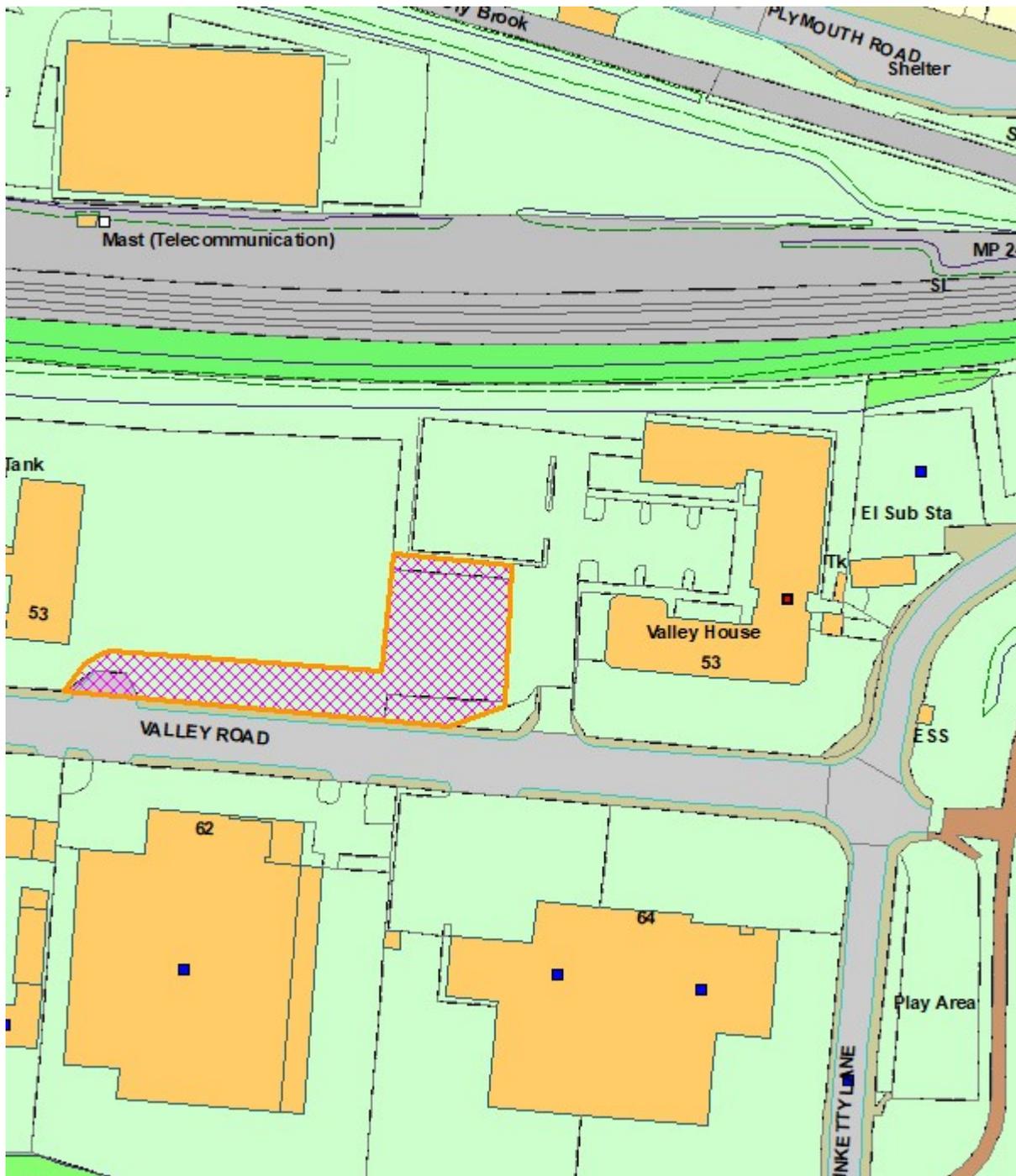


PLANNING APPLICATION OFFICERS REPORT



Application Number	18/01820/FUL	Item	02
Date Valid	26.10.2018	Ward	PLYMPTON ERLE
Site Address	53 Valley Road Plymouth PL7 IRF		
Proposal	Installation of gas-engine powered electrical generation plant		
Applicant	Conrad Energy (Developments) Limited		
Application Type	Full Application		
Target Date	21.12.2018	Committee Date	13.12.2018
Extended Target Date	N/A		
Decision Category	Member referral		
Case Officer	Mr Chris Cummings		
Recommendation	Grant Conditionally		



This application was referred to Planning Committee by Councillor Beer.

