

**THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) -
SECTION 78**

STATEMENT OF CASE OF THE LOCAL PLANNING AUTHORITY

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

**IN RESPECT OF AN APPEAL AGAINST THE REFUSAL OF PLANNING
PERMISSION FOR:**

**THE CONSTRUCTION OF A TEMPORARY 49.35MW BATTERY STORAGE
FACILITY, TO INCLUDE A COMPOUND, A DNO CONTROL ROOM, A
CUSTOMER SUBSTATION, SECURITY FENCING, LANDSCAPING AND
OTHER ASSOCIATED INFRASTRUCTURE**

AT

LAND OFF, BEMERSLEY ROAD, BROWN EDGE, STAFFORDSHIRE

LOCAL PLANNING AUTHORITY REF: SMD/2022/0076

**THE PLANNING INSPECTORATE REFERENCE:
APP/B3438/W/24/3351328**

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1. Introduction

- 1.1 This statement is prepared by Declan Cleary MTCP MRTPI, Director of DC Planning Consultancy Limited, on behalf of Staffordshire Moorlands District Council (the Council), and provides an overarching view of the Council's case, while setting out the Council's position on Green Belt matters and the necessary balancing exercise.
- 1.2 Separate submissions, which together form the Council's Statement of Case, are made by:
- Staffordshire Moorlands District Council Environmental Health Officer, with regard to Noise matters (contained at Appendix 7); and,
 - Stuart Ryder CMLI, Director of Ryder Landscape Consultants, with regard to Landscape and Visual matters (submitted under separate cover).
- 1.3 A description of the site, review of the planning history of the site, and summary of the consultation responses received are detailed within the Council's Committee Report and need not be repeated.
- 1.4 The appeal relates to the Council's refusal of the *Construction of a temporary 49.35MW battery storage facility, to include a compound, a DNO control room, a customer substation, security fencing, landscaping and other associated infrastructure*, which was refused on 5th March 2024.
- 1.5 The decision notice cites three reasons for refusal:
- 1. This site consists of agricultural land. It is greenfield and lies within the Green Belt. The proposal represents inappropriate development in the Green Belt which is harmful by definition. The development would, in addition compromise openness by replacing open fields with a development of industrial character and appearance. Openness and permanence are, the NPPF confirms, the essential characteristics of the Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Furthermore there would be conflict with one of the main purposes of including land within the Green Belt namely that of safeguarding the countryside from encroachment. The totality of the Green Belt harm is significant and Local Planning Authorities are required to give substantial weight to any harm to the Green Belt. It is not considered that the other considerations put forward by the applicant amount to the very special circumstances to clearly outweigh the harm to the Green Belt and other harm. It is for these reasons that the proposal is contrary to Policy SS10 of the Staffordshire Moorlands Local Plan and advice in the National Planning Policy Framework.*

2. There are a number of residential properties close to the site. The predicted night time noise levels set out in the updated Noise Assessment would exceed current night time background noise levels in this rural area. It is considered that this has the potential to adversely impact on the amenity of nearby residents in conflict with Policy SD4 of the Staffordshire Moorlands Local Plan and advice in the NPPF

3. The site lies outside a settlement boundary in the open countryside. It is within the Landscape character type of Ancient slope and valley farmlands and part of the undeveloped Head of Trent river valley. The overall landscape character is of open rural pastoral fields. It is considered that introducing what is effectively an industrial compound into this landscape would result in a significant and harmful landscape and visual change. It would neither respect nor enhance local landscape character and would result in a prominent intrusion into the countryside. It would result in significant harm to the character and appearance of the area. For these reasons there is conflict with Policy DC3 of the Staffordshire Moorlands Local Plan and the NPPF which says that planning decisions should contribute to and enhance the natural and local environment by amongst other matters recognising the intrinsic character and beauty of the countryside.

2. Procedural Matters

Amended Plans

- 2.1 As part of the appeal amended plans and documents have been submitted which were not considered at the time that the application was determined. The extent of changes are set out in the Appellants Hearing Statement. As requested by the Inspector third parties have been notified of the amended scheme, while the comments of relevant consultees have been requested, namely Staffordshire County Council Highways Authority, the Lead Local Flood Authority, and Staffordshire Wildlife Trust.
- 2.2 It is understood that the Inspector will come to a view on whether to accept these amended plans at the Hearing. Nonetheless, the Council and Appellant will seek to come to a mutually agreeable position on the amendments. This would likely hinge on whether there are any outstanding objections from those consulted above.

