecology officers.

104. The application proposals will introduce built development within the Strategic Green Infrastructure Network. The development proposals nevertheless would accord with the requirements of DM27(1) by offering enhanced on-site green infrastructure, which will be accommodated alongside the development proposal through the landscaping proposals, and by contributing to off-site provision.
105. There is very limited landscaping on the site at present, and the landscaping proposals would help in addressing gaps in the Strategic Green Infrastructure Network corridor through enhancing the multifunctionality and biodiversity of the site. It is considered therefore that the proposals would be in accordance with Policy DM27.
106. The proposals will deliver an additional 40 trees, plus 735sqm of native scrub mix, on the site. Given that there is very little in the way of landscaping on the application site at present, by enhancing tree cover and incorporating new landscape features the proposal is considered to accord with parts 1, 2 and 3 of Policy DM28.
107. Taking all of the above into account, it is considered that in relation to landscape and green infrastructure matters, and subject to conditions as set out above, the development is in accordance with the NPPF and policies CS18, DM27, and DM28.

### **Highways and Transportation**

108. Policy CS13 The NPPF states that when assessing applications for development, local planning authorities should ensure that: (a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. The NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts of development are severe.
109. Policy CS 13 seeks the enhancement and delivery of an integrated transport network to support sustainable development and economic growth. Policy DM12 requires development to provide vehicle and cycle parking that satisfies operational requirements, servicing and loading facilities with advised car and cycle parking levels set out in Appendix 6 of the DAP. Policy DM14 requires development to adequately mitigate against its impact on the highway network. Policy DM34 requires the integral provision of recycling and refuse storage within development.
110. It is proposed to access the site from the existing priority junction off the A6085 (Northumberland Road). There are no highway concerns with using this for access to the site. Once off the adopted highway, the route would follow a proposed tarmac road for the first 30 metres and then 4-metre-wide compacted surface with a geotextile membrane, before entering the BESS compound via the double leaf access gates.
111. The proposed access road surfacing and construction details submitted are considered acceptable. Appendix C of the Transport Statement includes swept path assessments that show that service vehicles can exit the site in a forward direction.
112. It is noted that once operational, the proposed facility will be unstaffed with only occasional maintenance visits. The development would be operated remotely, and it

would only be necessary for an operative to undertake a site visit once a week or on a bi-weekly basis. With this in mind, it is considered likely that there will be no pedestrian and cycle trips to the facility once operational. It is considered that any parking requirements associated with the weekly or bi-weekly site visits could be accommodated within the site.

113. It is noted in the Transport Statement that any requirements for construction traffic management would be outlined in greater detail within any Construction Management Plan associated with the proposed development (of which a Construction Traffic Management Plan would form a part). This is acceptable and can be addressed via a condition.
114. It has been satisfactorily demonstrated that the proposed development, both once operational and during the construction phase, will not have a material impact on the operation of the local road network, subject to the works being implemented in accordance with the submitted details, and subject to a condition requiring the submission of a Construction Environmental Management Plan / Construction Management Plan. The objection from the adjoining land owner regarding the suitability of the emergency access is noted.
115. The issue raised by the objector around third party ownership of the access has been highlighted to both the Local Highway Authority and the Tyne and Wear Fire and Rescue Service, who had initially indicated that should the scheme come forward that there would be a requirement for the emergency access. However, third party ownership of part of the route from the south of the site raises no concerns either for the Local Highway Authority or the Tyne and Wear Fire and Rescue Service.
116. In response to the objector's representation, the applicant has provided further supporting evidence regarding the emergency access route. The adopted public highway extends along Riversdale Way. Thereafter, Riversdale Way continues eastwards as a tarmac road and whilst not forming part of the adopted highway, it is in the ownership of the Council (rather than other third party ownership), meaning that there is a clear unrestricted route (owned by the Council) to the application site.
117. The applicant has also emphasised that access from Riversdale Way is only proposed in the event of an emergency situation, and that the likelihood of a situation where emergency services are unable to gain access from the main access off the A6085 is very small. The applicant has also highlighted that section 44 of the Fire and Rescue Services Act 2004 dictates that there is no need for the fire service to establish rights of way for emergency access, as the provisions of the Act provide rights of access onto third party land for firefighters in an emergency situation in any case.
118. The objection from the adjoining landowner references an easement along the shared boundary with the application site which should allow free passage of the objectors vehicles and which is proposed to be fenced off/blocked up by a section of the BESS development. However the objector notes that this is not a material planning consideration and members should not consider this in their determination of the application.
119. Taking all of the above into account it is considered that in terms of highway safety and sustainable transport measures and subject to conditions as set out above, the development is in accordance with the NPPF and policies CS13, DM12, DM14, and DM34.

