

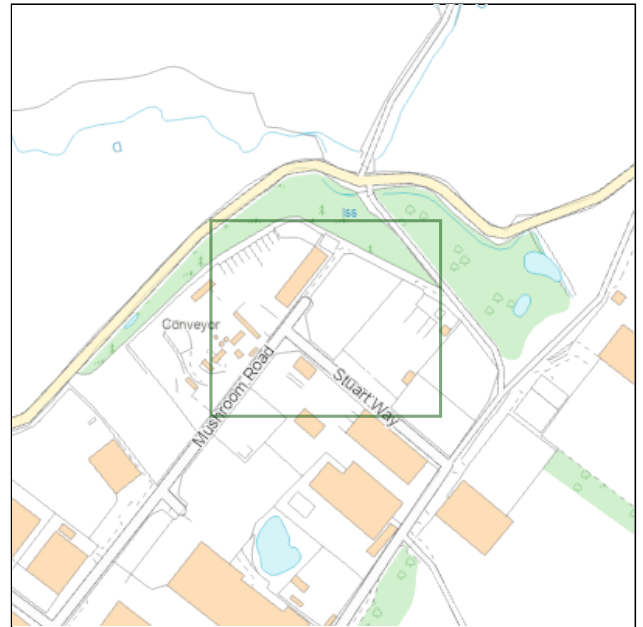
**Ward** Broadclyst

**Reference** 24/1051/FUL

**Applicant** Mr Mark Heuff

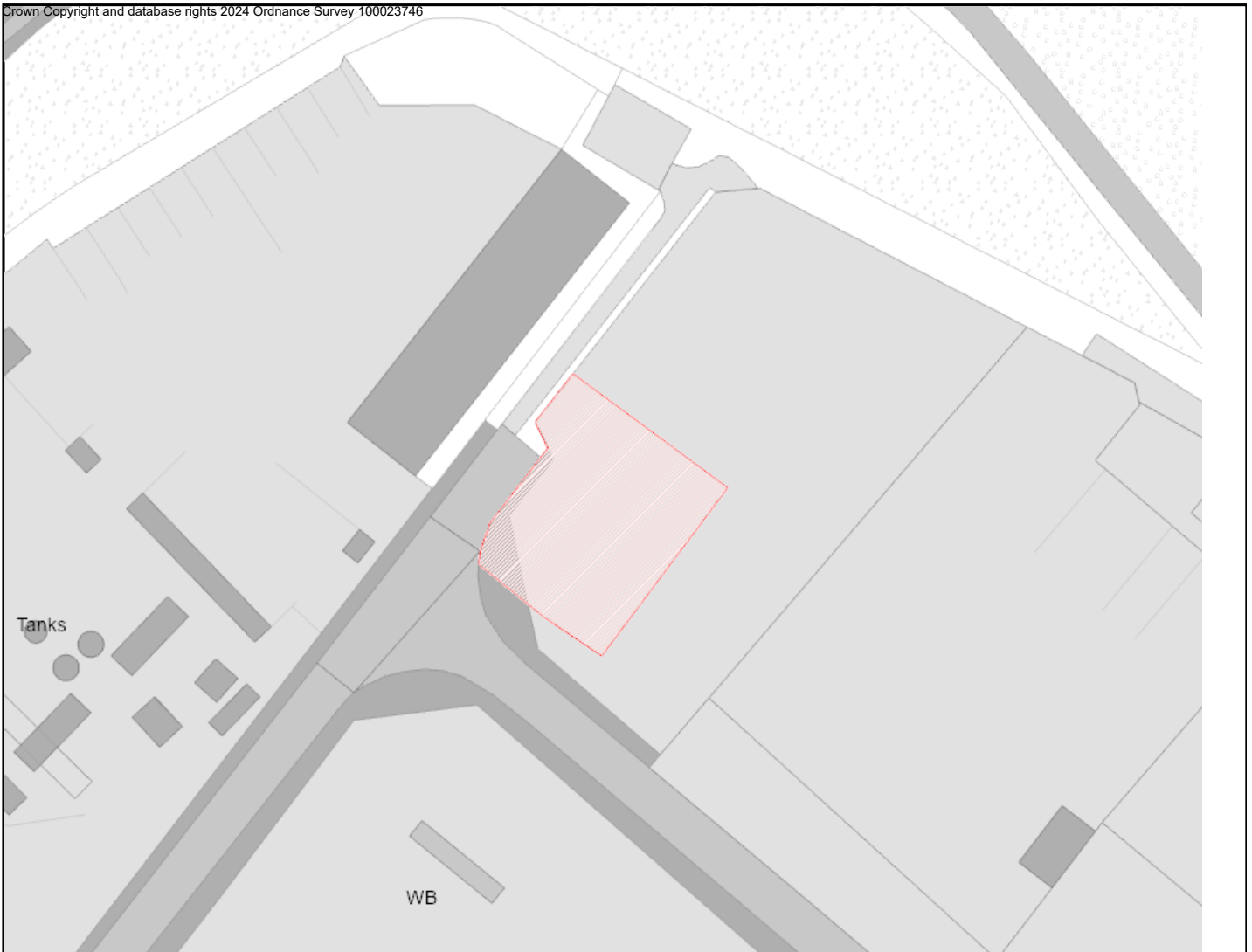
**Location** Unit 10 Mushroom Road Hill Barton Business Park Clyst St Mary