Revisions to the National Planning Policy Framework

- 2.3 The application was considered against the provisions of the National Planning Policy Framework (December 2023). This is referred to in the Council's Committee Report and cited in the Council's reasons for refusal.
- 2.4 Since the decision was made, and during the appeal process, a revised version of the National Planning Policy Framework (the Framework) was released on 12th December 2024. This came into effect on the date of publication, superseding the December 2023 version, and is now a material consideration.

3 Policy Context

The Development Plan

- 3.1 The Development Plan for the area comprises the Staffordshire Moorlands Local Plan 2020 (the LP). There is no made neighbourhood plan affecting the area. The decision notice of the Council cites the development as being contrary to policies SS10, SD4 and DC3 of the LP.

SS10 (Other Rural Areas Strategy)

- 3.2 Policy SS10 sets out the spatial strategy for development which lies within the rural areas outside of the development boundaries within the open countryside and green belt. SS10 allows for only development which has an essential need to be located in the countryside, setting out criteria under which this would be achieved.
- 3.3 SS10 requires that development enhances and conserves the quality of the countryside. This is to be achieved by, inter alia:
- Giving priority to the need to protect the quality and character of the area and requiring all development proposals to respect and respond sensitively to the distinctive qualities of the surrounding landscape; and,*
- Ensuring renewable energy schemes are of an appropriate scale, type and location.*
- 3.4 In terms of development in the Green Belt, SS10 confirms that strict control will be exercised over inappropriate development in the green belt, only allowing for the exceptions defined by Government policy.
- 3.5 The justification to the policy, at 6.61, reiterates that development in these areas will be strictly controlled, both in terms of its scale and type in order to ensure that the character and role of the countryside and the green belt is not undermined. 6.63 acknowledges that renewable energy schemes will often be in rural areas and that such development will almost always have an environmental cost as well as benefits. It states that such proposals must be weighed against the continuing commitment to protect the environment. The scale and design of such schemes will therefore be of paramount importance and should accord with Policy SD 2.
- 3.6 It will be demonstrated that the appeal scheme is contrary to Policy SS10 as the development does not meet the exceptions for development in the Green Belt. While not cited within reason for refusal 3 (relating to landscape harm), the provisions of SS10 are relevant. It will be demonstrated that the development does not conserve or enhance the quality of the countryside, that it does not respect or respond sensitively to the qualities of the landscape and, to this end, is not an appropriate location for the development.

SD4 (Pollution and Water Quality)

- 3.7 Policy SD4 seeks to protect people and the environment from unsafe, unhealthy and polluted environments by ensuring that development avoids potentially adverse effects. This will be achieved by only permitting proposals that are deemed to result in pollution, including noise, if after mitigation, potential adverse effects are deemed acceptable.
- 3.8 It will be demonstrated that the appeal scheme is contrary to Policy SD4 as the development does not protect people from an unhealthy environment arising from noise disturbance.

DC3 (Landscape and Settlement Setting)

- 3.9 Policy DC3 states that the Council will protect and, where possible, enhance local landscape and the setting of settlements. This will be achieved by, inter alia, resisting development which would result in a prominent intrusion into the countryside, and supporting development which respects and enhances local landscape character.
- 3.10 The justification to DC3 states, at 7.93, that the natural environment is one of the District's greatest assets. At 7.95 it is confirmed that the policy provides protection for local landscape character including features and views that can make a valuable contribution to the landscape quality. Development which has an adverse impact on features, qualities and views will be resisted.
- 3.11 It will be demonstrated that the appeal scheme is contrary to Policy DC3 as the development does not protect the local landscape and results in a prominent protrusion into the countryside.

Other Development Plan Policies

- 3.12 Notwithstanding those stated within the Decision Notice, there are also a number of other policies within the Local Plan which are relevant to the main issues of this appeal. For completeness, extracts of these policies are provided at Appendix 1.

