

APPLICATION NUMBER: 24/00917/FUL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00917/FUL

CASE OFFICER

Tom Hiles

DETERMINATION DATE 03.01.2025 EXT OF TIME

Address: Land At Ellenroad Farm, Bentgate Street, Milnrow OL16 4NU

Proposal: Battery Energy Storage System (BESS) with associated access, landscaping and ancillary works

PUBLICITY	Weekly list expired?	Y	Site notice expired?	Y
	Neighbour letters expired?	Y	Press Notice expired?	Y

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	Y

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	Y
	Pre-commencement conditions agreed (or notification period expired)?	Y

RECOMMENDATION

Approve with conditions

CHECKED AND SIGNED OFF BY: MH DATE: 14.03.2025

SITE

The application site comprises part of a field located to the immediate south of the M62 motorway to the south-east of Rochdale town centre, west of Newhey and south-west of Milnrow. The application relates to an area of the field measuring 12,180m².

The site comprises rough, somewhat boggy land which slopes to the north towards the motorway. The nearest buildings are farm complexes to the south and to the east. The nearest dwellings are located to the north beyond the motorway and the junction 21 complex. The site does not have direct vehicular access, with the nearest being a farm track around 200m to the south-east.

The site is located in the Green Belt and is within an area designated for safeguarding for coal. A public right of way runs along the northern boundary of the site, following the boundary of the field.

PROPOSAL

The application proposes to develop the site to provide a battery energy storage system (BESS). The proposal would provide energy storage for the National Grid to support the incorporation of renewable energy sources into the grid.

The planning statement submitted with the application notes that the intended lifespan of the development would be around 40 years, and therefore that it is envisaged that planning permission would be temporary in nature.

The scheme would comprise an arrangement of eight freestanding batteries, four transformer units, a brick DNO substation, switch room and welfare cabin/office, enclosed by a 2.4m mesh fence, with two gated accesses. The enclosed compound itself would measure approx. 67m by 41m. Tree planting is proposed on three sides of the compound.

A new 244m vehicle access would be created from the compound towards the existing farm track. The proposed site layout plan indicates the provision of the inclusion of two optional 250,000 litre water tanks for fire safety outside the compound, measuring 3.8m in height and 11m in diameter.

The compound would be set away from the existing field boundary running alongside the motorway, retaining the public right of way.

The BESS would connect to the local grid network and onto the wider National Grid via a substation on Belfield Road in Rochdale, approximately 1.6 miles to the northwest of the site.

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Overarching National Policy Statement for Energy (EN-1)

Sub-Regional

Places for Everyone Joint Development Plan (2024)

JP-S1: Sustainable Development
JP-S2: Carbon and Energy
JP-S3: Heat and Energy Networks
JP-G1: Landscape Character
JP-G8: A Net Enhancement of Biodiversity and Geodiversity
JP-G9: The Green Belt
JP-P1 Sustainable Places
JP-P2: Heritage

Adopted Rochdale Core Strategy (CS):

SP1 Rochdale borough's role in the city region

SD1 Delivering sustainable development
DM1 General development requirements

SO3 Improving design, image and quality of place

P1 Improving image
P2 Protecting and enhancing character, landscape and heritage
P3 Improving design of new development

SO4 Promoting a greener environment

G6 Enhancing green infrastructure
G7 Increasing the value of biodiversity and geodiversity
G8 Managing water resources and flood risk
G9 Reducing the impact of pollution, contamination and land instability

SO5 Improving accessibility and delivering sustainable transport

T2 Improving accessibility

Unitary Development Plan (UDP):

G/D/2 Green Belt
EM/7 Development and Flood Risk
EM/8 Protection of Surface and Ground Water

RELEVANT SITE HISTORY

None relevant

CONSULTATION RESPONSES

Environment Agency

25.11.2024: Object, the proposed development would post an unacceptable risk of pollution to surface and groundwater quality due to hazardous substances contained within battery units and any contaminants contained within firewater runoff. A BESS design and drainage scheme is required.

Following submission of updated drainage scheme:

03.03.2025: Thank you for referring further revised FRA/Drainage Strategy to address our previous objection. Previous objection withdrawn subject to condition to

secure measures detailed in non-mains drainage assessment, and other specified drainage design measures.