**Proposal** Construction of a synchronous gas-powered standby generation facility and associated infrastructure



**RECOMMENDATION: Approval with conditions**

Crown Copyright and database rights 2024 Ordnance Survey 100023746



		<b>Committee Date: 24<sup>th</sup> September 2024</b>
<b>Broadclyst (Farringdon)</b>	<b>24/1051/FUL</b>	<b>Target Date: 17.07.2024</b>
<b>Applicant:</b>	<b>Mr Mark Heuff</b>	
<b>Location:</b>	<b>Unit 10 Mushroom Road</b>	
<b>Proposal:</b>	<b>Construction of a synchronous gas-powered standby generation facility and associated infrastructure</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

**This application is before Members at the discretion of the Chair and Vice Chair of the Planning Committee.**

**The site refers to Unit 10 Hill Barton Business Park which is located within the north eastern corner business park. The is previously developed land with a concrete hard surfaced finish which is currently being used as an open storage compound.**

**The proposal is for a gas peaking facility that would generate 6.9MW capacity which would play a role in ensuring energy stability and contribute to the reliability of the electricity supply at times of peak demand, thus supporting a national move away from fossil fuel generation to a supply based increasingly on renewable energy. The NPPF supports the transition towards a low carbon economy by balancing the fluctuation of power during periods of high usage and Planning Inspectors have accepted this when assessing the planning balance. Inspectors have suggested that the benefits of electricity generation at times of high demand should attract considerable weight in favour of the proposal but that the harm to climate change objectives due to GHG emissions from the facility should be given considerable weight against allowing the proposed development.**

**Read against the backdrop of the existing business park and commercial uses, the proposal would result in no heritage harm and it has been demonstrated and accepted by the Council's EHO that there would be no harm to residential amenity from noise and air quality to nearby residents. No further technical issues would arise in respect of highway safety, ecology, heritage, residential amenity or flood risk.**

**On balance having regard for the above, there is clear support within the government's National Policy Statement's for Energy which recognises that there must be some fossil fuel generating capacity to provide back-up for when generation from intermittent renewable generating is low and to help with the transition to low carbon electricity generation. The proposal would support the delivery of renewable and low carbon energy and could therefore reasonably be regarded as the type of 'supporting infrastructure' meant by paragraph 160 b) of the NPPF.**

**The proposal would contribute towards energy security with no harm to the environment, on a brownfield site in an existing industrial estate with no technical issues or planning harm. It has been demonstrated that the proposal complies with national and local policy, does not conflict with the Farringdon Neighbourhood Plan such that the application is recommended for approval.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish/Town Council**

Please note in response to the additional document, that there continues to be issues for villagers re. the fan at Brooke Energy. It is not acceptable for another level of noise to be added during times when villagers expect there to be no noise coming from HBBP during weekday evenings/night and weekends.

All 3 can be activated at once. It is not acceptable that Farringdon villagers should be further affected by more industrialisation at HBBP.

#### **Parish/Town Council**

Submission by Farringdon Parish Council in response to the application 24/1051/FUL for "Construction of a synchronous gas-powered standby generation facility request and associated infrastructure by Mark Heuff of Brooke Energy, Jewells Farm, Hemyock, Cullompton EX15 3PX through agents Bell Cornwell LLP at Unit 10, Mushroom Road, Hill Barton Business Park, Clyst St Mary.

Farringdon parish Council opposes this application.

Main issues opposing planning application 24/1051/FUL:

Planning statement prepared by Bell Cornwell in May 2024

The Planning statement reflects a number of errors/issues shown in italics below followed by commentary:

1.2 National and Local Plan Policy is supportive of technologies which promote the transition to a low carbon economy. Whilst the proposal would be powered by gas, it is recognised by government that some use of natural gas may be needed into the

future to meet the overall objective in reducing Green House Gases (GHG) and the transition to net zero GHG.

This statement is self-serving and clearly contrary to the intention of the clean, green power intended by the manifestos of the main parties especially Labour who is believed will form the next government.

The report accepts that this is use of natural gas - the appeals referred to at section 4 of the report under "Planning history" needs to be looked at again in light of the new government's policy.

1.4 It would be located on an industrial site where there are no nearby residential uses, it is not within any national or local landscape designation, and is not within a flood zone.

There is nearby residential use, including Grade II listed properties, across the village of Farringdon.

Please also refer to paragraphs 9.2, 9.3 and 9.7 of the Farringdon Neighbourhood Plan dated 2021.

1.5 The site is therefore entirely suitable for such a use, which is supported by national policy and guidance, and meets the criteria laid out in the East Devon Local Plan and the Farringdon Neighbourhood Plan.

1.6 A Noise Survey and Air Quality Survey have been undertaken which both demonstrate that the noise and air emissions are acceptable.

This is not accepted. Please see further details below.

2.4 It does not fall within a site of any protected designation such as conservation area or national landscape, and there are no listed buildings nearby.

This statement is incorrect. There are 17 listed buildings and structures in Farringdon, at least 3 are very close to HBBP, and Farringdon has a Grade II\* listed church. See reference in the Farringdon Neighbourhood Plan para. 2.4.