1. Description of Site

The application site is an L-shaped parcel of land located at 53 Valley Road. Valley Road is an existing industrial estate with a wide range of uses in operation. The site is positioned on the eastern part of Valley Road and is located between the public highway and a car park serving Valley House (directly to the east). Valley Road is towards the bottom of a valley.

2. Proposal Description

Installation of gas-engine powered electrical generation plant

3. Pre-application Enquiry

None

4. Relevant Planning History

No relevant history for this site. The following applications from other areas of the city are considered relevant:

Ernesettle STOR, Ernesettle Lane, PL5 2ST

13/00900/FUL - Change of use including installation of up to 52 diesel generators and 13 transformers for generation of Short Term Operating Reserve (STOR) electricity of up to 20mw to the local distribution network and associated works - Permitted.

13/02406/FUL - Change of use including installation of up to 52 diesel generators and 13 transformers for generation of Short Term Operating Reserve (STOR) electricity of up to 20mw to the local distribution network and associated works - Variation of condition 2 of planning consent 13/00900/FUL to allow substitution of drawing - minor material amendment to alter layout and infrastructure - Permitted.

14/02387/FUL - Change of use including installation of diesel powered generators and associated infrastructure for the provision of a Flexible Generation Facility to provide energy balancing via the national grid - Granted conditionally

17/00603/FUL - Installation of noise mitigation measures including metal framed barriers with acoustic lining and acoustic lining applied to wall - Granted Conditionally

18/00765/S73 - Variation of condition 5 (hours of operation) of application 13/02406/FUL to allow operation any time outside of permitted hours on a maximum of 5 occasions per year (maximum duration of 30 minutes per occasion) - Granted conditionally

Faraday Road, PL4 OST

12/00084/FUL Construction of Standby Small Scale Embedded STOR Power Plant including generators and associated tanks and buildings and connection to national grid and erection of 4.5m acoustic wall and security fencing - Granted conditionally

12/00608/FUL - Construction of standby small scale embedded STOR power plant including generators, associated tanks and buildings and connection to National Grid and erection of acoustic wall and security fencing - Granted conditionally

17/01009/FUL - Replace 52 diesel generators for 15 gas generators or battery technology - Granted conditionally

5. Consultation Responses

Local Highway Authority - No objection to proposal, advised that standing advice should be used in creating the access to Valley Road.

Wales and West Utilities - Advised that they have pipes in the area and should be contacted by the applicant direct to discuss

South West Water - No objection as proposal shows surface water will be dealt with through infiltration method.

Natural Infrastructure Team - No objection, however condition requested for retention of hedges on site.

Public Protection Service - Object to proposal due to noise impacts of late night operation of the site.

6. Representations

38 letters of representation have been received regarding this application.

- Impact on dwellings on Dudley Road
- Impact of late night and weekend operation noise
- Impact of noise on properties higher up the valley
- Concern over gas supplies to dwellings nearby due to plant using it
- Additional pollution from the use
- Noise disturbances during construction
- Location near to play park and residential properties
- Additional traffic
- Safety of a gas operated plant
- Loss of trees
- Encroachment into park/playing fields.
- Lack of employment benefits to the local community

The reliability of the existing gas supply to nearby dwellings is not a material planning consideration and would be the responsibility of the relevant gas suppliers.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the Core Strategy and other Plymouth Development Plan Documents as the statutory development plan for Plymouth once it is formally adopted.