Greater Manchester Archaeological Advisory Service

GMAAS is satisfied that archaeological matters have been considered adequately by the applicant and advises that no further archaeological investigation in advance of or during the proposed development works is warranted in this instance.

Greater Manchester Ecology Unit

28.10.24: In addition to the submitted PEA, request reptile surveys, NVC survey (mentioned in PEA), Excel format BNG metric, BNG report detailing how 10% net gain would be achieved.

Following submission of BNG metric sent 11.11.24

03.12.24: Recommend condition for precautionary method of works for reptiles in relation to habitat clearance.

NVC survey provided gives clearer picture of existing grassland habitat type.

Feedback on approach to achieving BNG on-site. Legislation discourages developments from extending a site boundary for habitat creation purposes only. Any land proposed for use for 'off-site' BNG must be a registered biodiversity gain site. However the small size of the 'off-site' BNG area proposed means that registering would be disproportionate, it is therefore recommended that the redline site boundary be extended to include the offsite area currently enclosed by the blue line boundary, to make it on-site provision as all offsetting could be achieved on-site.

10.02.24: Agree with applicant's suggestion that approval be on condition that land adjacent to application site (inside blue line) be registered for BNG prior to commencement.

Greater Manchester Fire and Rescue Service

Advice on requirements for Fire Service access, fire hydrant and sprinkler systems.

Greater Manchester Minerals & Waste Planning Unit

15.11.24: The proposed development is located within the Mineral Safeguarding Area and therefore Greater Manchester Minerals Plan Policy 8 - Prior Extraction of Mineral Resources Within Mineral Safeguarding Areas is relevant. The applicant does not appear to have provided information to demonstrate how the proposed development complies with GM Minerals Plan Policy 8 and this should be requested so that it can be assessed.

Following submission of a mineral assessment:

22.01.25: The applicant has provided evidence to demonstrate the proposal complies with policy 8 of the Minerals Plan and I have no further comments.

Historic England

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

National Highways

25.10.24: Request explanation of how proposal conforms to National Fire Chief's Council Guidance on BESS and Safety Risk Assessment in accordance with GG 104 - Requirements for safety risk assessment of the DMRB.

Following submission of Road Restraint Risk Assessment Process report by applicant

16.01.24: Satisfied with the RRRAP provided by the applicant. The proposal still needs to comply with NFCC guidelines.

12.03.24: The applicant has provided Outline Battery Safety Management Plan which addresses concerns in relation to safety risks associated with fire and explosion, as addressed by NFCC guidelines.

The proposal may require works to reprofile the application site near to the motorway which may have adverse impacts on our assets. Request condition for submission and approval of geotechnical and construction details.

RBC Conservation And Design

No comments received to date

RBC Environmental Health - Noise/Odours

This section has no objections in principle to the proposal subject to the following condition:

Total noise levels arising from the unit shall not exceed 40 dB(A) measured 1m from the façade of noise sensitive receptors

RBC Environmental Health - Air Quality

No comments received to date

RBC Highways

Proposal will have minimal impact on the highway. No objections to this proposal. However in relation to the public right of way we request a dilapidation survey is completed prior to commencement and any damage apparent remedied upon completion of the BESS installation.

RBC Lead Local Flood Authority/Drainage

13.11.24: The surface water drainage proposals are acceptable in principle subject to detailed design. This could be a pre-first use / occupation condition rather than a pre-commencement condition. Foul drainage needs to be clarified. The applicant has included a SuDS Maintenance Plan; however, it currently covers only the soakaway maintenance. To ensure comprehensive upkeep of the drainage system, maintenance plans for the attenuation storage and permeable paving should also be provided.

Following submission of an updated FRA/DS:

19.02.25: The design is considered sufficiently advanced to avoid a pre-commencement condition. However, I would advise that our comments are fully addressed prior to first use/occupation and perhaps this could be conditioned.

RBC Rights Of Way Officer

No comments received to date

Transport For Greater Manchester

A robust Construction Traffic Management Plan (CTMP) should be employed as part of the development which should contain further details relating to routeing strategy, abnormal loads, internal site layout - construction compound, parking, welfare facilities, access details, any required signage etc

United Utilities

Advice on sustainable drainage hierarchy and water efficiency. Advice on UU property, assets and infrastructure.