3.3 The proposal comprises three 2.3 MWe containerised generators fuelled by natural gas for energy generation. Peaking plants operate in standby mode 24/7 when not in use and operate only when there is a demand to supply electricity. Operationally they would be in most frequent use during the day, and not late at night with a working assumption time of 1500 hours per annum.

What is the basis of the assumption of 1500 hours per annum. Once the plant is in place it could be operational regularly - morning and night - as it can be activated at any time 24/7.

For reference to section 4 "Planning history" see above.

Section 5 "Planning policy"

This application does not accord with the references made to the NPPF nor Strategy 3, 39, 7, D1 or EN14 of the Local Plan nor Farr 6 for the reasons set out in this document.

## Noise

Noise Assessment by Clarke Saunders Acoustic Consultants of 11th April 2024;  
Concerns:

1. The containerised generators are on the north side of HBBP and therefore proximate to residential dwellings. There have been ongoing issues with noise generated by HBBP by villagers.
2. All 3 generators could be in use at one time and during nighttime hours as per para. 2.6.3 : "the development includes three 2.3MWe containerised generators and associated electrical equipment. These may operate during any period which there is a requirement for additional electricity demand which could include night-time periods. There is no restriction to the number of the three generators which can operate at any one time."
3. Villagers complain of a range of issues with Hill Barton which is underplayed by the references in para 4.2 .2 where it says: "The sound climate in the local area is primarily influenced by operational activity at Hill Barton Business Park including sound from vehicle movements, a scaffolding yard, reversing beepers and alarms. " Villagers closer to the site complain of significant dust levels, which has been the subject of EA monitoring, as well as noise from machinery early morning pre-7am. The 3 generators will add to that noise level.
4. And further the report notes at para. 5.4 .1 Noise generated by the proposed plant may be audible at the receptors.. In the experience of the FPC, what is commonly said in reports and "may be audible...."  
Once the generators are built these will be audible by which time the permission has been given, investment made, and it is too late for EA or anyone involved to row back from this such that permits will be inevitable and the ongoing issues to keep other permit holders working respectively, say through daily monitoring of noise and effects of weather causing greater noise travel (which has NOT been addressed in the report) and thus will continue to be tiresome for authorities and for villagers alike.
5. It is noted, as has been seen with previous applications for development at HBBP, that when reports predict low noise levels, the reality for residents of Farrington is very different, particularly when the cumulative effect of the numerous businesses at HBBP are taken into account.  
Residents experience is very different from desktop calculations based on a very limited sound sampling used for this report contrary to the conclusion at 5.5.7, 5.5.8 and 7.7. It is noted also: para 5.2 .2 The supplier of the generators has not been able to provide detailed technical data for the units, however, have certified that the container/enclosure and associated attenuation will be designed such that sound from any part of the unit, including the exhaust stack, will be limited to a sound pressure level of 75 dB(A) at one metre.
6. All of the above shows that predictions serve the applicant seeking to persuade the planning authority but the reality for villagers very different and, if granted, will add another layer of noise to that experienced from HBBP already.
7. This is therefore contrary to Farr 6 c),d), f) and h) and the Local Plan and NPPF as referenced above.

Air quality and odours

Air Quality Assessment by Karius Ltd May 2024 -.

2.2 Operational hours have been assumed as 1500 hours per annum as a base case scenario.

The whole premise of the report is based on an assumption of 1500 with no explanation of the hours proposed and it is noted they are referred to as a base line. As noted above, once the plant is in place it could be operational regularly - morning and night - as it can be activated at any time 24/7. Therefore the premise for the modelling provided by this report is not reflective of the potential reality of operating hours which cumulatively, with other operations at HBBP, would have an adverse effect upon residents of Farringdon.

On this basis it cannot be said that the proposal will meet the air quality requirements of Policy EN14- Control of Pollution which states: "Permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of: Pollution of the atmosphere by gas or particulates, including smell, fumes, dust, grit, smoke and soot."

### **Technical Consultations**

#### Conservation

On the basis of the information provided through this application, the works as proposed for the 'construction of a synchronous gas-powered standby generation facility housed in standard steel profile shipping containers including ancillary equipment such as the exhaust stack mounted on the roof, switchgear, and transformer.' Would, on account of the location of the development site, abundance of mature vegetation to the boundary of the site and existing infrastructure within Hill Barton Business Park, continue to preserve the setting of The Thatch, Hill Barton Farm a Grade II heritage asset located to the south of the development site, Glebe House a Grade II heritage asset located to the east, Denbow Farm a collection of Grade II heritage assets to the north and Higher Holbrook Farm a Grade II heritage asset located northwest of the development site. In this respect conservation do not wish to offer any further comment. Case Officer to assess on planning merit.

#### Environmental Health

I have reviewed the submitted technical advice note together with the NIA and do not anticipate any environmental health concerns.