Annex I of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For Plymouth's current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- For the JLP which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at an advanced stage of preparation having been submitted to the Planning Inspectorate for Examination, pursuant to Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations. On 15 August 2018 the JLP Councils received a Post Hearing Advice Note from the Planning Inspectors. The inspectors state that "at this stage we consider that the JLP is a plan which could be found sound subject to main modifications" and, provided their views on further work and potential main modifications needed. The Council have prepared a schedule setting out the proposed Main Modifications and these are available for consultation until 3rd December 2018.

It is therefore considered that the JLP's policies have the potential to carry significant weight within the planning decision, particularly if there are no substantive unresolved objections.

Other material considerations include the policies of the Framework itself, guidance in National Planning Practice Guidance (NPPG). Additionally, the following planning documents are also material considerations in the determination of the application:

- Development Guidelines Supplementary Planning Document

8. Analysis

1. This application has been considered in the context of the development plan, the submitted Joint Local Plan, the Framework and other material policy documents as set out in Section 7.
2. The proposal seeks the installation of two gas powered electrical generation plants to supply emergency and peak time support to the National Grid on an 'as-required' basis.
3. The proposal does not directly meet the requirements of Policy CS20 of the Core Strategy and Policy DEV35 of the emerging Joint Local Plan as it is gas operated rather than utilising a sustainable resource. However, as set out in the submitted Planning Statement, renewable energy sources can see uncontrolled increases and decreased in output and are unable to respond instantly to peak power variations. The proposed site is designed to support renewable energy sources by providing the additional support required at these peak times. As the use is designed only to be as a supportive measure to other energy sources the proposal is considered acceptable in terms of Policy CS20 of the Core Strategy and Policy DEV35 of the emerging Joint Local Plan as it is assisting the shift to more renewable energy producing technology.

Amenity Impacts

4. The site is positioned at the bottom of a valley and the southern side of the industrial estate backs onto dwelling houses. Although this site is on the northern side of Valley Road the closest residential dwellings are only 130 metres away to the south, creating the potential for amenity impact to them. In addition there are dwellings approximately 135 metres to the north, however they are separated by a railway line and the busy highway of Plymouth Road, limiting the impact on these dwellings.

Light

5. The site is positioned in an existing industrial estate and is set away from neighbouring buildings by approximately 21 metres. The maximum height of the generators is 7 metres, lower than that of the existing containers being stored on site and the proposal is not considered to create any significant loss of light.

Noise

6. The application was accompanied by a Noise Impact Assessment and the Council's Public Protection Service (PPS) were consulted on the proposal.
7. The submitted Noise Assessment states that 10 metres away from the site the noise levels generated by the generators would be 53db, with the background noise level of the surrounding area during daytime being 53.7db during the day and 38.5db at night.
8. The applicant submitted comparative examples of noise which is that 37db is the level of a quiet living room during the day with no television or radio on. A noise level in the region of 50db is similar to that of a moderately quiet office.
9. The Public Protection Service raised objections to the proposal as the location of the site and the natural dip in the topography of the area means that noise at night would be clearly audible in one of the receptor directions. As such, the proposal would not be supported due to the unacceptable levels of noise at night creating significant amenity impacts.

10. The applicant was advised of this and submitted a possible condition to limit the hours of operation to be 07.00 to 23.00 unless in emergency by Electricity Grid operators and this would not exceed 10 hours per year.

11. PPS were consulted on whether this would be a suitable condition and objected to it as the site itself is designed as a top-up service to the grid and any use would be as an 'emergency' additional source for the grid. In this instance such a condition would therefore not be suitable for use. The use for 10 hours per year is also considered not to be suitable for a condition as it would generate significant amenity impacts as, depending on the demand, it could run for up to 10 hours in one go, or see disturbances throughout a shorter period of use spread out over a number of days (for example 1 hour per night for 10 days in a row).

12. The condition restriction of 07.00 to 23.00 is due to the definition of daytime hours set out in British Standard 4142:2014, one of the most widely used for assessment of environmental noise. These hours are also set on the Government website as being defined day time and night time hours.

13. In assessing the proposal Officers investigated other applications for similar methods of electricity generating in the city, with the full list of recent relevant applications listed in Part 4 of this report. Two sites were found with history at Faraday Road and Ernesettle Lane.