REPRESENTATIONS

Press notices were published in October 2024 due to the scheme being major development and affecting a public right of way. Site notices were placed in the vicinity of the site in November 2024. Neighbour notifications were issued to properties adjacent to the site and in the wider vicinity.

Three objections were received to the proposal. Objections related to:

<i>Objection</i>	<i>Officer response</i>
The proposal is not suitable to the area which has lots of children playing in the vicinity	The application site is a significant distance from the nearest residences, on private land
The application is not supported by a construction environmental management plan	The application is supported by a detailed Construction Traffic Management Plan which, as well as traffic considerations, is also considered to adequately address the impacts of the construction phase of development in terms of environmental impacts, including dust management and hours of operation.
No details of alternative proposals or locations have been detailed in the application	The application is supported by a location methodology which sets out the reasons for the site selection. Given the nature of the development and the weight given to supporting renewable energy adoption, consideration of alternative proposals or locations is not considered to be essential to the assessment of the proposal.
The Transport Statement doesn't assess effects of HGVs	The normal operation of the development would not be expected to involve routine HGV movements.
The existing road network via Bentgate Street is not sufficient to accommodate two one-way HGV movements expected during the development phase, and no mitigation is proposed for the effects on the local road network	Significant impacts on the local highway network are not anticipated. The application is supported by a Construction Traffic Management Plan. The highways officer has not objected to the scheme in relation to the construction phase.

There is a lack of detail on proposed BNG proposed measures	Full BNG details would be secured by discharge of the statutory BNG condition
The existing hedgerow cover to the north is not sufficient to screen the site from the existing road network and residential properties in the area	There are very limited views towards the site from public viewpoints to the north. Views from nearby residential streets to the north are heavily screened by existing woodland along Ashfield Road and the motorway. Remaining views of the development would be seen in the immediate context of the motorway and are therefore not considered to be significantly harmful in terms of the character of the local area and the wider landscape. Views from private property are not a material planning consideration.
The noise impact assessment is insufficient due to the lack of noise sensitive receptors assessed. No noise mitigation is proposed	The NIA has been reviewed by the Council's environmental health officer who has raised to concerns in terms of the level of detail or recommendations.
There is no detailed lighting strategy in the application.	It is recommended that approval is on condition that no external lighting be installed without approval of details
Impacts on PROWs have not been assessed in significant detail in terms of visual amenity and recreational use	It is recommended that approval is on condition that of approval of an updated Construction Traffic Management Plan addressing the safety of the adjacent PROW during development. The submitted Landscape and Visual Impact Assessment considers the visual impact of the scheme on public rights of way near to the site, as far as was practical. No objections have been received from the Council's highways or PROW officers in terms of the visual amenity or recreational impacts of the scheme upon the PROW network.
There have been no public consultation events	The application has been publicised in accordance with statutory requirements, as set out above.

A neutral letter of comment was also received raising queries relating to traffic movements associated with the proposal, repair works to the access road and bridge, and the number of units proposed.

ANALYSIS

Paragraph 11 of the NPPF identifies a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay.

Principle of Development

Renewable energy

The application proposes the development of a Battery Electric Storage System (BESS), designed to store electrical energy to support the flexible operation of the

National Grid and the decarbonisation of electricity. The development will store, import and export electricity using batteries.

Paragraph 161 of the NPPF sets out that the planning system should support the transition to net zero by 2050. This can be achieved through, amongst other things, supporting renewable and low carbon energy and associated infrastructure.

Paragraph 168 of the NPPF states that, when determining planning applications for low carbon development, planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, with the recognition that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

It is relevant to set out that renewable sources, by their very nature, intermittently generate energy, and as such there is strong national policy support for BESSs to support the transition to renewables, including the *Powering Up Britain – Energy Security Plan* (2023) which also sets out the government's objectives to enhance the country's energy security.

Places for Everyone policy JP-S2 notes that the aim of delivering a carbon neutral Greater Manchester no later than 2038, with a dramatic reduction in greenhouse gas emissions, will be supported through a range of measures including taking a positive approach to renewable and low carbon energy schemes, particularly schemes that are led by, or meet the needs of local communities.