## **Residential Amenity**

120. The NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
121. A key objective of the CSUCP is to provide opportunity for a high quality of life for everyone and to enhance the wellbeing of people to reduce inequalities. Policy CS14 requires development to prevent any negative impacts upon residential amenity. Policy DM23 sets out in further detail the range of issues which will be taken into consideration when determining if a proposal would impact upon residential amenity. Development will be required to provide a high-quality environment and a good standard of residential amenity for existing and future occupants of land and dwellings. Development which would have an unacceptable adverse impact on the residential amenity of existing or future occupants of land and dwellings will not be allowed.
122. The potential impact on the allocated housing site to the south and as a consequence of the current application for residential development has been assessed. Due to the very significant separation distance between the proposed development and existing, as well as possible future, neighbouring residential properties, there would be no realistic potential for the proposed development to materially affect the outlook, privacy, or daylight of the occupiers of any residential properties.
123. The main potential for the proposal to affect existing or future occupiers of residential properties is through noise transmission and which is addressed within the following section of the report.
124. Taking the above into account it is considered that in terms of residential amenity impacts and subject to conditions as set out above, the development is in accordance with the NPPF and Policies CS14, and DM23.

## **Noise and Air Quality Impacts**

125. The NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise and air pollution.
126. Policy CS14 requires protects the wellbeing and health of communities by requiring development to contribute to creating an age friendly, healthy and equitable living environment through, amongst other things, preventing negative impacts on residential amenity and wider public safety from noise and vibration. Policy DM24 requires proposals to demonstrate that there are no unacceptable adverse environmental and health impacts from the development, assessing and mitigating against noise arising from the development and from existing noise generating uses assessing and mitigating against air quality and the opportunities to improve air quality.

127. The application is accompanied by a Noise Impact Assessment which considered the potential for noise for existing and possible future occupiers at the allocated housing site to the south. This concludes that the proposed development will give rise to noise impacts that would be within the range of No Observed Adverse Effect Level of the NPPG England guidance. This is defined as “noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. It can slightly affect the acoustic character of the area, but not such that there is a change in the quality of life.” The conclusions are based on the inclusion of a 4-metre-high acoustic barrier surrounding the application site, produced to an acoustic specification defined in section 3.2 of the Noise Impact Assessment and the document “22-541 Specification for Acoustic Screen”, also dated 09.05.24.
128. The Council’s Public Safety and Regulation Team do not object to this application and recommend implementation of the recommended mitigation measures in accordance with the findings within the Noise Impact Assessment, including the barrier as detailed above. This should be made a condition of planning permission. On this basis, the noise impacts of the development are considered to be acceptable.
129. It is noted that while the document confirms that the barrier would be 4 metres high and built to achieve a specified level of acoustic performance, and other application documents have confirmed that the fence will have a dark green colour. The exact materials have not been confirmed, and so would need to be made a condition of planning permission.
130. Taking all of the above into account it is considered that in relation to noise and air quality impacts arising from the development and subject to conditions as set out above, the application is in accordance with the NPPF and policies CS14 and DM24.

### **Flood Risk and Water Management**

131. The NPPF advises that local planning authorities should seek to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution.
132. Policy CS17 requires development to avoid and manage flood risk from all sources, taking into account the impact of climate change over its lifetime through: avoiding and managing flood risk to people and property ensuring water supply and foul and surface water infrastructure are provided with adequate capacity; not adversely affecting water quality and where possible seek to improve water quality; and to separate, minimise and control surface water runoff.
133. Policy DM26 relates to flood risk and water management, to ensure that developments are designed to minimise and mitigate the risk of flooding, ensuring surface water is effectively managed on-site and to prevent any increase in flood risk elsewhere and take the opportunity to protect and improve surface and ground water quality and quantity and enhance of environments.
134. The application is supported by a Flood Risk Assessment and Drainage Strategy to manage surface water run-off, which has been agreed with the Lead Local Flood Authority (LLFA) through consultation on the application. The proposed scheme to manage surface water drainage is considered by the LLFA to be acceptable and would connect into existing drainage infrastructure in the area via a connection point at the northern end of the site. This would be subject to agreement of a detailed

maintenance scheme (which can be secured via condition), and a £10,000 commuted sum requested by the LLFA to fund future monitoring of the SuDS associated with this development proposal. The applicant has agreed to provide this, and this would be secured through a section 106 legal agreement.