#### Other Representations

No third party representations received

### **POLICIES**

#### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 39 (Renewable and Low Carbon Energy Projects)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN14 (Control of Pollution)

EN5 (Wildlife Habitats and Features)

EN22 (Surface Run-Off Implications of New Development)

TC7 (Adequacy of Road Network and Site Access)

Neighbourhood plan

Farringdon Neighbourhood Plan (Made)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

**Site Location and Description:**

The site refers to Unit 10 Hill Barton Business Park which is located within the north eastern corner business park. The is previously developed land with a concrete hard surfaced finish which is currently being used as an open storage compound. It is located at the far end of Mushroom Road, an internal access road which serves a number of industrial buildings and uses including the Tarmac Exeter Asphalt Plant to the west. The site is located within the countryside but falls within the extent of authorised uses as defined by the East Devon Villages Plan. It is not the subject of any national or local landscape designations and falls within an area designated as flood zone 1 (low probability of flooding).

**Planning History:**

This site forms part of a larger site on which a County Matter planning permission has been granted for an energy generation plant (ref DCC/2909/2009).

It is understood that this planning permission will not be implemented because the approved energy generation plant was based on technology at the time which is no longer cost effective. It is understood that an alternative planning application is likely to be submitted for an energy waste plant on the remainder of the site.

Whilst not directly related to this application site, reference will be made to an appeal decision at Liverton Business Park for a synchronous gas-powered standby generation facility, plus ancillary infrastructure and equipment and access (ref APP/U1105/W/20/3247638) in which the Inspector gave significant weight to the fact that gas peaking plants assist in the transition to a low carbon economy.

## **Proposed Development:**

Planning permission is sought for the construction of a synchronous gas-powered standby facility comprising of three gas fired generators for the production of standby electricity, along with ancillary structures. It is stated that the output for the generators would be 6.9 MW.

Each generator would be housed within steel profiled shipping containers measuring 3.3 metres in height and would be provided with emission stacks which would terminate above each container at 10 metres above ground level. The generators would be connected to ancillary equipment which includes switch gears and transformers. The compound would be enclosed by a palisade fence.

Access to the site would be via Mushroom Road and parking would be provided for two vehicles.

The purpose of the development is to provide additional power at peak times, rather than to be generating power the whole time.

The installation of 3 containerised gas-fired generators for the production of standby electricity is part of a national initiative to assist National Grid when it requires access to extra power in the form of either generation or demand reduction during certain periods of the day to manage situations where actual demand is greater than forecast demand and/ or unforeseen generation unavailability.

It is understood that gas-fired standby generation is a contracted balancing service awarded by National Grid annually whereby the Service Provider delivers a contracted level of power when instructed by National Grid. The proposal would contribute to a national programme to fulfil demand for energy during peak electricity periods. It is understood that the proposal, unlike national energy generation, feeds electricity into the local electricity network at the point of requirement.

The proposal would help to maintain power supplies at peak times when capacity is marginal, whilst off-setting the decline in traditional power sources and supporting the development of a low carbon economy addressing short-term fluctuations in supply whilst the UK transitions from fossil fuels to low-carbon energy generation.

## **Issues and Assessment**

The main issues to consider in determining this application are considered to be:

- The principle of development, and the benefits to be derived from increased energy security and new energy infrastructure to support the UK's shift towards low carbon energy having regard to national and local policy.
- The impact on the character and appearance of the area
- The impact on the residential amenities of the occupiers of surrounding properties.
- Ecological Impacts
- Highway Safety
- Heritage Impact

## **The Policy Position:**

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council formally adopted the East Devon Local Plan



2013-2031 on 28th January 2016 and the policies contained within it are those against which applications are being determined. The Farringdon Neighbourhood Plan (NP) has been 'made' and carries full weight alongside the Local Plan.

### **Principle of Development:**

In planning terms the site is located outside of the built-up area boundary of Farringdon as defined by the East Devon Local Plan and the Farringdon Neighbourhood Plan where development is only permitted under the provisions of Strategy 7- Development in the Countryside where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

1. Land form and patterns of settlement.
2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings.
3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.

The application was originally advertised as a departure from the Local Plan on the basis that it was felt that there is no express policy support within it for developments on this nature. Officers accept that the proposal is not a renewable or low carbon energy project, a position that was supported by the Inspector in the Liverton appeal decision, where it was concluded:

*'Strategy 39 of the EDLP provides that renewable or low-carbon energy projects will in principle be supported and encouraged. The appeal scheme is not a renewable energy project. The EDLP Glossary definition for renewable and low carbon energy states that low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels). Gas-powered generation is a conventional use of fossil fuel. The proposal would not, therefore, help reduce emissions compared to conventional use of fossil fuels. The appeal scheme is not a low carbon technology for the purposes of applying the EDLP. Strategy 39 does not apply to the proposed development.'*

However the Inspector did find compliance with Strategy 3- Sustainable Development of the Local Plan

In respect of Strategy 3, the Inspector concluded:

*EDLP Strategy 3 states that the objective of ensuring sustainable development is central to EDDC's thinking, where sustainable development is interpreted to mean that certain issues (Issues a) to e) below) and their interrelationships are taken fully into account when considering development. In determining this appeal in accordance with the development plan, I am required by Strategy 3 to follow the same process, with the same aims.*

*In considering Issue a) Conserving and enhancing the environment, the site is a cleared and vacant area within an established industrial and commercial estate. The proposed development, subject to appropriate conditions, could be undertaken in a way that minimised landscape and biodiversity harm. Development of the cleared site could, to some extent, enhance the quality and character of the landscape. However, the proposal would not provide scope to enhance biodiversity. An approved drainage scheme could require appropriate sustainable drainage systems.*