Strategic Policy SO4 in the adopted Rochdale Core Strategy (CS) states that making the environment greener and helping to tackle climate change is a key vision of the borough. To help mitigate against the impacts of climate change and decarbonise the economy, renewable energy developments are to be encouraged.

CS Policy SP1 sets out that Rochdale Borough will contribute to the success of the Manchester city region through, amongst other things, delivering appropriate opportunities for renewable energy generation.

The proposed Battery Electric Storage System (BESS) would contribute to a reduction in carbon emissions, contributing to the journey to net zero. The proposed infrastructure would also lead to more secure power generation and provision in the Borough, promoting energy security. Subject to further assessment with regards to design, amenity and other impacts, the proposal is acceptable with regard to Part 14 of the National Planning Policy Framework and PfE policy JP-S2 and Core Strategy policies SO4 and SP1.

Green Belt

The proposed development is on land designated as Green Belt. PfE Policy JP-G9 notes that the beneficial use of the Green Belt will be enhanced where this can be achieved without harm to its openness, permanence or ability to serve its five purposes.

Saved UDP Policy G/D/2 also sets out that the primary objective of Green Belt policies is to strictly control development and to apply a general presumption against built development, except that which falls within special categories so as not to prejudice the Green Belt's purposes and objectives.

NPPF Paragraph 142 states that the Government attaches great importance to Green Belts, with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

Paragraph 153 goes on to say that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSCs), and that these 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.

Paragraph 154 sets out exceptions that the Local Planning Authority may consider with regard to new buildings in the Green Belt. However, the development proposed in this application does not comprise any of the exceptions. Paragraph 155 then sets out circumstances in which all other forms of development will *not* be inappropriate in the Green Belt. The application pre-dates the December 2024 amendments to the NPPF and its supporting documents do not respond to the new provisions of paragraph 155 relating to grey belt land and related considerations. In any case, the proposed development would not appear to comprise development as allowed for by paragraph 155.

For these reasons it is considered that the proposal would comprise inappropriate development in the Green Belt. As such the proposal would be harmful to the Green Belt as a matter of principle.

In terms of the impact of the proposal upon the openness of the Green Belt, the proposed BESS would be visible from some points along with the adjacent motorway and from public rights of way adjacent to the site as well as those further away. The proposal would therefore reduce the openness of the Green Belt and encroach on the countryside. This would add further harm to the Green Belt.

Paragraph 160 notes that:

...elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

It is therefore necessary for very special circumstances to be identified in order for the development to be considered acceptable in principle and in accordance with Part 13 of the National Planning Policy Framework, saved Policy G/D/2 of the Rochdale Unitary Development Plan and Places for Everyone policy JP-G9.

Very Special Circumstances (VSCs)

As set out above, the proposed BESS would lead to harm to the Green Belt from inappropriateness and through the encroachment of the countryside and the loss of openness. Consistent with Paragraph 153 of the NPPF, substantial weight must be afforded to the harm identified and that approval should not be granted unless the potential harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

In terms of other harms, the proposed development is not considered to result in significant harm in terms of residential amenity, ecology and biodiversity, heritage assets, environmental pollution or transport considerations. These considerations are addressed in further detail in the rest of this analysis.

It is considered that the scheme would result in some limited harm to landscape character, although this would be substantially moderated by proposed planting, the

immediate setting of the site, and the time-limited permission which is sought. It is noted that paragraph 165 requires that adverse impacts (including in terms of cumulative landscape and visual impacts) of renewable energy project are addressed appropriately. It is considered that this has been achieved.

Therefore the total harm arising from the scheme comprises harm from inappropriateness, from limited harm to Green Belt openness, and from limited harm to the landscape. Owing to the limited harm on the latter factors, in total it is considered that these harms should be afforded substantial weight.

As noted above, the proposal would contribute to reducing greenhouse gas emissions by providing a facility to store surplus energy and therefore has clear wider environmental benefits. National, regional and local planning policy provides very strong support for renewable energy schemes and for related infrastructure. This includes NPPF paragraph 168 which indicates that even 'small-scale projects provide a valuable contribution to reducing greenhouse gas emissions'. Therefore, whilst it is recognised that the proposed facility is modest in scale, it would nonetheless contribute towards carbon neutrality. Consequently, the energy storage benefit of the proposal must be accorded substantial weight.