SD2 (Renewable/Low Carbon Energy)

- 3.13 SD2 states that support will be given to small-and large-scale stand-alone renewable or low-carbon energy schemes subject to a number of considerations. These include, inter alia:

The degree to which the scale and nature of a proposal impacts on the landscape, particularly having regard to relevant Landscape Character evidence;

the degree to which the developer has demonstrated any environmental/economic/social benefits of a scheme, as well as how any environmental or social impacts have been minimised (e.g. visual, noise or smell); and,

the impact on the amenity of residents

SS1 (Development Principles)

- 3.14 Policy SS1 is an overarching policy which relates to all development. This expects that development and use of land contributes positively to social, economic and environmental improvement in terms of delivering, inter alia: a healthy, safe, attractive, active, well-designed and well-maintained environment; development which maintains the locally distinctive character of the Staffordshire Moorlands; development that is undertaken in a way that protects and enhances the natural environment; and support development which secures high quality, sustainable environments, efficient and effective use of resources and contributes effectively to tackling climate change and reduced carbon emissions.

DC1 (Design Considerations)

- 3.15 Policy DC1 is a general development management policy which relates to design. DC1 states that all development shall be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area. This confirms that the design of new development should, amongst others, be of a high quality and add value to the local area; be designed to respect the site and its surroundings; protect the amenity of the area, including creation of healthy active environments and residential amenity, in terms of, amongst others, noise pollution.

Other Material Considerations

National Planning Policy Framework (December 24)

- 3.16 A new version of the NPPF (the Framework) was published on 12th December 2024. At the application stage, the appeal proposals were considered by the Council under an earlier version of the Framework and its content is no longer a material consideration. However, insofar as relevant to the main issues of the appeal, the content of the Framework has not significantly altered. The following paragraphs of the new Framework are directly relevant to the appeal proposals.
- 3.17 Paragraph 102 relates to ensuring decisions to into account public safety, and states that "*the safety of children and other vulnerable users in proximity to open water, railways and other potential hazards should be considered in planning and assessing proposals for development*".
- 3.18 Paragraph 124 recognises that decisions should promote an effective use of land in meeting the need for other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 3.19 Paragraph 135 states that decisions should ensure that development functions well and add to the overall quality of the area for the lifetime of the development, be visually attractive as a result of layout and appropriate and effective landscaping; and are sympathetic to local character including the surrounding landscape setting.

- 3.20 Section 13 relates to protecting Green Belt land. Paragraph 142 confirms that *"the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."*
- 3.21 Paragraph 144 sets out the five purposes of the Green Belt. The most pertinent in the consideration of this appeal is its purpose *"to assist in safeguarding the countryside from encroachment"*.
- 3.22 Paragraph 153 confirms that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 3.23 Paragraph 154 confirms that development in the Green Belt is inappropriate unless it meets one of the exceptions which are set out in that paragraph.
- 3.24 Paragraph 153 confirms that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 3.25 Paragraph 161 states that planning should support the transition to net zero by 2050 and take full account of all climate impacts and support renewable and low carbon energy and associated infrastructure. Paragraph 163 states that the need to mitigate and adapt to climate change should be considered in assessing planning applications.
- 3.26 Paragraph 168 relates to determining applications for renewable and low carbon energy developments (including associated infrastructure), and states that Councils should:
- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future;*
 - b) recognise that small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions.*
- 3.27 Paragraph 187 states that decisions should contribute to and enhance the natural and local environment by, inter alia:
- a) protecting and enhancing valued landscapes;*
 - b) recognising the intrinsic character and beauty of the countryside; and,*
 - e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution*

3.28 Paragraph 198 states that decisions should ensure that new development is appropriate for its location, having regard to the likely effects of pollution on health and living conditions, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Development should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life

3.29 For the reasons set out in the Councils Statement of Case, it is considered that the appeal proposals would fail to accord with the provisions of the Framework, having regard to matters regarding Green Belt, landscape and quality of life.

Overarching National Planning Policy Statement for Energy EN-1

3.30 Paragraph 1.2.1 states that EN-1 may be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Paragraph 1.2.2 confirms that "*whether the policies in this NPS are material and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy*".

3.31 The Council is of the opinion that while EN-1 is a material consideration, there are clearly policies within the development plan which are relevant to the subject matter of this appeal, as detailed above. Therefore, the extent to which the policies of EN-1 are applicable to the appeal, in the opinion of the Council, is limited.

3.32 Notwithstanding the above, should greater weight be attached to its policies, and the development considered against them, then the following paragraphs are relevant.