*Issue b) Prudent natural resource use, includes minimising fossil fuel use and therefore reducing carbon dioxide emissions. The fact that there are other means of generating standby electricity that would produce the same output with lower carbon emissions than the appeal*

*scheme lends support to the argument that the proposal would not minimise fossil fuel use. However, this issue can also be considered in a broader context where energy needs are to be met by a mix of technologies in a complex energy sector. Determining how the operation of the proposed generators would fit within this complexity is not straightforward. It is too simplistic just to say that the proposed technology is less efficient than other means of generating an equivalent quantity of electricity. I have found that the appeal scheme would result in the emission of GHG and so would harm climate change objectives, resulting in an adverse impact that should be given considerable weight in the planning balance. But this finding does not necessarily mean that the scheme would be at odds with Issue b) on the grounds that it would fail to minimise fossil fuel use. The proposal would not materially be at odds with the other aims of Issue b) regarding resource consumption, reusing materials and recycling. It would gain no support from the encouragement in Issue b) for renewable energy development.*

*The proposal would not directly promote social wellbeing (Issue c)) in terms of providing healthcare, affordable housing, recreation space and village halls. However, in generating electricity for the grid at times of high demand it would provide a facility to meet people's needs. The security of the electricity supply at these times is an important element of social wellbeing. The imposition of appropriate noise conditions would reasonably safeguard the wellbeing of those living and working nearby.*

*The modest contribution the appeal scheme would make to the economy, especially in terms of securing only three part-time jobs, would do little to encourage sustainable economic development (Issue d)). However, energy security is crucial to the economy. Whether the appeal scheme would encourage sustainable economic development raises again the considerations set out in Issue b) above.*

*Issue e) requires that I take a long-term view in deciding this appeal. The significant GHG emissions from the proposed generators would, cumulatively over time, add to the problems that future generations will face due to climate change (Issue b)). Nevertheless, energy security is important in maintaining a high-quality environment (Issues c) and d)), and especially one in which jobs, facilities, education and training are readily available.*

*There is local concern that the proposed facility would become a stranded asset as renewables and low carbon generation is encouraged to come on line. However, if the proposal is at odds with Issue b) to some extent due to the use of fossil fuels, then this would be insufficient, in my judgement, to bring the scheme into conflict with the overall sustainable development aims of Strategy 3, given the energy security benefits of the proposal regarding Issues c) and d). The inability of the scheme to enhance biodiversity would similarly fall short of resulting in an overall conflict with Strategy 3.*

*I consider that Issues a) to e) and their interrelationships are taken fully into account in the above analysis. Furthermore, in my consideration of the proposed development, I have had regard to these findings as an important element that is central to my thinking about the merits of the proposal. On this basis, I find compliance with EDLP Strategy 3'.*

The Inspector also considered the proposals against the NPPF and National Policy Statements EN-1 and EN-2 and concluded:

*'The planning balance that applies here is a straight weighing of the benefits of the proposed development against the harm. The overall assessment in this case is finely balanced. The benefits of electricity generation at times of high demand should attract considerable weight in favour of the proposal. The harm to climate change objectives due to GHG emissions from the facility should be given considerable weight against allowing the proposed development. The other matters considered do not weigh significantly in the planning balance. In my*

*judgement, the support the proposed development gains from EN-1, which is a relevant material consideration here, notwithstanding that the scheme is not an NSIP, is sufficient to tip the planning balance in favour of the proposal’.*

Whilst each application must be determined on its own merits, having regard for the above and the Inspector's conclusions that the proposal did not conflict with the development plan when considered as a whole, officers have concluded that the proposal is not a departure from the Local Plan despite the fact that it was advertised as such.

### **Farringdon Neighbourhood Plan:**

The site falls with the 'made' Farringdon Neighbourhood Plan area and falls within the extent of employment uses contained within the inset map on page 28 of the FNP. Policy FARR6-Existing Business and Commercial Areas of the FNP states:

Business and commercial development or redevelopment for business and commercial uses on the sites listed below (and delineated on Map 5) will be supported, provided it is in keeping with those uses and business activity already on the site and does not lead to the outward expansion of the site.

#### **o Hill Barton Business Park**

The proposal would not conflict with this part of the policy as it is contained within the business park and does not lead to its outward expansion.

The policy continues to state:

All business/commercial development should:

- a) respect the character of its surroundings by way of its scale and design;
- b) not harm the surrounding landscape;
- c) not adversely affect any listed building, heritage asset or setting;
- d) not have an adverse effect on the living conditions of its neighbours;
- e) not have an unacceptable adverse impact on the transport network or parking provision;
- f) safeguard residential amenity and road safety;
- g) promote access on foot, by bicycle, or by public transport;
- h) mitigate any adverse effects of noise, air pollution and light pollution; and
- i) ensure there is no increase in flood risk.

On the basis that the proposal does not lead to the outward expansion of the site, it is considered that it is acceptable in principle subject to its compliance with the remaining criteria in the policy and other relevant policies within the Neighbourhood Plan.

### **Character and Appearance:**

Strategy 46 - Landscape Conservation and Enhancement and AONBs of the Local Plan states that development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in Areas of Outstanding Natural Beauty.