Furthermore, whilst it is recognised that the proposed temporary period of 40 years represents a substantial period over which the effects would be experienced, these would ultimately not be permanent, which ought to be weighed against the multi-generational impact that not taking active and difficult steps to mitigate against climate change would have. Thus, the long-term effects on the proposal would be limited.

The application is supported by a Site Selection Methodology which explains the criteria considered by the developer in looking for land suitable for development of a BESS, including proximity to a connection point where the DNO network has capacity for a BESS connection, the cost associated with connecting, landowner interest, suitability of available sites (including site size), and minimum distances from residential buildings.

The planning statement notes that the developer analysed all of the land within the catchment area for the Belfield substation, leading to the selection of the application site. The proposed site location is understood to be practically located for connection to the Belfield substation and is set away from residential properties. It is possible that other suitable sites in the vicinity of the substation exist, however is considered that the reasons set out for the selection of the site add to the positive weight which should be afforded to the proposal.

In conclusion, it is considered that the benefits of the scheme in terms of the transition to renewable energy generation, carbon reduction, climate change and energy generation should be afforded substantial weight, and that, on careful balance, this substantial weight is sufficient to outweigh the substantial weight which must also be attributed to the harm arising from the proposal.

Therefore, the very special circumstances necessary to justify the proposal do exist and, as such, approval would be in accordance with saved Policy G/D/2 of the Rochdale Unitary Development Plan, Places for Everyone policy JP-G9, and the National Planning Policy Framework.

Ecology, Biodiversity and Trees

Section 15 of the NPPF sets out requirements relating to the conservation and enhancement of the natural environment. This includes a requirement, set out in

Paragraph 180, for development to minimise impacts on and provide net gains for biodiversity. Core Strategy Policies G6 and G7 set out the Council's expectations in relation to green infrastructure, ecology and biodiversity. PfE policy JP-G8 sets out similar expectations including for improving habitats.

The application is supported by a preliminary ecological appraisal (PEA), biodiversity impact assessment, and a biodiversity net gain calculation.

The PEA notes that the site itself is dominated by improved grassland and is considered to provide suitable nesting habitat for common bird species and provides a suitable habitat for reptiles. The report recommends measures to protect these wildlife during development, as well as to ensure that any required lighting is designed to have minimal disturbance on bats.

The submitted details indicate that biodiversity net gain would be achieved (in the form of grassland improvement) on an off-site strip of land to the immediate west of the application site, together with on-site improvements in the form of tree and hedge planting.

These details have been reviewed by GMEU, together with additional details requested during determination. Their finalised consultation responses are noted above. GMEU have made no objection to approval subject to conditions in relation to protecting reptiles during development, and to properly secure off-site biodiversity net gain. The applicant's ecologist proposed as part of discussions with GMEU that the off-site land be registered for BNG purposes prior to commencement, and that this be secured by condition in the event of approval.

Subject to these conditions and the required statutory biodiversity net gain condition, it is considered that the proposed development would comply with the objectives of policies G6, G7 and JP-G8 for ecology and biodiversity.

Landscape and Building Design

NPPF paragraph 135 notes that planning decisions should ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and establish or maintain a strong sense of place.

CS policy P3 states that high standards of design will be required of new development, including associated landscaping, regardless of location in the borough.

CS policy DM1 states that all development proposals will be expected to demonstrate that they are of high quality design and take the opportunity to enhance the quality of the area.

Places for Everyone policy JP-P1 'Sustainable Places' notes that all development should be consistent with certain key sustainable design attributes, including being distinctive with a clear identity, being visually stimulating, and being socially inclusive.

The site lies within the Manchester Pennine Fringe landscape character area. The site lies at near to the foot of sloping moorland set between the settlements of Newhey to the east and Shaw to the south, which is defined by the motorway carriageway running roughly south-west to north-east. The immediate context otherwise comprises elevated scrubby moorland to the south, areas of woodland

further to the south and west, interspersed with clusters of farm buildings to the west and east.

The application is supported by a Landscape and Visual Impact Assessment which assesses the impact of the proposal upon the landscape as seen from four viewpoints, from three footpaths and a bridleway in the vicinity of the application site. The LVIA does note that other public rights of way which run closer to the development site were inaccessible as part of the assessment process.