135. Taking all of the above into account it is considered that in relation to avoiding and mitigation flood risk and improving water quality and subject to conditions as set out above, the development is in accordance with the NPPF and Policies CS17 and DM26.

### **Land Contamination and Ground Stability**

136. The NPPF states that local planning authorities should seek to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil or land instability. Planning decisions should ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
137. Policy CS14 seeks the wellbeing and health of communities being maintained and improved by requiring development to contribute to creating an age friendly, healthy and equitable living environment through, amongst other things, preventing negative impacts on residential amenity and wider public safety from ground instability and ground and water contamination.
138. Policy DM24 requires proposals to demonstrate that there are no unacceptable adverse environmental and health impacts from the development, assessing and mitigating against land contamination or instability which would place existing or future occupants and users at risk.
139. The application has been considered by Public Safety and Regulation. Having had regard to the recommendations of the phase 1 Contamination Assessment, they have recommended that conditions are required in respect of site characterisation, remediation, validation of the remediation strategy and the requirement to report unexpected contamination identified during construction. It is considered that these should be made a requirement of permission, as should the conditions recommended by the Coal Authority in respect of ground stability (a scheme of intrusive site investigations and any required remediation works, along with a declaration prepared by a suitably competent person confirming that the site is safe and stable).
140. Taking all of the above into account it is considered that in terms of land contamination and ground stability and subject to conditions as set out above, the development is in accordance with the NPPF and Policies CS14 and DM24.

### **Economic**

141. The NPPF states planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Policy CS1 seek to create and sustain thriving communities and a more prosperous economy. Policy CS5 seeks to achieve economic growth in the city by, amongst other things, attracting and supporting a skilled labour force and improving skills and access for local people to job opportunities, including through targeted recruitment and training.

142. The proposed development would create employment during the construction stage (which the applicant anticipates will last for 52 weeks across 5.5 days per week). Maintenance requirements would be occasional once the development is operational, but the development would present ongoing benefits through the storage and use of electricity.
143. Taking the above into consideration, the economic benefits of the development, including the delivery of targeted employment training opportunities, have been given weight in the assessment of the development and is in accordance with the policies CS1 and CS5.

### **Other Planning Considerations**

144. The adjoining landowner has raised questions regarding the ownership of a small part of the site along the south-western boundary of the application site, adjoining the objector's land. The applicants have confirmed that all of the application site is within their control, but the emergency access route outwith the application site is not. The applicant as noted above has acknowledged that part of the emergency access route does not form part of the adopted highway, but it is in the ownership of the Council, meaning that there is a clear unrestricted route to the application site for emergency access. The provisions of the Fire and Rescue Services Act 2004 also establish rights of access onto third party land for firefighters in emergency situations in any case, and the Council as a landowner would not object to the use of this route for Fire Authority vehicles in an emergency.
145. The objection on behalf of MGL has questioned whether the applicant should be required to serve notice and allow for 21 days notification to expire before consideration of the application. The applicant has previously amended the redline boundary for the application site to ensure that there is no encroachment upon the neighbouring landowner. The requirement to serve notice of an application to any person (other than the applicant) who is an owner of the land to which the application relates arises from article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The purpose of the act is to ensure that any other landowner is made aware of the application and given opportunity to make comment during determination of the scheme. As noted above, there is no evidence to indicate that the applicant is not the sole owner of the land in question. Notwithstanding this, as the adjoining landowner is fully aware of the details of the application, and has objected in detail to the scheme, his right to comment on the application has not been prejudiced.
146. As noted, there are no concerns arising from a safety point of view and no evidence to indicate that the applicant does not own all of the site where the development is proposed within the redline boundary of the application.
147. The objectors have referred to two separate documents in their objection. Firstly the Health And Safety In Grid Scale Electrical Energy Storage Systems published in April 2024 by the Department for Energy Security and Net Zero. Notwithstanding a reference in that document of safety considerations of using industrial or brownfield sites for Battery storage uses, the document itself acknowledges that:

*"It is however not a guide on battery project development, and it does not cover the standard planning and consenting process for battery system developments."*

