

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended For Approval

<u>APPLICATION NO:</u> P2019/5071	<u>DATE:</u> 18/06/2019
PROPOSAL:	Variation of Condition 2 (List of Approved Plans and Documents) of Planning Permission P2018/0436 (relating to a 20MW gas-powered standby electricity generating plant) to amend the design and location of the plant/equipment, together with a scheme for the installation of a new acoustic screen 4m-6.5m high plus 2.4m high security fencing with 1m high electric fence; plus the variation of Conditions 3 (samples of materials), 8 (external lighting scheme), and 14 (noise rating and silencers), and agreement of details relating to Conditions 9 (accident management plan), 10 (surface water drainage), 16 (piling scheme), 19 (contaminated land desktop assessment) and 20 (remediation scheme) (Amended information received 18/10/19 and 04/02/20 regarding drainage and odour report)
LOCATION:	Ex Gas Works, Land To The West Of Afan Way, Port Talbot
APPLICANT:	UK Power Reserve Ltd
TYPE:	Section 73 – Variation of Condition
WARD:	Sandfields East / Aberavon

PLANNING COMMITTEE URGENCY ACTION: COVID-19

This application was originally scheduled to be considered at the Planning Committee meeting on 17th March 2020. That meeting was, however, cancelled (along with all other Council meetings) due to the Covid-19 pandemic.

Accordingly, this application is now brought forward for determination as a 'Planning Committee Urgency Action' during the Covid-19 pandemic and will be determined in accordance with the [Council's agreed procedure](#).

It is also noted that while a Committee Site Visit was initially requested by Officers, both the Chair and Vice-Chair of Planning Committee are already familiar with the site, and therefore it is considered that the matter may proceed to a determination on the basis of the following report.

BACKGROUND INFORMATION

This application is being reported to Planning Committee due to significant Member involvement and interest, affecting both Sandfields East and Aberavon Wards, and due to the complexities surrounding this proposal.

Officers have also decided, in conjunction with the Chair of Planning, to convene a Members' Site Visit in advance of the matter being heard at Planning Committee.

SITE AND CONTEXT

The application site is located on the site of the former Victoria Road Gas Works, adjacent to Afan Way, Sandfields, Port Talbot.

The application site is an irregular parcel of land measuring a total of 0.67 hectares in area. It is relatively flat in profile and comprises existing hardstanding areas. It relates to two separate portions. The first area relates to the access track into the site, and the second area relates to the site for the generating station/compound.

Access to the site was originally proposed off Victoria Road, utilising an existing vehicular access into the former Gas Works site (opposite the junction with Addison Road). However, separate permission was granted for maintenance vehicles to use the access to the rear of 1, 1A and 2 Victoria Road (ref: P2017/0923), with the main gas works access being retained for the construction traffic.

The site is bounded by Afan Way to the east, an electricity sub-station and Victoria Road to the north, residential dwellings and the former Gas Works site to the west, with a covered reservoir to the south.

DESCRIPTION OF DEVELOPMENT

This is an application under Section 73 of the Town and Country Planning Act for the Variation of Condition 2 (List of Approved Plans and Documents) of Planning Permission P2018/0436 (relating to a 20MW gas-powered standby electricity generating plant or Short Term Operating Reserve - STOR) to (retrospectively) amend the design and location of the installed plant/equipment.

The application also includes a scheme for the installation of a new acoustic screen 4m-6.5m high, plus 2.4m high security fencing with 1m high electric fence; together with the variation of Conditions 3 (samples of materials), 8 (external lighting scheme), and 14 (noise rating and silencers), and agreement of details relating to Conditions 9 (accident management plan), 10 (surface water drainage), 16 (piling scheme), 19 (contaminated land desktop assessment) and 20 (remediation scheme) of planning permission ref. P2018/0436.

All plans / documents submitted in respect of this application can be viewed on the [Council's online register](#).

Background Information / Negotiations

Members should note that the developer (UK Power Reserve - UKPR) contacted the Local Planning Authority to advise that the development (which had been largely completed on site by this time) was not in accordance with the 'approved scheme', and a number of alterations had been undertaken without the benefit of Planning Permission. These were as follows:

- Gas Kiosk swapped position with the Control/Storage Room;
- HV/LV switch room re-sited and raised up on a platform;
- Lubrication/oil tanks re-sited;
- Re-siting of parking spaces;
- Provision of internal safe access road/route for maintenance vehicles;
- Amended engine specification which has resulted in additional fans and silencers to the top of the containers with lower but wider exhaust flues.

In addition to the above, the developer advised the LPA that a new 6.5m acoustic wall is required to be installed on the eastern and northern sides of the engines and HV/LV switch room, and 4m high wall on the western side, to ensure that the noise emissions from the new fans/silencers (which generate more noise than the originally approved scheme) were acceptable in terms of residential amenity and noise pollution.

The developer advised that the reason for the unauthorised changes was due to the fact that manufacturer's specifications for the engines had changed since planning permission was originally granted, and the specified/approved equipment was therefore no longer available.

The other alterations on site were as a result of unexpected buried infrastructure (gas pipelines) running along the eastern boundary with Afan Way, which require 'no development' easement zones. In respect of the access road, they advised that this is required for engineers and maintenance vehicles to move through the site safely, whilst the raised HV/LV switch room was constructed as such to allow the specialist cables to be sufficiently routed through the bottom without bending/distorting them.