14. The site at Faraday Road was originally approved for diesel generators, with an approval in 2017 to change to gas or battery generators. This site is approximately 137 metres from the nearest residential dwelling and is positioned adjacent to waste water treatment works.

15. This proposal saw a 4.5 metre high acoustic screening fence installed as part of the original approvals (12/00084/FUL and 12/00608/FUL) and then a condition restricting the noise levels to be no more than LA90 at any time when measured from nearby residential properties. It is considered that similar noise mitigation methods would not be appropriate at the application site, with PPS advising that the topography of the site means any additional acoustic measures would be difficult to implement, as well as the potential visual impacts of the necessary level of acoustic screening required.

16. The site at Ernesettle Lane was a former factory unit and is positioned 220 metres from the nearest dwellings. It saw the installation of acoustic barriers as well as restrictions on the hours of operation to operate 07.00 to 23.00 hours each day with a maximum of 200 hours per year and a maximum operation time of 2 hours at any use. The operating hours of 07.00 to 23.00 was further restricted with specified times for varying periods of the year.

17. The installation of acoustic barriers at the application is not considered appropriate for the reasons stated previously regarding the Faraday Road site, and the hours of operation were heavily restricted to create an acceptable proposal.

18. It is not considered that a precedent has been set in the city for sites to generate electricity without suitable control being in place to protect neighbour amenity. Due to the topography and positioning of the application site it is not possible to install acoustic barriers in a suitable manner, and the operating hours would need to be restricted to day time use only to meet PPS recommendations on noise level impacts.

19. The hours of operation stated in this application's submitted Air Quality Assessment were 'based on the assumption that the facility will operate up to a maximum of 2,500 hours per year at the maximum design capacity'. This level of use is considered to be inappropriate for night time usage at a site with residential properties in relatively close proximity and with night time impacts identified in the noise assessment report and by the Public Protection Service.

20. Following discussions with the applicant it was agreed that the plant would not operate outside of the hours of 07.00 to 23.00 hours each day and, in line with the Ernesettle Lane approval, it is also recommended to add a condition limiting the total use each year to a maximum of 2,500 hours (approximately 49% of the total available daytime hours).

21. This would assist with mitigating the Public Protection Service concerns regarding night time use of the site and ensure that it is used only as a top-up service, rather than in constant use.

22. With the use of these conditions to control the impact the proposal and the advice of the Public Protection Service the proposal is considered to comply with Policies CS22 and CS34 of the Core Strategy and Policies DEV1 and DEV2 of the emerging Joint Local Plan.

Air Quality

23. The applicant submitted an air quality assessment with the application advising that the proposal would have a 'not significant' effect on local air quality. The Public Protection Service was consulted on the proposal and raised no objections to this element of the submission.

24. Based on the submitted air quality assessment and the Public Protection Service response the proposal is not considered to create significant air quality impacts and accords with Policy CS22 and CS34 of the Core Strategy and Policies DEV1 and DEV2 of the emerging Joint Local Plan.

Visual Impacts

25. The site is located within the Valley Road industrial estate. The highest point of the generator is 7 metres high, with the majority being 6 metres or lower in height. In addition there is proposed to be a 2.5 metre high palisade fence surrounding the site.

26. The existing site has stacked shipping containers that are higher than the proposed generators, and the location within an active industrial estate with a wide range of uses means that the proposal is not considered to generate any significant visual impacts in accordance with Policies CS02 and CS34 of the Core Strategy and Policy DEV20 of the emerging Joint Local Plan.

Drainage

27. Having checked the Environment Agency online flood zone measurements the site was found not to be within a flood zone. The existing surface water drainage of the site will not be altered, with an existing site hard standing retained. South West Water submitted comments on the proposal and raised no objection. As the status quo is being retained and the proposal is on a previously developed site the application is considered to comply with Policy CS21 of the Core Strategy and Policy DEV37 of the emerging Joint Local Plan.