Strategy 7- Development in the Countryside of the Local Plan requires that development does not harm the distinctive landscape, amenity and environmental qualities within which it is located.

Policy D1- Design and Local Distinctiveness of the Local Plan requires that proposals will only be permitted where they respect the key characteristics and special qualities of the area in which the development is proposed.

Policy FARR6 of the FNP requires that proposals respect the character of its surroundings by way of its scale and design and not harm the surrounding landscape.

Whilst the site is located within the countryside, it is within the extent of authorised uses of Hill Barton Business Park as defined by the Local Plan and the Farringdon Neighbourhood Plan. The site is well contained towards the rear of the business park and is not open to public views from outside of the business park.

The facility and infrastructure would be constructed within the existing compound area and would be installed on brownfield land which is surrounded by a variety of commercial uses including the Tarmac Exeter Asphalt Plant to the west which has a large number of buildings and infrastructure which is visible from within the business park.

Whilst the plant and facility would not be aesthetically pleasing, it would only be viewed from within the confines of the business park in the context of open compounds, industrial buildings and other plant and equipment. The proposal would result in no landscape or visual harm to the surrounding countryside and would not be viewed from outside of the site. The proposal would use brownfield land, a position which is supported within the NPPF (para 124 c) to which substantial weight is attributed. In the absence of any landscape harm arising from the proposals, there is no conflict with the aforementioned policies.

#### **Residential Amenity:**

Policy guidance with respect to noise is found in the National Planning Policy Framework (NPPF). Regarding noise and planning the NPPF contains the following statement in paragraph 191, “planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment as well as the potential sensitivity of the site or the wider impacts that could arise from the development. In doing so they should:

- mitigate and reduce to a minimum any potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life.

The Planning Practice Guidance Noise (PPGN) provides further guidance regarding the assessment of noise within the context of Planning Policy. The overall aim of this guidance, is the tying in with the principles of the NPPF and the Explanatory Note of the Noise Policy Statement for England (NPSE), is to identify whether the overall effects of noise exposure from the proposed development is, or would be, above the significant observed adverse effect level (SOAEL) and the lowest observed adverse effect level (LOAEL).

Therefore, in making sure that this development is appropriate for this location it’s important to consider and ensure that the effective management targets for noise set out within the Noise Policy Statement for England are followed. This includes that any noise giving rise to significant adverse impacts on health and wellbeing of local residents are avoided and any potential adverse impacts resulting from noise are mitigated against and reduced to a minimum.

Policy D1 of the Local Plan requires that proposals do not adversely affect the amenities of existing residents and policy EN14- Control of Pollution of the Local Plan states that

permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of:

1. Pollution of the atmosphere by gas or particulates, including. smell, fumes, dust, grit, smoke and soot.
2. Pollution of surface or underground waters including:
  - a) Rivers, other watercourses, water bodies and wetlands.
  - b) Water gathering grounds including water catchment areas, aquifers and groundwater protection areas.
  - c) Harbours, estuaries or the sea.
3. Noise and/or vibration.
4. Light intrusion, where light overspill from street lights or floodlights on to areas not intended to be lit, particularly in areas of open countryside and areas of nature conservation value.
5. Fly nuisance.
6. Pollution of sites of wildlife value, especially European designated sites or species.
7. Odour

Criterion d) of policy FARR6 of the FNP requires that proposals do not have an adverse effect on the living conditions of its neighbours;

#### Noise:

The application is accompanied by a Noise Impact Assessment (NIA) prepared by Clarke Saunders Associates to determine the potential noise impacts of the operation of the site on noise sensitive receptors (NSRs).

On the advice of the Council's Environmental Health Officer the report focuses on existing operations at the business park and noise impacts on NSRs considering the cumulative impact of the proposal and potential low frequency noise emissions of the proposed generators and associated electrical equipment.

The report identifies the nearest NSRs to the site to be residential properties Swiss Cottage to the N.W. and Denbow Farm to the N.E. containing five separate residential dwellings.

The report identifies that the soundscape in the locality is heavily influenced by operational activity at the business park including sound from vehicle movements, scaffolding yard, reversing alarms and beepers.

The NIA concludes that whilst noise generated by the plant may be audible at the amenity of NSRs, given the distance and the other industrial generated noise from the business park the NIA indicates a low impact, depending on the context (for both daytime and night-time). The NIA assumes that noise emissions from the units are within the worst-case scenario of 125 Hz octave band on the basis that all three units would operate at one time which is unlikely to occur at night-time.

The predicted Specific Sound Level from the plant at the nearest noise sensitive receptors has been predicted as being LAeq 31 – 33 dB. This is significantly below the following measured ambient and background sound levels:

- Daytime ambient sound level of LAeq, 16-hour 50 dB at the monitoring location
- Night-time ambient sound level of LAeq, 8-hour 46 dB at the monitoring location
- Daytime background sound level of LA90, 16-hour 40 dB at the monitoring location
- Night-time background sound level of LA90, 8-hour 38 dB at the monitoring location

The report details that each of the containers and exhaust stacks would be designed to provide a sound attenuation which would result in limiting the sound pressure level to 75dB (A) at 1m.