3.33 The appellant places weight on paragraph 4.1.7. Paragraph 4.1.7 reads:

Where this NPS or the relevant technology specific NPSs require an applicant to mitigate a particular impact as far as possible, but the Secretary of State considers that there would still be residual adverse effects after the implementation of such mitigation measures, the Secretary of State should weigh those residual effects against the benefits of the proposed development. For projects which qualify as CNP Infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases. This presumption, however, does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. (emphasis added)

3.34 As highlighted above, firstly the presumption does not apply to residual impacts which present an unacceptable interference with human health.

- 3.35 Section 4.4 deals with "Health" with 4.4.2 confirming that direct impacts on health to include, inter alia, noise. Therefore, the presumption relied upon by the appellant would not apply where there is an unacceptable interference with human health arising from noise.
- 3.36 Furthermore, EN.1 requires the applicant to demonstrate the application of a mitigation hierarchy. The glossary to EN-1¹ defines the mitigation hierarchy as *"a term to incorporate the avoid, reduce, mitigate, compensate process that applicants need to go through to protect the environment and biodiversity"*.
- 3.37 5.10 relates to Landscape and Visual Impacts. Paragraphs 5.10.26 to 5.10.28 sets out the mitigation to reduce landscape and visual impacts of such developments. It is not considered that the appellant have demonstrated how the mitigation hierarchy has been applied to their scheme or that the most effective mitigatory or compensatory landscaping has been applied.
- 3.38 5.12 relates to Noise and Vibration impacts. Again, mitigation is set out in paragraphs 5.12.13 to 5.12.16. It is not considered that the appellant have demonstrated how the mitigation hierarchy has been applied to their scheme or that the most effective mitigation to limited the effect of the development on the living conditions of nearby properties, through noise disturbance has been proposed.

¹ Page 173

4. Amplification of Councils Reasons for Refusal

Green Belt

- 4.1 The application site lies within the North Staffordshire Green Belt as defined by the Local Plan policies map. It is common ground between the parties that the development represents inappropriate development within the Green Belt. Therefore, it is not considered necessary to assess the development against the list of exceptions set out in paragraph 154 of the Framework.
- 4.2 In accordance with paragraph 153 of the Framework substantial weight is given to harm to the Green Belt by reason of inappropriateness.

Green Belt – Openness

- 4.3 The appeal site predominantly relates to a single agricultural field, but the red edge include land within another field to provide access. The site is free from any development and is not bound by built form on any side. The field has no visual association with existing built form, and the absence of any built form is a noticeable characteristic of the site. While there is no definition of openness within national policy, it is accepted that openness has both spatial and visual aspects. It is clear that the site due to the absence of built form holds the essential “openness” characteristics of the Green Belt as set out by paragraph 142 of the Framework.
- 4.4 In both the refused and amended proposals, the appeal scheme would see large parts of the site lost to above ground power related infrastructure. Furthermore, to facilitate the development the site would require significant engineering operations to reprofile the site contours to provide site access and a level platform for the proposed substation.
- 4.5 In the amended appeal scheme, the battery compound would be sited slightly further up the valley side slope, while an additional area of hardstanding to provide vehicular manoeuvrability within the site is provided. It is not clear from the submitted plans how the land within the security fencing, surrounding the battery containers, will be treated, although it is assumed that this would be laid to hardstanding.
- 4.6 The spread and heights of the development across the site would result in the site appearing as an industrial compound within an otherwise open countryside location, poorly related both visually and functionally to existing built form. This would result in a clear loss of openness spatially.
- 4.7 Views of the site would be most apparent from the surrounding public right of way network to the east from which there are clear views of the sloping field across the valley. Due to the valley side location of the site the spread of development up the hillside, would be apparent. Unlike relatively flatter sites, which are more conventional for this type of development, the opportunities to adequately screen the development are more problematic.

- 4.8 In addition, Stuart Ryder has also considered the effect of the development on openness who considers that the proposed development would appear as a highly isolated development in an open rural area harming the sense of openness at the Site and in the contribution it makes to the sense of visual openness across the adjacent open landscape that runs along the east facing side of the ridge.
- 4.9 It is the Council's opinion, therefore, that the development would have a harmful urbanising effect on the natural environment, visually eroding openness. The loss of openness to the Green Belt, both spatially and visually would be significant.
- 4.10 The appeal submission is silent on what means the site would connect to the purported point of connection i.e. whether this would be above ground infrastructure or below ground cabling. Given the detached proximity and distance from the POC. In addition, at this stage, it remains unclear whether any further above ground installations would be necessary to satisfy any requirements that Staffordshire Fire and Rescue may have for the site. From experience from other sites above ground water tanks have been necessary, along with alternative means of access. Therefore, the development may result in a greater quantum of development, and effect on the openness of the Green Belt than that suggested in either submission.