Members should note that since their original contact with the LPA (October 2018), there have been lengthy discussions between the LPA and the developer regarding the unauthorised development and alterations, in order to find a potential way forward to regularise the situation in a way which is acceptable in planning terms. This is in accordance with the objectives of the Council's approved Planning Enforcement Charter (January 2018) which states that "*the intention should be to remedy the effects of the breach of planning control, not to punish the person(s) responsible for the breach*" and where possible "*seeking the submission of a planning application to regularise a breach, which may include the need to comply with conditions to mitigate any harm caused by the development*".

The ongoing lengthy negotiations have included site visits and meetings with the company, involving colleagues from Environmental Health, together with update meetings with Ward Councillors. Additional surveys have been undertaken and proposals amended to reflect the nature of these discussions, and have resulted in the submission of this Section 73 variation of condition application.

For Members information the facility has been operational since 9th January 2019, although UKPR has agreed a voluntary operational restriction between the hours of 20:30 and 07:00 and has not operated during those hours (with the exception of testing, as agreed, on Monday 4th February 2019) pending the conclusion of the ongoing discussions and application (and in the knowledge it would be unacceptable on noise grounds without an appropriate acoustic enclosure).

PLANNING HISTORY

The site has the following detailed planning history: -

P2014/0246	Gas-powered electricity generating station (20MW) and associated works	Approved	11/11/14
P2015/0513	Standby electricity generating plant (20MW) plus associated works. (Amendment to application - P2014/0246)	Approved	05/11/15
P2015/0601	Detached unit for use as wedding car hire garage (Use Class Sui Generis).	Refused	13/10/16
P2017/0419	Standby electricity generating plant (20MW) plus associated works (amendment to access as approved under Planning Application P2015/0513).	Withdrawn	13/06/17
P2017/0739	Non-material amendment to application P2015/0513 for the removal of Condition 18 (Prohibiting access off Victoria Road), and vary Condition 15 (Construction Management Plan) to allow construction traffic to access the site off Victoria Road.	Refused	29/08/17
P2017/0741	Change of use of land for the creation of an access track to facilitate construction and operational vehicle access in association with a 20MW gas-powered Standby Electricity Generating Plant approved under Planning Permission P2015/0513	Refused	14/09/17
P2017/0915	Change of use of land for the creation of an access track to facilitate operational vehicle access only (a maximum of two vehicles a week), in association with a 20 MW gas powered Standby Electricity Generating Plant approved under planning permission P2015/0513.	Approved	22/11/17
P2017/0923	Removal of Condition 18 of	Approved	22/11/17

Planning Application P2015/0513
to allow operational access to the
rear of 1, 1a and 2 Victoria Road.

P2018/0436 Variation of condition 2 (list of plans and documents) of planning permission P2017/0923 to allow an amended DNO metering house and transformer compound Approved 04/07/19

CONSULTATIONS

Head of Engineering & Transport (Highways): No objection.

Head of Engineering & Transport (Drainage): No objection.

Air Quality Unit: No objection.

Environmental Health: No objection.

Natural Resources Wales: No objection.

Contaminated Land Unit: No objection, subject to a condition.

Welsh Water: No objection

Biodiversity Unit: No objection.

REPRESENTATIONS

Neighbouring properties were consulted on 24/06/19, 08/08/19 and 19/02/2020, with a site notice also displayed on 25/06/19, 08/08/19 and 19/02/2020.

In response, to date, no formal representations have been received, although the local ward Councillors (for Sandfields East and Aberavon) have been in regular dialogue with officers concerning the impacts of the development 'as built', notably in respect of visual impact, noise and air quality.

REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

National Planning Policy:

[Planning Policy Wales](#) (Edition 10) was extensively revised and restructured at the end of 2018 to take into account the themes and approaches set out in the Well-being of Future Generations (Wales) Act 2015, and to deliver the vision for Wales that is set out therein.

PPW10 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

National Planning Policy

- [Planning Policy Wales](#)

Local Planning Policies

The Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

Strategic Policies:

- **Policy SP16** Environmental Protection
- **Policy SP20** Transport Network
- **Policy SP21** Built Environment and Historic Heritage

Topic Based Policies:

- **Policy SC1** Settlement limits

- **Policy EN8** Pollution and Land Stability
- **Policy TR2** Design and Access of New Development
- **Policy BE1** Design

Supplementary Planning Guidance:

The following SPG is of relevance to this application: -

- [Pollution](#) (October 2016)
- [Design](#) (July 2017)

EIA and AA Screening

The proposal amounts to an 'Energy Industry' Development listed in Schedule 2 (3A) of the EIA Regulations (Wales) 2017, and the site exceeds the 0.5 Ha Column 2 threshold.

The findings of the screening report were that the scale and nature of the potential impacts associated with the development both alone and in combination with other developments within the area would not be of a type that would require the carrying out of an Environmental Impact Assessment or the subsequent submission of an Environmental Statement in support of the application.

In addition, whilst the proposed development is potentially located within a zone of influence for a SAC, CSAC or Ramsar sites, a Test of Likely Significant Effects (TLSE) has been undertaken which concludes that an Appropriate Assessment, as set down within the Conservation of Habitats and Species Regulations 2010, is not required.