Transport Considerations

28. The site will be accessed from Valley Road and will see a new gated entrance constructed for maintenance vehicles to park within the site confines. Once the site is operational there will be little additional highway movements apart from maintenance.

29. The Local Highway Authority was consulted on the proposal and raised no objections, however advised that the access point should meet Local Highway Authority standing advice to ensure adequate visibility is provided to protect the safety of highway users. A condition is therefore recommended on any approval to ensure the access is installed in the correct manner. With the use of this condition the proposal is considered to comply with Policy CS28 of the Core Strategy and Policy DEV31 of the emerging Joint Local Plan.

Biodiversity

30. The site is located within an existing industrial estate on land currently being used for shipping container storage. The Council's Natural Infrastructure Team were consulted on the proposal and raised no objection, however they did request a condition that any existing hedgerow on site be retained.

31. The proposal does not require the removal of any existing hedgerow as is none on site. As such, the condition recommended by the Natural Infrastructure Team is not considered appropriate in its current form. However, the submitted Tree Survey Report advised that there is a poor quality hedge on the neighbouring site and it is considered appropriate to modify the condition on the approval to ensure that this hedge is protected during construction work. With the use of this condition the proposal would be found to comply with Policy CS18 of the Core Strategy and Policy DEV30 of the emerging Joint Local Plan.

32. Other Considerations

33. Letters of representation raised concern regarding noise during construction. Any works would be expected to follow the Council's code of conduct for construction and an informative would be placed on any approval to advise the applicant of this requirement.

34. Comments were also received on the lack of employment benefits to the site. There would be employment in some form in maintenance of the site and the remainder of the existing storage site is not included within this application, limiting the impact to an acceptable level.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

None

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

13. Conclusions and Reasons for Decision

The proposal does not provide renewable energy, but is designed to be a supporting element in the shift to sustainable resource use. It was considered by Officer's that night time use would generate significant amenity impacts and, in line with Public Protection Service recommendations, the hours of operation will be restricted by condition to prevent significant amenity impacts being generated by the proposal.

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 26.10.2018 it is recommended to Grant Conditionally.

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

I **CONDITION: APPROVED PLANS**

Site Location Plan PLY-LP-01 Rev A received 19/10/18
Existing Site PLY-ES-01 Rev A received 19/10/18
Proposed Site PLY-PS-01 Rev A received 19/10/18
Proposed Elevations PLY-PE-01 Rev A received 19/10/18

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 124, 127, 130 and 131 of the National Planning Policy Framework 2018.

2 **CONDITION: COMMENCE WITHIN 3 YEARS**

The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

3 CONDITION: HOURS OF OPERATION

The approved generators shall not be in operation at any time outside the following hours: 07.00 to 23.00 hours Monday to Sunday inclusive. The approved generators shall operate for a maximum of 2500 hours per calendar year in line with the submitted noise assessment dated 5th October 2018.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 170, 180-183 of the National Planning Policy Framework 2018.

4 CONDITION: ACCESS/HIGHWAY IMPROVEMENTS (GRAMPIAN)

PRE-FIRST USE

The access into the site shall be installed prior to first use of the generators hereby approved. The access shall ensure adequate visibility splays are provided as set out in Paragraphs 7.7.1 to 7.7.10 of the Manual for Streets 2007.

Reason:

In the interests of highway and pedestrian safety in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 102, 108, 110 and 111 of the National Planning Policy Framework 2018.

INFORMATIVES

1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

2 INFORMATIVE: CONDITIONAL APPROVAL (NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

3 INFORMATIVE: COMMERCIAL VEHICLE CROSSING

A dropped kerb may be required to allow access to the site. The applicant is advised to contact the Local Highway Authority to facilitate the works in the highway by way of a licence and fees in accordance with this authority's procedure for the construction of a Commercial Vehicle Crossing.

4 INFORMATIVE: CODE OF PRACTICE

The development hereby approved shall be undertaken in accordance with the Council's Code of Practice for Construction and Demolition Sites which is available at <https://www.plymouth.gov.uk/sites/default/files/ConstructionCodeOfPractice.pdf>.