Green Belt – Purposes

- 4.11 It is the Council's firm assertion that the development would conflict with the purposes of including the land within the Green Belt by failing to safeguard the countryside from encroachment. The site and adjacent fields are free from any significant built development and represent an undeveloped valley side network of fields which slope down from Bemersley Road. Any built development is contained to the edge of Ball Green, or is located at the top of the slope in isolated pockets along Bemersley Road, appearing as ridge top development. The site lies within very close proximity to the North Staffordshire conurbation, which is the main built-up area around which the North Staffordshire Green Belt surrounds.
- 4.12 The Council's Green Belt Review Study (2015) (Appendix 2) identifies the site as falling within parcel N19. Figure 4.4 and Table 4.1 confirm that parcel N19 makes a significant contribution towards safeguarding the countryside from encroachment. The appeal field, along with the adjacent valley side, are an integral part of N19 and both individually and together clearly contribute towards that purpose.
- 4.13 In considering appeal 3335922 (Appendix 3), which was for BESS development within Staffordshire Moorlands District Council, and within the Green Belt, the Inspector made reference to the Green Belt Review Study. *"Furthermore, the proposed site is not situated within the key areas of the Green Belt identified in the Council's Green Belt Review as making a significant contribution to it"*. That site is located in parcel C8

which has a lower level of contribution in safeguarding the countryside from encroachment than this appeal site.

- 4.14 The significant land level changes means that the site access would have to slalom down the valley side to achieve safe access. The topography would also necessitate significant land reprofiling to achieve a level area for the siting of the substation. Together with the actual infrastructure installed on the site, this would result in the field becoming urbanised with unnatural engineered landforms and power infrastructure of an industrial appearance.
- 4.15 The proposed development would result in development which would visually sprawl down the hillside from Bemersley Road and, to this end, would result in a clear encroachment of built development into the countryside. To this end, the development would result in an incursion into the countryside away from the North Staffordshire conurbation. This results in a conflict with the purposes of including the land within the Green Belt resulting in significant harm to the Green Belt.

Green Belt Conclusions

- 4.16 The appeal proposals represent inappropriate development in the Green Belt which is, by definition, harmful. Significant harm would arise to both the openness of the Green Belt and the reasons for including the land in the Green Belt, through failing to safeguard the countryside from encroachment. This attracts substantial weight against the development.

Landscape/Visual Effects

- 4.17 This issue is considered in detail in the separate statement prepared by Ryder Landscape Consultants. In summary the main conclusions are:
- The Site would lose its primary characteristic as an pastoral field and will become an industrial form of development;
 - The proposed landscape mitigation do not mitigate these adverse landscape effects to the Site;
 - The significance of the landscape effect for the Site itself is judged at a **Major/Moderate, Adverse**;
 - The significance of the landscape effect is judged at **Moderate, Adverse** for the contextual area;
 - The landscape effect is considered to be **Moderate, Adverse** for the wider landscape area;
 - The most significant visual effects are experienced to the west of the Site from Footpath 13 and 6 as **Major/Moderate, Adverse and Permanent** in nature for the path users at the point of completion reducing to a **Moderate, Adverse and Permanent** effect at Year 15;
 - There would also be **Moderate, Adverse** visual change from Woodhouse Lane reducing to a **Moderate/Minor, Adverse and Permanent** at Year 15;

- Mid-distance views from the eastern side of the valley looking west are the ones that will experience the greatest visual change as the Site field is viewed as an integral part of a wider and distinctive landform that is both scenic and undeveloped;
- The Site is evident in longer views from Brown Edge and although only a small part of a larger panoramic view there will still be a **Minor, Adverse and Permanent** effect caused given the incongruous nature of the proposals and the lack of development on the valley side;
- The proposed mitigation planting will neither fully ameliorate the adverse visual effects or help to assimilate the proposals into the wider landscape in more distant views;
- The BESS will appear and remain a prominent insertion, or intrusion of an industrial type development in a fundamentally rural location.

4.18 In light of the above, it is considered that the harm to the landscape would attract significant weight against the proposed the development.