At the nearest NSRs during daytime and night-time, the rating level would be at least 5dB below the background sound level. The report has been considered by the Council's EHO who raised concerns that the NIA identified that the typical background sound levels (LA90) for the NSRs are lower over the weekday evenings and weekend periods than during the normal weekdays (which makes sense given the reduction in work activities and vehicle movements during this time from the business park).

During these periods the soundscape will not be overly determined by existing industrial noise from the business park. It's likely that future peak operating periods for the plant will occur during these quieter periods. As highlighted in the NIA the noise from the development will likely be perceivable at the receptor's location. Taking these points into consideration, the BS4142 assessment needs to be reviewed particularly the point of whether any acoustic feature corrections should be applied that may have an impact on the final rating level.

In response to these concerns, the noise consultant provided a further technical note clarifying that the typical lowest background noise levels during the evening periods (19:00 –23:00) has been detailed as 39 dB (LA904hr). The predicted Specific Sound Level from the plant at the nearest NSRs has been predicted as being LAeq 31 – 33 dB. This is significantly below the evening background sound levels.

The EHO accepts that the absolute predicted levels are at least 5dB lower than the typical lowest background sound level at night. Therefore, sound from the proposed plant would not be readily distinctive against the residual acoustic environment which is still both industrial and commercial in nature. Keeping the noise level 5 dB below the current background sound level will avoid any further noise creep from the business park.

On this basis the perception of any noise impact is that at certain times, the noise may be heard but it does not cause any change in behaviour, attitude, or any other physiological response. It doesn't change the acoustic character of the area. Therefore, the increasing effect level is considered to be 'No Observed Adverse Effect' and no specific measures are required. It isn't considered that the proposal would give rise to any significant harm to the residential amenities of the occupiers of the nearest residential receptors. The proposal would comply with policy D1 and EN14 of the Local Plan and the residential amenity criteria of policy FARR6 of the Neighbourhood Plan.

#### Air Quality:

Whilst concerns regarding air quality are noted, the Council's Environmental Health Officer has advised that they are satisfied that due to the separation distances between the proposed development and any sensitive receptors that any airborne emissions from the gas generators will have negligible impacts on these receptors. The proposed development would meet current national and local planning Air Quality Policies and Air Quality Guidance and therefore no objection can be sustained in relation to air quality.

#### **Ecological Impacts:**

Policy EN5 - Wildlife Habitats and Features of the Local Plan states that wherever possible sites supporting important wildlife habitats or features not otherwise protected by policies will be protected from development proposals which would result in the loss of or damage to their nature conservation value, particularly where these form a link between or buffer to designated wildlife sites. Where potential arises positive opportunities for habitat creation will be encouraged through the development process.

The application is accompanied by a short ecological statement prepared by Richard Green ecology who prepared an Environmental Statement to support a previous proposal for a pyrolysis plant covering a larger site area. The ecologist concludes that on the basis that the proposed installation would be on an area of existing hard standing with no ecological value, situated away from any natural habitats that it would have no significant ecological impacts or impacts on protected species. The ecologist does identify that any external lighting over that present on the existing industrial estate has the potential to impact on protected species sensitive to artificial lighting but the proposal does not include any external lighting and a condition could be imposed to ensure that if the event that lighting is installed, details would have to be submitted to and approved in writing by the Local Planning Authority. The proposal would not result in any harm to ecology or protected species and would comply with policy EN5 of the Local Plan.

### **Highway Safety:**

Policy TC7 - Adequacy of Road Network and Site Access of the Local Plan states that planning permission for new development will not be granted if the proposed access, or the traffic generated by the development, would be detrimental to the safe and satisfactory operation of the local, or wider, highway network.

Being contained within the confines of the business park, the site would be accessed via the existing internal business parks road with no significant highway's impacts. Traffic generation is likely to be greatest during the construction of phase of the plant with vehicle movements limited to during its operation.

No objections have been raised by the County Highway Authority and it is not considered that the proposal would result in any harmful impacts to the safe and satisfactory operation of the local, or wider, highway network.

### **Heritage Impacts:**

Under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Council has a duty in favour of preserving heritage assets. Paragraphs 205-208 of the National Planning Policy Framework deal with the assessment of harm to designated heritage assets and which advises that great weight should be given to an asset's conservation and this should be proportionate to the importance of the asset. Relevant policies for an assessment of the impact of proposals from the East Devon Local Plan are as follows:

EN9- Development Affecting a Designated Heritage Asset- Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm will be weighed against the public benefits of the proposal, including securing its optimum viable use. Favourable consideration will be given for new development within the setting of heritage assets that enhance or better reveal the significance of the asset, subject to compliance with other development plan policies and material considerations.

Criterion c) of FNP policy FARR6 requires that proposals do not adversely affect any listed building, heritage asset or setting.

The nearest heritage assets to the application site are grade II listed buildings Denbow Thatch, Denbow Farm and Denbow House 400 metres to the N.E. Parts of the business park are visible from Denbow Farm

At 10.0 metres in height, the exhaust stacks are likely to be visible from Denbow Farm. The exhaust stacks would however be read against the context and back drop of the existing

buildings including the Tarmac plant which are visible above the trees in views looking back towards the business park.