Issues

Having regard to the above, the main issues to consider in this application relate to whether there has been a material change in circumstances with regards to the principle of development at this site, together with the impact of the proposal upon visual and residential amenity, and also highway and pedestrian safety.

Principle of Development

When determining a variation of condition application under Section 73 of the Town and Country Planning Act, it allows the Local Planning Authority to consider not only the conditions to which the application

relates, but also any other material changes in circumstances since the original permission was granted.

The principle of a standby gas-powered electricity generating station (Short-Term Operating Reserve – STOR) was approved by application reference P2014/0246 in November 2014. While the adoption of the LDP in January 2016 represents a material change in Policy circumstances since the original application was approved, there have been various applications since that date, most recently in July 2019 (P2018/0436) which were also approved. It is therefore considered that the principle of development has already been established by the granting of various planning permissions previously, and is in accordance with the Neath Port Talbot Local Development Plan, providing there are no overriding highway, amenity or environmental objections.

Nature of Development

The applicant advises that this STOR provides power to the National Grid during unexpected periods of high demand, to contribute to a government backed programme to fulfil demand for energy during peak electricity periods, known as the National Grid Balancing Services mechanism. This development will also provide local energy security as, unlike national energy generation, it will feed electricity into the local electricity network at the point of requirement thereby ensuring that the lights stay on for local residents and businesses. Furthermore, the development will support the development of low carbon and renewable energy in NPT by providing back up or standby generation when renewable resources, such as wind or sun, are not available.

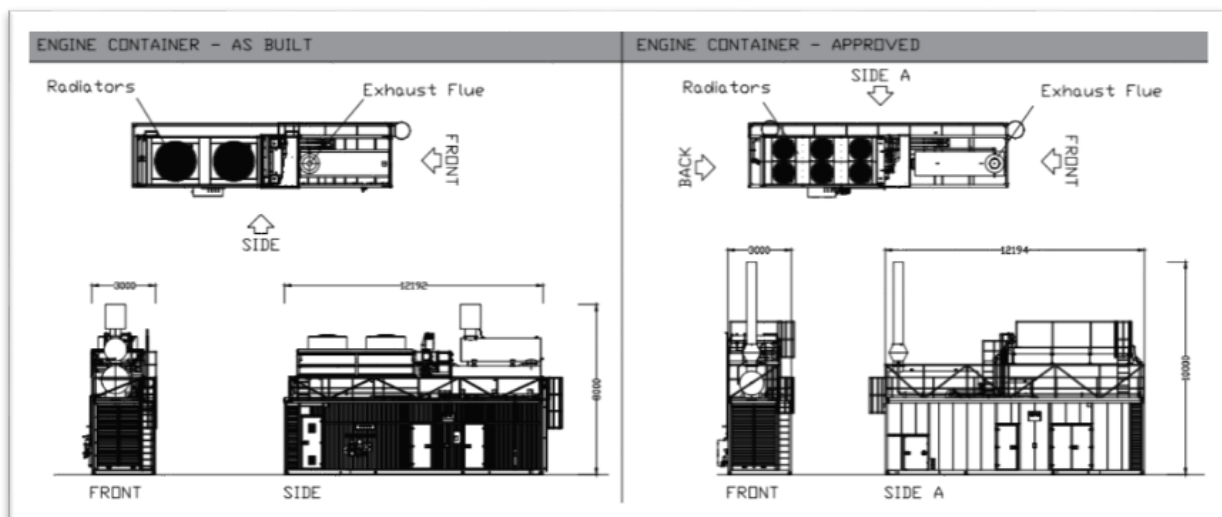
The developer has advised that this site will be able to provide energy as and when demand dictates. The plant can react to fluctuations in electricity demand or supply with a ramp up speed from standstill to full generation of two minutes. This makes it much more flexible and efficient than traditional, centralised generation, which has a ramp up speed of approximately two hours. Typical site demand is during the peak hours of 06:00 to 09:00 and 16:00 until 20:00 (which on a small number of occasions may extend to 23:00). However, there are occasions when the plant would be called upon outside of these hours. They have advised that they (UKPR) own and operate a number of sites within the South Wales area. Analysis of these operational sites shows that on average plants have been called to run up to 120 times per year between the hours of 23:00 and 06:00, with an average run time of 35 minutes.

Impact on Visual Amenity

It should be noted that the changes to the ancillary equipment on site, such as the gas kiosk, would not have a significant visual impact over and above the previously approved scheme.

In respect of the engines themselves, however, including the fans, silencers and flues above, these are more 'top heavy' than the previously approved scheme. The 'as built' engines consist of 10 generators to produce standby electricity generation for National Grid. Each proposed generator is housed within individual sound-insulated metal containers, and each container measures approximately 12.2m in length by 3.0m wide and 3.5m high finished in a matt fern green colour. Each container includes a bank of radiators located on the roof (approximately 3m high) to assist in cooling the generators, together with an exhaust stack of 8m from ground level to allow the safe dispersion of exhaust gases. The radiators and stacks are finished matt silver grey.