Effect on Living Conditions arising from noise

4.19 This issue is considered in detail in the separate memorandum prepared by the SMDC Environmental Health Officer. In summary the main conclusions are:

- The concerns regarding the originally refused proposal remain, as set out in previous comments made by the EHO;
- The methodology and lack of acoustic correction, given the type of noise and level of noise which is predicted, is of concern;
- Modest acoustic corrections made by the EHO show this development has potential to cause significant adverse noise impacts in to this area and its residents;
- The new proposal removes an acoustic barrier
- The topography of the site has made mitigation difficult.
- The proposal to use lower noise batteries has not significantly improved noise reduction at some receptors.
- The site is in a rural area with rural/suburban neighbours, based on the figures provided there is significant risk this area will be impacted by a new constant industrial noise through the evening and night.
- Low background sound levels and corresponding internal sound levels could be compromised by changes in the type of noise which this BESS is predicted to cause
- The use of gardens by residents in the evening would be significantly compromised, leading to a likelihood of complaint
- The proposals would not comply with the requirement of Noise Policy Statement of England to provide protection of quiet times and places.

4.20 In light of the above, it is considered that the harm to the living conditions of nearby residents, arising from noise disturbance, would attract

moderate weight against the proposed the development as outlined at application stage. However, this is somewhat tempered by the significant level of uncertainty surrounding the effects of the development. The inability to mitigate the effects of the development in respect of noise is also of particular concern.

Other Considerations

- 4.21 The appellants have advanced other considerations which they consider to weigh in favour of the development. These can be summarised as climate and energy; grid connection; biodiversity net gain; landscaping and hedgerow planting; absence of alternative sites; temporary nature; and, economic benefits. The appellant affords each of these components beneficial weight which, in their opinion, together amounts to very special circumstances.

Climate and energy

- 4.22 There is no dispute between the parties in terms of the benefit that the development would have in its contribution towards achieving net zero targets and addressing climate change at both national and local levels. Indeed, the Council at the time of considering the application afforded this matter very significant weight.

Grid Connection

- 4.23 To date there has been no evidence provided that there is an agreement in principle in place to connect to the suggested point of connection.
- 4.24 Furthermore, the site remains some distance from the POC rather than being within "close" proximity. It has not been demonstrated how efficient the operation of the development would be in this proximity and the Council cannot be satisfied that this is an optimum location for the proposed development in this regard due to the distance involved. In addition, due to these distances, and lack of clarity surrounding whether there would be additional overground infrastructure necessary, it may be that further harm would arise. Even if additional cabling were to be provided underground, this would result in significant disturbance. A development which is much closer to a POC would negate the need for substantial overground or underground disturbances.
- 4.25 In appeal 3319320 (Appendix 4), the Inspector considered the issue stating at paragraph 33 that, "*In terms of its location, the need for it to be located close to a substation or 132kV overhead line, and the fact that the site provides this, is a modest benefit in favour of the proposal.*"
- 4.26 In light of the uncertainties surrounding this matter, it is considered that this matter only attracts limited weight.

Biodiversity Net Gain

- 4.27 The Council acknowledge that the development would deliver measurable net gain, although it should be noted that the acceptability of the revised

scheme in this regard is yet to be confirmed by Staffordshire Wildlife Trust. In addition, the new proposed 16.11% habitat and 98.83% hedgerow units, represents a significant reduction from those considered at the time of application (26.75% habitat units and 189.98% hedgerow units).

- 4.28 At the time the original scheme was considered, this matter was afforded moderate weight. Given the significant reductions in BNG associated with the revised scheme this would attract limited weight.

Landscaping and hedgerow planting

- 4.29 Both schemes show some improvements to landscaping across the site, including enhancement to hedgerows. Nonetheless, the full extent of landscaping proposed is relatively modest in its totality and would only attract limited weight in favour of the development.