148. The second document referred to by the objector is guidance produced by the National Fire Chiefs Council (NFCC) titled “Grid Scale Battery Energy Storage System planning – Guidance for FRS (Fire and Rescue Services). The Guidance states that there is not a statutory requirement to engage with the FRS through the planning process. Nevertheless the TWFS have been consulted on the detail of the application and have expressly raised no objection to the detail of the application.
149. The objectors have also referred to the proximity of the battery storage units to operational development on their land, which includes dust generating activities, storage of fuel and machinery. As a consequence, the objector has also raised the possibility of a requirement for a blast wall (a protective wall designed to minimise blast damage to buildings or other structures exposed an explosion from the other side of the wall) and a greater offset from the boundary. The NFCC guidance states that proposed distances should take into account risk and mitigation factors. An initial minimum distance of 25 metres is suggested prior to any mitigation such as blast walls (the application submission does not specify that any blast walls would be provided). Members should note however it is not the role of the LPA to determine or consider the operational requirements of a BESS nor to determine whether dust arising from operations on the adjacent MGL aggregates plant would prevent it from operating. The internal design and specific safety requirements of a BESS lie outwith the planning policy assessment. Ultimately if there is a subsequent requirement for changes to the layout of the site as a consequence of any separate statutory licensing or legal requirement, then it will need to be determined at that stage whether those changes will be materially different to that which has obtained consent.

### **Planning Obligations and Community Infrastructure Levy**

150. The NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning obligations must only be sought where they meet all of the following tests:
- i. necessary to make the development acceptable in planning terms;
  - ii. directly related to the proposed development; and
  - iii. fairly and reasonably related in scale and kind to the proposed development.
151. The NPPF also states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
152. Policy DEL1 requires new development to be made acceptable through the provision of necessary infrastructure, taking into account viability and other material considerations. Contributions will also be required to mitigate the strategic cross-boundary impacts of development. The Council’s Planning Obligation SPD sets out



the forms of infrastructure which will normally be secured through a legal agreement attached to a planning permission.

153. The following matters will need to be covered in a section 106 legal agreement to make the development acceptable in planning terms:
- Requirements for securing the removal of the equipment/reinstatement of the land after the 40-year period that planning permission is being sought for or sooner period if the equipment ceases to be operational;
  - A £10,000 lump sum for the associated costs of monitoring maintenance of the SuDS;
  - Mechanism for securing the delivery of Biodiversity Net Gain requirements, including off-site provision, and the management/maintenance and monitoring of Landscaping and Biodiversity Net Gain Enhancements on-site, for a period of 30 years from commencement of use of the site for the approved purposes.

All of these would be secured by means of a planning obligation.

154. Having had regard to the above planning obligation tests, it is considered that in this case a section 106 legal agreement is required to secure the above infrastructure items to make the development acceptable in planning terms and is in accordance with Policy DEL1, the Council's Planning Obligations SPD and advice contained in the NPPF.

## **Conclusion and Recommendation**

155. The principle of siting a battery storage facility that will assist the operation of the national grid in balancing electrical capacity at times of system stress that will contribute towards ensuring that there is a reliable and constant supply of electricity across the transmission network is supported due to its industrial setting and limited impact upon surrounding sensitive land uses.
156. Its impact upon the landscape and ecology value of the site and wider wildlife enhancement corridor have been mitigated through on-site measures which include perimeter landscape planting and with off-site biodiversity net gain compensation whose long-term management can be secured in a legal agreement. The inclusion of a 4 metre-high acoustic fence around the site would ensure no unacceptable noise impacts to surrounding areas. Its largely functional design would not be out of character with the site context. The proposed development is supported by an appropriate drainage strategy and contamination and ground stability issues can be controlled by planning conditions. The development would be acceptable in respect of fire safety considerations. The flood management transportation impacts and site remediation measures proposed in the application are all policy compliant and can be secured by means of conditions or section 106 clauses.
157. Whilst no harm is identified to the Grade II listed former iron works buildings to the immediate south and north of the site, the design would fail to preserve the current setting of the Grade II\* listed Lemington Cone situated to the north of the site. The harm arises when viewed across the site from the south. This harm, whilst minor in terms of its less than substantial scale, must none the less be given significant weight in the planning assessment balance and makes the application contrary to Policies DM15, DM16 and CS15. The applicant has identified a number of public benefits that

would arise from the development. These are the support the facility would give to the greater resilience in the UK's electricity supply, contributing positively to the aims of the UK's energy strategy. The proposed development would provide grid stability for circa 112,350 houses, saving approximately 6,950 tonnes of carbon per annum, during the operational phase of the development. These public benefits directly arising from the development which would allow for the continued decarbonisation of the energy grid and thereby have a positive impact upon steps to mitigate the impacts arising from climate change are given significant weight in the planning balance.