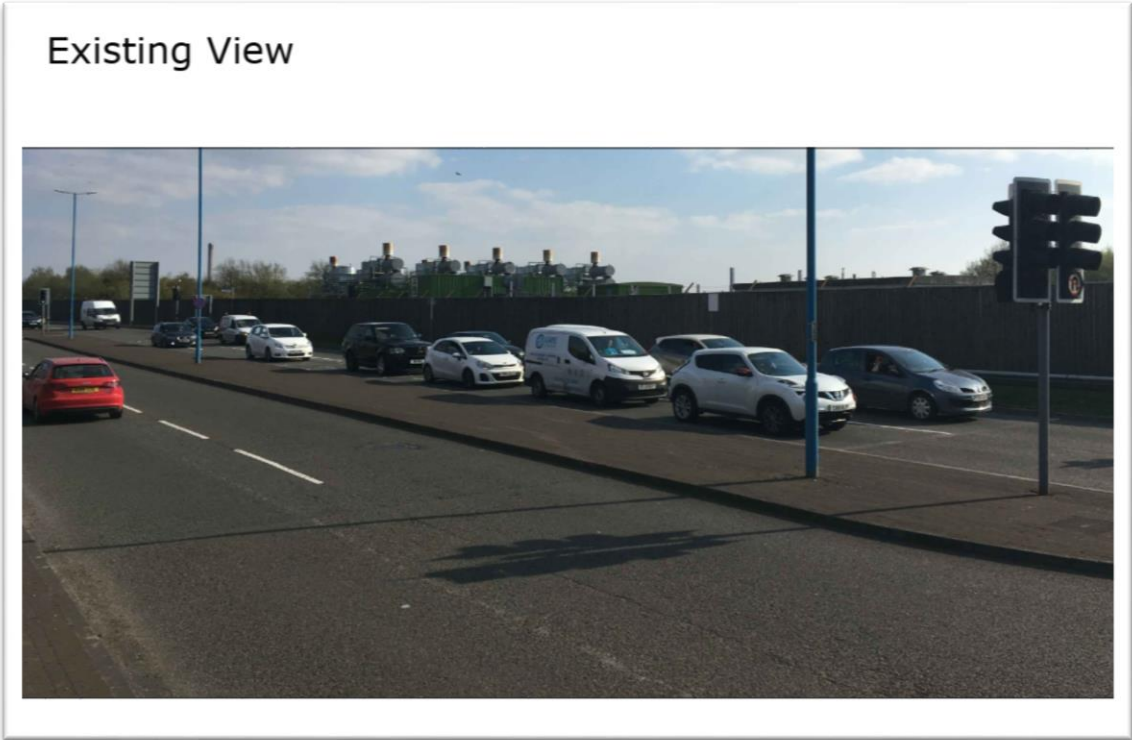
The material differences between the 'approved' and 'as built' schemes are shown on the plans below.



From a review of the two schemes it is clear that the additional equipment makes each of the ten elements of plant individually and cumulatively more visually prominent, particularly in views from Afan Way and Glenavon Street. This is clearly regrettable. The current proposal, however, includes the provision of a 6.5m acoustic wall along the eastern and northern side of the engines (reducing to 4m along the western boundary to the rear). The new acoustic wall/fence would be a

specialist Gramm Barrier with a flat metal profile on the outer edge and perforated panels with insulation on the inner side. While the primary purpose of the wall is to address noise issues at the site (addressed later in this report), the wall would also provide visual screening. The photomontages below show the impact of and screening effect from Afan way.

Members should also note that lengthy discussions have been undertaken between the developers and Planning Officers regarding the siting, height and design of the proposed acoustic fencing. Numerous iterations have been drafted illustrating different locations, designs/colours and heights, and it is considered that the current proposal would be the most suitable overall as it offers the best screening potential from Afan Way (including the traffic light controlled junction), while being located further away from the existing PDR fencing (the location originally chosen by UKPR) to minimise its massing.



Visualisation



Existing View



Visualisation



It should also be noted that this option requires the installation of 2 acoustic access gates within the acoustic wall itself, which is an additional expense over and above the cost of the wall and the re-

spraying, but the current location of the fence was something that was specifically requested from Planning Officers, and UKPR has been agreeable to - despite the additional costs. Visually, the current proposal is for the wall to be professionally sprayed to have varying shades of green (as per the photomontage above). Below is a further visualisation of the proposed 'graded' green colour-scheme proposed for the wall.



While the wall itself would introduce a substantial new structure in local views – and it is regrettable that such an enclosure is now required - it is nevertheless considered that this would screen the majority of the development - with only the flues notably visible above - from Afan Way (which is a Peripheral Distributor Road) and have a similar external appearance to an industrial unit/building. While the views from other areas, including the nearby pedestrian bridge and residential areas to the southwest, would be screened to a lesser effect, it is thus considered that the acoustic screen would in itself and as a screen, have no significant unacceptable visual impacts.

Having regard to the surrounding infrastructure (electricity sub-station and reservoir), its proximity from Afan Way and nearby residential properties, it is thus concluded that the impact of the additional plant and equipment would be mitigated in an acceptable way through the provision of the new acoustic wall, which in some respects would provide 'betterment' over the existing situation while not having an unacceptable impact on the character and appearance of the surrounding area or street-scene.