Absence of Alternative Sites

- 4.30 Firstly, the Council agree that there is no requirement for the appellant to demonstrate that there are no alternative sites for the proposed development. Nonetheless, as the appellant has referred to their ASA, the Council are of the opinion that it is not a robust assessment and has a number of flaws. These can be summarised as:

- The ASA suggests that the Whitfield substation is the only available site for BESS development within SMDC. The ASA does not acknowledge that the existence of Cellarhead substation which has seen a large number of BESS developments applications sited immediately adjacent or in very close proximity to it (including 3 approvals, and 1 allowed at appeal);
- The ASA completely dismisses land in the adjoining district (Stoke-on-Trent City Council) which is where the point of connection is sited;
- Stoke-on-Trent City Council have recently approved planning permission for a BESS development adjacent to Chatterley Whitfield and very close to the point of connection (details contained in Appendix 5 for information). Importantly, of note is that this site is immediately adjacent to a Listed Building;
- Other sites have been dismissed due to proximity to Listed Buildings. Such potential sites cannot be broad brush dismissed due to proximity to a Listed Building. This requires a full understanding of the significance of the heritage asset, its setting and the landform of the site in question;
- Reviews of Brownfield Register, SHLAA and Employment Land Review have not been carried out for land in the adjoining district which falls within their 2km study area.
- Whilst referred to elsewhere in submissions, no indication has been given to, or assessment of, the land owners other land (noting the appellants indication that such land would be used for connecting to the point of connection);

- The ASA is very broadbrush and makes no detailed assessments of any site, or consideration of landscape matters; and,
- Finally, in light of the new Framework, the ASA is outdated as there is no assessment of any potential “grey belt” land within the Green Belt which may be a more preferable location for such development.

4.31 For the reasons set out above, the Council are therefore of the opinion that the purported absence of alternative sites should be afforded no beneficial weight in favour of the development.

Temporary Nature

4.32 It is acknowledged that the development is proposed to be temporary, with an operational life of 40 years. After which the land could be restored to its existing condition, although this would require significant reprofiling of the land.

4.33 Given the apparent need for the development as essential infrastructure to support the transition to net zero, it is not clear under what circumstances the development would suddenly become superfluous after 2065. Indeed the current Framework supports applications which extend the life of existing sites².

4.34 Furthermore, and importantly, 40 years is a significant length of time and the effects of the development on the Green Belt, landscape and living conditions through noise disturbance would be over this period. This was acknowledged in appeal decision 3324608 (Appendix 6), where the Inspector concluded that *“although the development would not be permanent and the land would be reinstated to its former, open character, in the context of the level of harm identified, the adverse effects would be experienced over a significant period of time”*.

4.35 For the above reasons, the temporary nature of the development is a matter which attracts very little weight in favour of the development.

Other Economic Benefits

4.36 It is acknowledged that there would be some economic benefits associated with the development arising from jobs during construction and capital expenditure. Given the scale of the development and nature of the end use it is considered that this attracts very little weight in favour of the development.

² Paragraph 168c)

Overall Green Belt and Planning Balance

4.37 For ease of reference, a table of the harms versus the benefits of the development is detailed below.

Harm		Benefits	
Matter	Weight	Matter	Weight
Green Belt (including significant harm to openness and significant harm to purposes)	Substantial	Climate and Energy	Very Significant (both schemes)
Landscape	Significant	Grid Connection	Limited (both schemes)
Noise	Modest	BNG	Moderate (original) Limited (amended)
		Landscaping	Limited (both schemes)
		Alternative Sites	None (both schemes)
		Temporary Nature	Very limited (both schemes)
		Economic Benefits	Very limited (both schemes)

4.38 While there are acknowledged benefits of the scheme, it is not considered that these would *clearly* outweigh the extent of harm to the Green Belt, landscape and living conditions due to noise, as required by 153 of the Framework and, to that end, Policy SS10.