From the accessible viewpoints, the LVIA determines that the significance of the effects on the landscape would be either negligible or moderate, taking into account factors including the scale of the proposal, the immediate backdrop to the development and the wider visual context, intervening built and landscape elements between the site and the viewpoints, and mitigation design measures including building height limits and external materials choices. These effects would result in a minor visual impact and minor or negligible landscape effect.

The proposed development, comprising by its nature a group of utilitarian buildings and structures enclosed by fencing and served by an access track, would have some impact on the open and rural character of the surrounding area. Such impacts would require adequate mitigation to ensure that the impact would not be unacceptable.

Due to the sloping nature of the site (towards the motorway) it is understood that some changes to levels on the site are likely to be required to form a development plateau for the installation, and that some cut and fill operations and retaining structures may be required to facilitate this, and whilst finalised details have not yet been confirmed, these are not expected to be significant. These aspects of the scheme will affect the finished appearance of the installation and as such it is recommended that finished ground levels, contours and design details of retaining walls and other structures should be controlled by conditions. Likewise, design details for the access track have not been submitted and would also require consideration by condition.

Notwithstanding these additional details to be considered at a later stage, it is considered that the impact of the scheme on the character of the local and wider area would be somewhat mitigated by the immediate context of the site adjacent to the motorway, which substantially defines the appearance of the immediate area, and at a relatively low elevation in the landscape.

The impact of the scheme on the surrounding area would be further mitigated by the soft landscaping proposed immediately around the compound, consisting of tree, bush and hedgerow planting. The planting would appear to screen the majority of views of the scheme from surrounding viewpoints, and whilst screening planting is not always considered to be a preferable solution to inappropriate building design, it is considered to be an acceptable solution in this instance due to the importance of the proposal in terms of supporting the transition to the use of renewable energy, and the inherent appearance of an installation of this nature.

Finally, in the long-term, the impact of the proposal upon the landscape character of the area would also be mitigated by the temporary nature of the development. It is recommended that approval be subject to approval of reinstatement details following the decommissioning of the installation, and this measure would help to ensure that

For the above reasons, it is considered that the proposal is acceptable with regards to character and appearance subject to the imposition of suitably scoped planning conditions, with the scheme in accordance with Policies P1, P2, P3 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

Surface Water Management and Flood Risk

NPPF paragraph 181 notes that developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Local requirements relating to managing surface water, flood risk and protecting water resources are set out in Core Strategy policies G8 and saved UPD policy EM/8.

The application is supported by a Flood Risk Assessment and Drainage Strategy (FRA/DS), which has been reviewed by the Council's drainage engineer, whose consultation responses are summarised above. The FRA/DS notes that the site is in Flood Zone 1 and is at a very low risk of fluvial and coastal flooding, pluvial (surface water) flooding, and low risk of groundwater flooding.

The drainage strategy for surface water associated with the development proposes to make use of a soakaway, as well as the use of permeable paving to reduce run-off at source. Following feedback and revisions to the FRA/DS, the drainage officer has advised the current proposed details are sufficient for planning permission to be granted, subject to further matters to be resolved via a pre-occupation condition.

On this basis it is considered that the proposal would be acceptable in terms of surface water and foul water management and flood risk, and would be in accordance with policies G8 and EM/8.

Highways and Access

NPPF paragraph 115 notes that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Local requirements for highways safety, transport and access matters are set out in Core Strategy policies DM1, T2, and PfE policy JP-C7.

The application is supported by Transport Statement, Planning Design and Access Statement, and a Construction Traffic Management Plan.

The Highway Authority was consulted and has raised no objections to the proposed development, subject to pre- and post development surveys of the adjacent public right of way and remediation if required, to be secured by condition.

National Highways were consulted on the application in relation to the nearby motorway. Following initial comments from NH, a Road Restraint Risk Assessment report, addressing possible risks of vehicles entering the carriageway from the site, as well as the risk of the development itself to the safety of the motorway, was submitted due to the proximity of the site to the motorway carriageway. An Outline Battery Safety Management Plan was also submitted to address potential risk to the safety of the motorway arising from the potential risk of fire associated with the proposal. The finalised consultation response notes that these documents are satisfactory to address these considerations, but requests further details related to groundworks on site, due to the potential risk to the motorway, via condition.