The scheme also includes details for the provision of a 2.4m high weld mesh perimeter security fence with 1m high electric fence above. This fencing is considered acceptable within the local context described above.

Impact on Residential Amenity

Noise Impacts

Condition 14 of permission ref. P2018/0436 (itself carried through from planning permission ref. P2015/0513) restricts the equipment installed at the site as follows: -

(14) The permission hereby granted shall be restricted to the installation of a maximum of 10 no. electricity generators, each of which shall be fitted with 65dB rated containers and MA41 40dB silencers, and shall be retained as such thereafter.

Reason

In the interest of residential amenity.

This condition was imposed because the submitted noise survey information (at the time) demonstrated that there would be no unacceptable noise impacts arising from the development based on the specific silencers and agreed noise rating, and to comply with BS4142.

It has since transpired, however, following engagement by UKPR, that the engines and silencers etc. installed on site were not in accordance with the approved details and those specified by Condition 14.

A detailed noise report has been submitted in support of this application, which has been assessed in detail by the Environmental Health Officer (EHO) who notes that the submitted acoustic report and screen justification has been undertaken in accordance with British Standard BS4142:2014 using measurement data obtained in December 2018 and February 2019.

It should be noted that in addition to the visual changes described above (i.e. the equipment that has been installed on site is more top heavy), the submitted noise report indicates that the installed equipment is significantly noisier than that approved previously and therefore additional noise mitigation is required.

The EHO advises that, essentially, the assessment involves comparing the A weighted Equivalent continuous sound level (LAeq) from the plant during operation to the A weighted sound level that is exceeded 90% of the measurement period (LA90) without the plant running i.e. the background noise level. The target noise level for this development is that the LAeq at residential properties (when the plant is

operational) shall be no higher in decibels than the existing LA90 (background noise level).

In summary, the EHO notes that the noise report accepts that BS4142 cannot be achieved without additional acoustic fence attenuation. The report does, however, demonstrate that these target levels can be achieved by constructing a 6.5m barrier along the boundary to Afan Way, with a 4m barrier on other elevations.

As referred to earlier in the report, UKPR advises that typical site demand is during the peak hours of 06:00 to 09:00 and 16:00 until 20:00 (which on a small number of occasions may extend to 23:00). However, there are occasions when the plant would be called upon outside of these hours. UKPR own and operate a number of other sites within the South Wales area, and analysis of these operational sites shows that on average plants have been called to run up to 120 times per year between the hours of 23:00 and 06:00, with an average run time of 35 minutes.

It is during these night-time hours where mitigation is essential and, accordingly, without the mitigation put forward in the form of the acoustic barrier, the operation of the facility at night would be wholly unacceptable on residential amenity/noise impact grounds.

In response to local concerns about vibration (essentially low frequency noise) the EHO notes that the Acoustic Consultant tested the low frequency noise attenuation performance of another identical barrier installed at another UK Power Reserve STOR, and then used this information to determine potential noise impacts at the 31.5Hz and 63 Hz frequency bands. The assessment concluded that, with the barrier installed and the plant in operation, there would be no increase over existing baseline noise levels at residential properties on Victoria Road or Glenavon Street at the 63Hz frequency. However, there would be a slight (but not significant) increase in noise above baseline at the 31.5Hz frequency. The report concludes that without an engineered acoustic barrier, residents would experience more significant noise impacts at the frequencies.

Having reviewed all of the submitted information, which follows many months of ongoing discussion with UKPR and its appointed agents/consultants, the Environmental Health Officer has concluded that he is *“satisfied that it demonstrates both the need for additional acoustic attenuation in order to allow operation during the hours 23:00-07:00,*

and that the proposed acoustic barrier will attenuate noise impacts from the STOR to a level that will satisfy BS4142:2014 requirements”.

Notwithstanding the above, it is considered that a ‘fully open’ permission could allow the plant to operate on more than an occasional basis at night time, which itself *could* have additional impacts on the residential properties nearby. This has been discussed with the developer who has stated that *“the plant will only be called upon when requested by National Grid at times of electricity generation stress”* and they have agreed that *“the plant shall generally only operate between the hours of 06:00 and 23:00. Outside of these hours the plant shall only operate for a maximum of 100 hours per calendar year”*. On this basis they would agree to a suitably worded condition to this effect and requiring an operational log to be provided to the LPA upon written request.

Having concluded earlier in this report that the proposed acoustic barrier would have no unacceptable visual impacts, it is thus further concluded that the retention of the ‘as built’ development would be acceptable in terms of residential amenity and noise pollution - providing the new acoustic barrier is installed on site in advance of the plant operating during the night-time hours of 23:00 to 07:00 (not 06:00 as referred to by the applicant as this would still be ‘night time hours’), and a restriction is placed on such night time operations. Suitably worded conditions are thus recommended.

In respect of potential overlooking, overbearing and overshadowing, it should be noted that the nearest residential dwellings are located approximately 30-35m to the east along Glenavon Street (on the opposite side of Afan Way), 62m to the north-west along Victoria Road and 111m to the west off Harvey Crescent. Due to the scale, nature and relative separation distances between these properties and the development itself, it is therefore considered that the retention of the development, plus installation of the new acoustic walling and security fencing, would not create any unacceptable impacts on residential amenity.