158. The above assessment has demonstrated that, in accordance with CSUCP Policy CS1, the proposed development represents a sustainable form of development through being fully inclusive, well- connected and accessible, being well designed to promote community cohesion, wellbeing and to reflect and enhance the area's character and natural environment; and being designed to reduce carbon emissions and being able to adapt to the effects of climate change.
159. Taking into account all of the above assessment and representations received, it is considered that the development would comply with national planning policy set out in the NPPF and the provisions of the statutory development plan except in terms of its impacts upon heritage assets. Here the public benefits arising from the use as a battery storage facility would outweigh the less than substantial harm identified to the setting of Lemington Cone. The Planning Committee is **recommended to be minded to grant** planning permission for application reference 2023/1294/01/DET subject to:
- (i) a section 106 agreement to:
- securing the removal of the equipment/reinstatement of the land after the 40-year period that planning permission is being sought for or sooner period if the equipment ceases to be operational;
  - A £10,000 lump sum for the associated costs of monitoring maintenance of the SuDS;
  - Mechanism for securing the delivery of Biodiversity Net Gain requirements, including off-site provision, and the management/maintenance and monitoring of Landscaping and Biodiversity Net Gain Enhancements on-site, for a period of 30 years from commencement of use of the site for the approved purposes;
  - Associated monitoring fee for above requirements.
- (ii) subject to the following conditions:
1. 3 year consent;
  2. List of approved drawings;
  3. Coal mining intrusive investigation (and remediation if required);
  4. Coal mining signed statement;
  5. Archaeological trial trenching (excavation and recording);
  6. Archaeological trial trenching (post excavation report);
  7. Archaeological trial trenching (publication of report);
  8. Archaeological building recording;
  9. Contamination investigation and risk assessment;

10. Contamination remediation scheme;
  11. Implementation of remediation scheme and validation report;
  12. Reporting of unexpected contamination;
  13. Tree protection measures;
  14. Implementation of hard and soft landscape details as per landscaping strategy;
  15. Proposed landscaping maintenance details;
  16. Proposed planting details, implementation and maintenance (for the landscaping of the fence along the eastern boundary of the site);
  17. No unauthorised vegetation removal;
  18. Details of Woodland Management Plan;
  19. Implementation of proposed vehicular access and turning areas prior to commencement of use;
  20. Construction Environment Management Plan (to include management of any construction phase impacts on protected species, and management of surface water during construction and how the drainage infrastructure will be protected);
  21. Detailed drainage maintenance plan;
  22. Implementation in accordance with the findings in the Noise Impact Assessment;
  23. Submission of details of boundary fence materials;
  24. Compliance with recommendations within the Ecological Impact Assessment (Submission of remediation strategy for Japanese knotweed (in accordance with Ecological Impact Assessment recommendations);
  25. Details of a sensitive lighting scheme designed for the site to minimise light spill on sensitive habitats (in accordance with EcIA recommendations);
  26. Submission of a badger method statement (in accordance with EcIA recommendations);
  27. Details of 30-year management and maintenance of on-site biodiversity enhancement measures.
160. It is also recommended that delegated authority be given to the Assistant Director Planning in consultation with the Chair and Vice Chairs of the Planning Committee to amend, add or omit conditions where appropriate, to ensure the application complies with relevant development plan policies and national planning guidance.
161. It is also **recommended** that in the event that a satisfactory section 106 agreement covering the issues raised above is not received by 13 March 2025 it is recommended that the application be refused for its failure to make adequate provision in this regard contrary to Policy DEL1 of the CSUCP unless an extension of time is agreed to the satisfaction of the Assistant Director Planning in consultation with the Chair and Vice Chairs of the Planning Committee.
162. It is also **recommended** that delegated authority to the Assistant Director Planning in consultation with the Chair and Vice Chairs of Planning Committee to add, omit or amend conditions and heads of terms of the section 106 legal agreement, where

appropriate, to ensure the application complies with relevant development plan policies and national planning guidance.

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## **Background Papers**

Held by Assistant Director Planning at: <https://www.newcastle.gov.uk/viewplanning>

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p617jancs - Land to the South of Former Glassworks, Lemington - LW