4.39 Therefore, the Council is of the firm opinion that the necessary very special circumstances do not exist.

5. Comments on the Appellants Statement of Case (Hearing Statement)

- 5.1 At 3.1.5 it is suggested that the development would have a relatively low impact on existing ground conditions. The appeal site is a sloping site with land levels dropping significantly from west to east. The plans, in both instances, indicate that the development would require changes to the land levels in order to provide convenient and safe vehicular access to the site and level surface for the substation. The banking to provide the level substation platform would be in the region of some 5m in height. Therefore, the development would change the profile of the land to provide for less natural contours across the site and could not be considered to be a development which would have a "relatively low" impact on existing ground conditions.
- 5.2 At 3.2 the appellants refer to the point of connection. It is understood that the agreed point of connection, Whitfield substation, which is circa 950m to the north west, from the proposed site access, as the crow flies. The distance from the actual location of the BESS infrastructure is over 1km from the point of connection. This will require significant length of cabling to connect, and would also result in inefficiencies in the operation of the development.
- 5.3 At 4.3.7, and at 8.5.30, it is argued that the development is reversible. While it is accepted that the development would have an operational life of 40 years, the overall harm that would occur to the Green Belt, to the landscape and residents would be for a significant, and generational, length of time. It is not considered that the reversibility of the development to be a benefit of the scheme.
- 5.4 At 4.4.3 to 4.4.11 the appellants refer to EN1 – National Policy Statement for Energy. As set out earlier in this statement it is considered that there are relevant policies within the development plan which are directly relevant to this appeal and therefore EN-1 does not override the development plan. The development should be considered against the policies of the development plan in the first instance.
- 5.5 In any event, where residual effects relate to public health matters, which includes noise, the presumption does not apply as confirmed by the wording within EN-1. Furthermore, the presumption applies after the mitigation hierarchy has been applied. In this instance it is not considered that the mitigation hierarchy in relation to both landscape and noise effects has been appropriately applied.
- 5.6 Therefore, while the Council acknowledge that EN1 is a relevant consideration it ought not be given such weight to override the relevant policies of the development plan. Further, even if greater weight is applied to EN-1 then the presumption would not apply due to concerns regarding health matters, and the failure of applying the mitigation hierarchy.

- 5.7 Again at 6.1.5 the appellant refers to EN-1 and residual effects with regard to noise. As set out above, impact from noise is a public health matter and, therefore, the provisions of EN-1 with regard to refusing only in “exceptional circumstances” does not apply. In any event, the application has not appropriately sought to mitigate the effects on living conditions.
- 5.8 Similarly, at 7.1.10, the appellant refers to EN-1 and residual effects with regard to landscape. Notwithstanding the clear policies of the development with regard to effects on the landscape, even if EN-1 is relied upon more heavily, the Council would seriously question the application of the mitigation hierarchy in the first instance. The scheme proposes very little by way of any meaningful landscaping to reduce the effects on the development. This would be particularly important given the topography of this exposed valley side setting.
- 5.9 At 8.2.13 to 8.2.15, and elsewhere in their suggested benefits, the appellant suggests that the development would assist in urban regeneration by ensuring brownfield sites would remain for other uses. This argument would appear to run counter to the appellants suggestion that brownfield sites would not be suitable due to their likely proximity to an urban population.
- 5.10 At 8.3.4 it is suggested that perceived visual effects would be significantly mitigated by the extensive landscaping scheme. It is clear from the landscaping scheme which has been presented that this is not an extensive scheme as suggested. In addition, the topography of the site, the spread of development up the valley, along with the changes to land levels to create a raised development platform for the substation, would mean that the suggested minimal landscaping is unlikely to be effective in any intended screening function.
- 5.11 At 8.4, and at 8.5.28 to 8.5.29, reference is made to the absence of alternative sites, making reference to their ASA. As set out in the Council’s case above, it is not considered that the ASA can be relied upon.
- 5.12 At 8.5 the appellant refers to “The Very Special Circumstances”. The appellants are incorrect to identify these as “very special circumstances” from the outset. These are other considerations. Very Special Circumstances can only exist at the end of the balancing exercise made by the decision maker.
- 5.13 At 8.5.3 the appellant does not acknowledge that the harm to the green belt would be substantial.
- 5.14 At 8.5.7 to 8.5.20 the appellant refers to type and nature of development and the roll that such development has in achieving national and local targets of net zero. It is common ground that these are a benefit of the development.
- 5.15 At 8.5.21 to 8.5.27 much is made of the availability of a grid connection. To date, with the exception of anecdotal commentary within various

statements, there has been no firm evidence presented to demonstrate that the grid connection has been secured.

- 5.16 At 8.5.34 to 8.5.36 landscaping benefits are cited. However, the submission fails to acknowledge the damage which would be caused to the existing Bemersley Road hedgerow. While it is indicated that this would be largely retained, the hedgerow would be in the required visibility splay for the site access. As required by the suggested condition of SCC Highways, the visibility splay would need to be clear of any obstruction above 900mm. Therefore, the hedgerow would need to be continuously maintained at a low height which, for a country roadside hedgerow, would appear unnatural and unsightly.

6. Conclusions

- 6.1 For the reasons set out in this Statement of Case, and accompanying submissions, it is respectfully requested that the Inspector dismisses the appeal.
- 6.2 In the event that the appeal is allowed, it is recommended that this is subject to a number of conditions. A final list of conditions will be provided within the agreed Statement of Common Ground.