Lighting Scheme

With regards to Condition 8 (external lighting scheme), this is required to be agreed/varied as the development was brought into beneficial use without this condition being formally agreed.

A detailed lighting scheme has been submitted in support of this application specifying that LED floodlights will be used throughout the site. The developer has confirmed that the site is not usually manned so beyond any statutory requirement for emergency lighting, which in any event would be low intensity, there is no need for lighting to be permanently on at night.

The lighting scheme comprises a mixture of lights attached to the building structure and suspended on struts between generators. All light fittings would be below a height of 3m, light fittings would be fitted with suitable shields, baffles and/or louvres and selected and located to minimise external light impact whilst providing protection and security for on-site staff. UKPR have advised that there is no requirement for lighting to be automatically triggered (say by passive infrared - PIR) so there is no risk of lighting being accidentally triggered and causing additional unnecessary light pollution. Furthermore, they have confirmed that the boundary fence does not need to be lit, and most lighting can be confined to the areas around the engine containers and the office, workshop and switch-rooms.

They have advised that if attendance at the site is required at night then there is a need for the lighting levels to conform to Health and Safety requirements. However, lighting would be switched on/off by means of a securely located control point inside the boundary fence, with signage being fitted to remind on-site personnel of their requirement to switch off all lighting when leaving and securing the premises. Finally, they have advised that security CCTV cameras will be infra-red day/night type, so there is no need for additional security lighting for these purposes.

Having regard to the above, subject to compliance with the agreed scheme and details, and noting also that the lighting would largely be hidden behind the new acoustic barrier, it is concluded that the lighting would have no unacceptable impact on residential amenity (or upon highways and pedestrian safety).

Parking and Access Requirements and Impact on Highway Safety

As the access and parking provision would remain the same as the previously approved development, it is considered that there would be no detrimental impact upon highway and pedestrian safety. The Head of Engineering and Transport (Highway Section) also offer no objection on highway safety grounds.

In respect of the septic tank, the developer has confirmed that this would need to be emptied via a 'transit' sized vehicle up to approximately four times per year. This would use the maintenance access to the rear of 1 Victoria Road. It is considered that this would not have a detrimental impact upon highway and pedestrian safety. Nevertheless, a suitably worded informative will be attached to the planning decision reminding the developer of the restrictions of the access (i.e. a maximum of two vehicles per week) using this access as approved under Planning Application P2017/0915.

Air Quality

Members should note that a detailed Air Quality assessment has been submitted in support of this application. This details the air quality modelling using the AERMOD 8 dispersion model, which has been undertaken to predict the impacts associated with stack emissions from the gas engines at the site. As a worst-case, emissions from the stacks have been assumed to occur for the full year when comparing against short term air quality limits. However, it should be noted that actual operational hours are likely to be significantly lower, and this is reflected in the long term emission assumptions. The report also confirms that the 'as built' engines are fitted with lean burn technology and limited to 250mg NO_x, and offer the same emissions as the previous scheme. The highest long term NO₂ impact is predicted to fall at receptor D3 (Glenavon St 3) which is 13.3% of the annual objective which is a 'moderate' increase in annual average NO₂. However the overall PEC remains well below the annual average objective, at 15.8ug/m³.

This report has been assessed in detail by the Air Quality Officer who notes that air pollution will technically be increased over the previously approved scheme. However, this would not result in a "*significant adverse effect on air quality*" and the pollution/emissions from the development would meet air quality objectives.

He also notes that it is possible to reduce air pollution to the level of the previous scheme, but this would entail raising the stack/flue height to increase dispersion, and this in itself has the potential to have negative visual impacts on the local residents and the surrounding area. He notes that as the emissions from the engines themselves are the same as previous approved, the increase in overall emissions can be attributed to the reduced stack heights (which are reduced from 10m high to 8m).

Members should also be aware that UK Power Reserve made an application to Natural Resources Wales for an Environmental Permit for the plant which has now been issued. It should be noted that any issues with the plant itself (i.e. emissions) would have been addressed at the permit determination stage, not necessarily the planning stage, as they have the specialist knowledge and expertise in this area. Operation of the plant will also need to be in accordance with their Environmental Permit.

Finally, it should be noted that during the informal site visit with the Sandfields East and Aberavon Ward Members a query was raised in respect of gas odours/smells. The EHO has confirmed that with plant such as this (or indeed with domestic gas boilers for example) an allowance is usually made in any statutory guidance for 'start up' emissions as it would, in effect, be operating from cold (like a car on 'choke' cold start) until it is up to operating temperature (normally the first 10 minutes or so). As such, there may be a temporary period when there are some gas emissions.

This concern has since been raised with UKPR who commissioned a detailed odour assessment. This submitted odour report and accompanying letter state that air samples were taken from several points surrounding the STOR site, including in close proximity to the exhaust. These samples were then subject to testing by a panel of people. In odour panel testing, a score of 1 odour unit is the point at which 50% of the panellists can smell the odour, but 50% cannot. An odorous sample may have received several dilutions to get to this 50/50 point and these dilutions are added up, so for example 10 dilutions would result in an odour unit score of 10. All of the samples assessed by the panel scored 0 odour units. This does not mean that no odours were detected at all, but means that just that less than 50% of the panel detected an odour in the sample.