The significance of the heritage assets at Denbow Farm are derived from their historic character and appearance such that given the distance between the application site and these heritage assets, the visibility of the existing industrial and commercial buildings and noise and activity within the business park, it isn't considered that the proposed development would result in any harm to the significance or setting of heritage assets. The proposal would comply with the provisions of policy EN9 of the Local Plan, FARR 6 of the Neighbourhood Plan and the NPPF.

## **CONCLUSION**

The proposal is for a gas peaking facility that would generate 6.9MW capacity which would play a role in ensuring energy stability and contribute to the reliability of the electricity supply at times of peak demand, thus supporting a national move away from fossil fuel generation to a supply based increasingly on renewable energy. The NPPF supports the transition towards a low carbon economy by balancing the fluctuation of power during periods of high usage and Planning Inspectors have accepted this when assessing the planning balance. Inspectors have suggested that the benefits of electricity generation at times of high demand should attract considerable weight in favour of the proposal but that the harm to climate change objectives due to GHG emissions from the facility should be given considerable weight against allowing the proposed development.

The government recognises that moving towards 2050 that natural gas fired generation may still be needed to provide for affordable and reliable supply, and to respond to peak in demands. Significant weight should therefore be given to NPS EN1 and the provisions of the local plan which, when assessed against the relevant criteria, would be sustainable development.

It has been identified that the proposal would comply with Strategy 3 of the Local Plan and FARR 6 of the Farringdon Neighbourhood Plan and the Development Plan when considered as a whole. The proposal would be constructed within the confines of an existing business park, commercial in nature and activity and would utilise brownfield land which weighs in favour within the overall planning balance. The proposal would not result in any adverse impact on the character and appearance of the surrounding area and be a form of development is compatible with the industrial uses within the business park.

Read against the backdrop of the existing business park and commercial uses, the proposal would result in no heritage harm and it has been demonstrated and accepted by the Council's EHO that there would be no harm to residential amenity from noise and air quality to nearby residents. No further technical issues would arise in respect of highway safety, ecology, heritage, residential amenity or flood risk.

On balance having regard for the above, there is clear support within the government's National Policy Statement's for Energy which recognises that there must be some fossil fuel generating capacity to provide back-up for when generation from intermittent renewable generating is low and to help with the transition to low carbon electricity generation. The proposal would support the delivery of renewable and low carbon energy and could therefore reasonably be regarded as the type of 'supporting infrastructure' meant by paragraph 160 b) of the NPPF; a position that has been recognised by Inspectors in a number of aforementioned appeal decisions.

The proposal would contribute towards energy security with no harm to the environment, on a brownfield site in an existing industrial estate with no technical issues or planning harm. It has



been demonstrated that the proposal complies with national and local policy, does not conflict with the Farringdon Neighbourhood Plan such that the application is recommended for approval.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Details of the external colour of all buildings and plant equipment to be constructed on site shall be submitted to and approved in writing by the local planning authority prior to their installation. Development shall be carried out in accordance with the approved details and thereafter retained  
(Reason: In the interests of the character and appearance of the area in accordance with policy D1- Design and Local Distinctiveness of the East Devon Local Plan 2013-2031).
4. The generators hereby permitted shall be fired on non-other than natural gas.  
(Reason: A condition is necessary to specify use only of natural gas as fuel for the generators, as that is the basis on which the effects of the scheme have been assessed in respect of its noise and air quality impacts in accordance with policy EN14- Control of Pollution of the East Devon Local Plan 2013-2031).
5. A validation report must be submitted and approved by the Local Planning Authority prior to the first use of the site for the generation of electricity. Each containerised generator, flue stack and any other fixed plant associated with the generation of electricity must be tested by an acoustic engineer to validate that it's operating at the specified sound pressure level of:  
75 dB (LAeq 1hr) between the hours of 07:00 until 23:00  
75 dB (LAeq 15min) between the hours of 23:00 until 07:00  
When measured at one meter from each noise source (as detailed within the applicants Noise Impact Assessment).  
Any measurements and calculations shall be carried out in accordance with 'BS4142+2014 Methods for Rating and Assessing Industrial and Commercial Sound'. The plant shall thereafter not exceed the noise levels stated in this condition at any time.  
(Reason: To avoid noise being detrimental to the amenity of local residents in accordance with policy EN14- Control of Pollution of the East Devon Local Plan 2013-2031).

## NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability. This Informative confirms that this development is not liable to a CIL charge.

### Plans relating to this application:

	Location Plan	22.05.24
EDS-238976-0005 REV P08 1 OF 6	Proposed Site Plan	22.05.24
EDS-238976-0005 REV P08 2 OF 6	Proposed Elevation	22.05.24
EDS-238976-0005 REV P08 3 OF 6	Proposed Elevation	22.05.24
EDS-238976-0005 REV P08 4 OF 6	Proposed Elevation	22.05.24
EDS-238976-0005 REV P08 5 OF 6	Proposed Elevation	22.05.24
AIR QUALITY ASSESSMENT	Other Plans	22.05.24
acoustic assessment	Noise Impact Assessment	22.05.24
	Protected Species Report	22.05.24

### List of Background Papers

Application file, consultations and policy documents referred to in the report.

## **Statement on Human Rights and Equality Issues**

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, 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.

**Equality Act:**

In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.