The report also states that the samples were also analysed in a laboratory to determine the presence and concentrations of a range of organic chemical compounds. These compounds were then assessed against known odour threshold levels, these being the concentration at which the majority of test subjects would identify the odour of a particular substance. Other than dichloromethane, all organic chemicals analysed (including the engine stack emissions) had levels below human odour threshold values. Dichloromethane is used in paint, as a degreaser, an aerosol propellant, a foam additive, and many other uses. The dichloromethane was not detected in the engine emissions, and only found outside Thomas Autos, so the report concludes that it is

probably associated with vehicle repairs and/or paint spraying near this location.

The EHO has analysed the findings of the odour assessment and notes that the odour sampling results would suggest (at first glance) that there are no odours associated with the development. However, they do note that all odour testing is based on an “average” level of detection. As such, there will always be residents who will be more ‘sensitive’ to odours than others, and they may detect strong odours when the STOR is in operation, whilst someone stood next to them will not smell anything at all. They have advised that although odour testing may seem a little unscientific, it is consistent with the Council’s Statutory Nuisance powers for investigating odour complaints, which requires the Authority to consider “an ordinary, reasonable person” and not someone who may be particularly sensitive to odours.

Therefore, on the basis of demonstrating this development is not causing a Statutory Odour Nuisance, the Environmental Health Section is satisfied with the findings of the odour emissions investigations. As such, it is considered that the retention of the STOR would not cause a significant odour impact on the local area, and if any odours are detected (e.g. during the warm-up period) this would not be sufficient to justify refusal of the application on such grounds.

Flood Risk / Drainage

It should be noted that the application site is located within a C1 flood zone. However, as Natural Resources Wales offers no objection to this development (which is accompanied by a Flood Consequences Assessment), it is therefore considered that this would be acceptable in terms of flood risk.

Turning to the details submitted to address Condition 10 (surface water drainage), which needs to be agreed/varied as the development had been brought into beneficial use without this condition being formally agreed, the submitted scheme shows a combination of ACO drains and permeable surfacing, which drains into an attenuation tank and then off-site into Welsh Water’s combined sewer (via land owned by the Authority’s Estates Section). With regards to the welfare block, the developer has indicated that the toilet from this drains into an above-ground septic tank which is required to be emptied approximately four times per year.

It should be noted that NRW and Welsh Water have both been consulted on the application and both offer no objection, subject to conditions. It is therefore considered that the development would be acceptable in terms of flooding and drainage.

Contaminated Land

Conditions 19 (contaminated land desktop assessment) and 20 (remediation scheme) are required to be formally agreed as the development has now been fully completed.

The developer has submitted a Phase 1 and Phase 2 Geo-Environmental Report which concludes that areas not under hardstanding are capped with 300mm of inert material in order to protect human health. UKPR confirm that this was undertaken in the areas beyond the concrete plinths. They also confirm that no remedial measures were required in order to protect controlled waters.

The Contaminated Land Unit and NRW have both assessed the submitted information and offer no objection to this application and the detailed reports submitted in support of it. As such, it is considered that existing and future users of the site would not be adversely affected by ground contamination in terms of exposure to pollution.

Other matters

Condition 3 (samples of materials) needs to be varied/removed as the development has been constructed on site without this condition being formally agreed. It is evident, however, from site visits and from the information provided by the developer that the containers, kiosks and other 'buildings' on site etc. are all finished in matt fern green (similar to RAL6025), with the remainder of the equipment being matt silver grey (similar to RAL7001). These details are acceptable and, accordingly a materials condition is included only to require that the containers/equipment etc. are retained in their approved colours.

Condition 9 (accident management and hazard plan), needs to be agreed/varied as the development was brought into beneficial use without this condition being formally agreed. The developer has submitted two documents in support of this condition. The first is called "Incident Investigation and Report Requirements" and details how the company will investigate incidents such as injuries or ill health, environmental impacts etc., and the second document called "Risk Assessment" and how to deal with risks (predominantly staff) on site.

These details are acceptable and, accordingly a condition is included only to require that the approved plan is implemented on site.

Condition 16 (piling scheme) needs to be agreed/varied as the development was commenced (using piling) without this condition being formally agreed. Detailed piling logs, piling connection plans and foundation plan have been submitted in support of the application, which are acceptable. As such, no condition is required as a consequence.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

It is considered that the proposed variation of conditions on Planning Application P2018/0436, to allow the retention of the 'as built' development, including the construction of the new acoustic barrier and security fencing, would not have a detrimental impact upon residential amenity (including noise issues), or upon the character and appearance of the surrounding area, and there would be no adverse impact upon highway and pedestrian safety. It is also considered that the development would have no unacceptable air quality issues. Hence, the development would be in accordance with Policies SP16, SP20, SP21, SC1, EN8, TR2 and BE1 of the Neath Port Talbot Local Development Plan.

It is further considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

RECOMMENDATION Approve subject to conditions

Conditions:-

List of Approved Plans

- 1 The development shall be carried out in accordance with the following approved plans and documents:
 - Site Lighting Arrangement (Dwg. No. DWG-EL-028 Rev 01).
 - Attenuation Layout (Dwg. No. 500 Rev E).
 - Foundation Plan (Dwg. No. 101 Rev C2).
 - Pile Connection Plan (Dwg. No. SK01 Rev C2).
 - As Built and Approved Elevations (Dwg. No. 15027.109 Rev 1).
 - Site Cross-Section (Dwg. No. 15027.113 Rev 1b).
 - Proposed Site Plan (Dwg. No. 15027.102 Rev 6j).
 - Approved Location Plan (Dwg. 15027.104.1 Rev 1a).
 - Design Statement for An Acoustic Screen (May 2019).
 - Noise Survey and Assessment Report (May 2019).
 - Air Quality Assessment (September 2018).
 - Review of Access Options (July 2017).
 - Septic Tank Details.
 - Afan Way, Flood Consequences Assessment (February 2014).
 - Proposed Lighting Data Sheet.
 - Site Risk Assessment.
 - Incident Investigation and Reporting Requirements.
 - Details of Equipment, Materials and Appearance.
 - External Lighting Strategy.
 - Security Fence Details - Harper Chalice.
 - Phase I and Phase II Geo-Environmental Assessment (August 2017).
 - Detailed Remediation Strategy (May 2018).
 - Report for the Periodic Monitoring of Odour Concentration from Afan Way Engine Compound, and neighbouring locations, Port Talbot (January 2020).

Reason:

In the interests of clarity.

Action Conditions

- 2 Prior to the operation of the plant during night-time hours of 23:00 to 07:00 or within 6 months of the date of this permission (whichever is the sooner), the new acoustic barriers and other security fencing shall be fully installed on site in full accordance with the approved plans and the details approved under condition 3

of this consent, and shall be retained and maintained as such thereafter.

Reason:

In the interest of visual amenity and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 3 Prior to the installation of the acoustic wall hereby approved, as required by Condition 2, a sample panel for the re-spraying of the acoustic wall panels shall be submitted to and approved in writing by the Local Planning Authority, together with a maintenance and management plan for the acoustic wall panels. The acoustic wall shall be fully installed in accordance with the agreed sample and maintained in accordance with the agreed management plan thereafter.

Reason:

In the interest of visual amenity and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.

Regulatory Conditions

- 4 The development hereby approved shall be carried out in accordance with the approved details, and retained as such thereafter.

Reason:

In the interest of visual amenity and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no fences, gates walls or other means of enclosure other than those approved under this permission or by condition shall be erected to the perimeter or within the site.

Reason:

In order to safeguard the amenity of the area and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 6 Notwithstanding the provisions of Part 8 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification) no plant or machinery other than that expressly authorised by this permission or by condition shall be installed on the site.

Reason:

In the interest of residential amenity and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 7 The parking spaces and turning hereby approved shall be made available on site and retained for such use thereafter.

Reason:

In the interests of highway safety and to conform with the requirements of the Local Planning Authority concerning off-street car parking (servicing) and to comply with Policy TR2 of the Neath Port Talbot Local Development Plan.

- 8 The lighting scheme hereby approved shall be fully implemented on site in accordance with the approved details, and retained as such thereafter.

Reason:

In the interest of visual and residential amenity and highway safety and to comply with Policies BE1 and TR2 of the Neath Port Talbot Local Development Plan.

- 9 The drainage scheme hereby approved shall be fully implemented on site in accordance with the details hereby approved within three months of the date of this permission, and retained as such thereafter.

Reason:

In the interest of adequate drainage of the site and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 10 The generating station hereby approved shall only be used for the production of standby electricity (A Short Term Operating Reserve (STOR)) in accordance with the details provided in the Design, Access and Planning Statement (October 2015).

Reason:

To clarify the nature of the approval, and in the interest of residential amenity and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.

- 11 All construction traffic shall enter the site via the route as approved on Dwg. 15027.104.1 (Operational and Construction Access Plan) Rev. 1a only.

Reason:

In the interests of highway and pedestrian safety and to comply with Policy TR2 of the Neath Port Talbot Local Development Plan.

- 12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Prior to occupation of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, and to ensure compliance with Policies SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 13 The development hereby approved shall not exceed a maximum generating capacity of 20MW, and this permission approves only the specification of generator and number of generators as set out within the application documentation.

Reason:

In the interest of clarity and in the interest of amenity, since the application has only assessed the air quality and noise impact of the current generators in accordance with Policies BE1, SP2, SP16 and EN8 of the Neath Port Talbot Local Development Plan.

- 14 The access gates, as approved under Planning Application P2017/1160 on 23rd January 2018, shall be installed on site within three months of the date of this permission and shall remain in situ locked at all times (other than when required for access purposes).

Reason:

In the interest of highway safety and security of the site and to comply with Policies TR2 and BE1 of the Neath Port Talbot Local Development Plan.

- 15 Operation of the STOR generators / facility outside the hours of 07.00 to 23.00 shall not exceed a total 100 hours in any calendar year. An up to date register of such night-time operation – which shall comprise details of the date and hours of operation that have occurred outside of the hours of 07.00 to 23.00 hours - shall be kept by the operator and made available for inspection by the local planning authority upon request, with an annual summary of night-time operations (January – December) provided to the Local Planning Authority no later than 31st January in the following year.

Reason:

In the interest of residential amenity of neighbouring properties and to comply with Policy BE1 of the Neath Port Talbot Local Development Plan.