Transport for Greater Manchester were also consulted on the application and their advice is summarised above, relating to the use of a Construction Traffic Management Plan (CTMP) during the construction phase. A CTMP was submitted with the application which is considered to be suitable, with the exception of lacking details relating to the safety of users of the adjacent public right of way. It is

recommended that approval be subject to approval of an updated plan addressing this matter, via condition.

For the above reasons, it is considered that the proposed development would be acceptable in terms of impacts upon the safety and operation of the local and strategic highways network, and in terms of access, servicing and parking arrangements, subject to matters to be controlled or further considered by condition. The development is therefore considered to comply with Core Strategy policies DM1, T2, and PfE policy JP-C7.

Noise, Air and Light Pollution

Core Strategy policy G9 sets out the Council's requirements approach to all forms of pollution as they relate to new development.

The application is supported by a Noise Impact Assessment. The Council's noise officer was consulted on the application who raised no objection subject to a condition to control noise levels arising from the development.

No details of external lighting were submitted with the application. External lighting in this location would have the potential to cause an environmental nuisance, as well as negative impacts upon wildlife. As such it is recommended that any external lighting be subject to control by condition.

The Council's air quality officer was consulted on the application but at the time of report completion no response had been received. Given the nature and scale of the proposal it is not anticipated that any significant issues would arise in terms of air pollution.

For the above reasons the proposed development is considered to be acceptable in terms of environmental pollution and therefore to accord with CS policy G9, subject to the conditions noted.

Land and Water Contamination

CS policy G9 also addresses land contamination. CS policy G8 *Managing water resources and flood risk* requires that development does not directly or indirectly lead to pollution of existing water resources such as watercourses and groundwater. NPPF paragraph 180 notes that planning decisions should preventing new development from contributing to unacceptable levels of water pollution.

Owing to the nature of the application site as an agricultural field and the nature of the proposed development, it is not considered that it would give rise to any significant considerations in terms of land contamination or associated risks to users of the proposal, occupants of nearby buildings, the public in general or the natural environment.

The Environment Agency were consulted on the application and their consultation responses are noted above. These include concerns about potential harm to groundwater arising from firefighting operations, due to the materials expected to be used in the battery installation, and firefighting foams. Further details have been provided by the developer (in an updated drainage strategy) in relation to how firefighting water run-off would be managed in the event of a fire at the installation, which have been reviewed by the EA. Following this the EA has no objection to the proposal, subject to these compliance with these details.

Heritage Conservation

Core Strategy policy P2 notes that the Council will protect the borough's heritage by conserving, enhancing, utilising and promoting key heritage assets, both statutory and non-statutory, including consideration of their wider settings. PfE policy JP-P2 notes that development proposals affecting designated and non-designated heritage assets and/or their settings will be considered having regard to national planning policy.

The application is supported by a Heritage Impact Statement (HIS). The council's Conservation Officer was consulted on the application but no comments had been received at time of report completion.

The HIS assesses the effects of the proposed development upon heritage assets in the vicinity of the application site. These include the remaining parts of Ellenroad Ring Mill, approximately 400m to the east (a Scheduled Ancient Monument) and Garside Farmhouse, approximately 300m to the south-west. (Grade II listed).

For reasons including distance and intervening topography, the assessment notes that the application site does not contribute to the setting or significance of these heritage assets. It is considered that this assessment is sound and that the development would not result in harm to the settings of these heritage assets or to their significance.

The application is also supported by an Archaeological Desk-Based Assessment, which concludes that there is low potential for the site to contain significant archaeological resources. Greater Manchester Archaeological Advisory Service (GMAAS) were consulted and their advice is summarised above. On the basis of the GMAAS response it is considered that the proposal does not give rise to any significant archaeological considerations.

For the above reasons, it is considered that the proposal would be acceptable in terms of impacts upon heritage assets and would therefore support the objectives of CS policy P2 and PfE policy JP-P2.

Residential Amenity

NPPF paragraph 135 f) advises that planning should always seek to secure a good standard of amenity for all existing and future occupants of land or buildings. Locally, Core Strategy policy DM1 and PfE policy JP-P6 set out planning expectations for the protection of residential amenity.

In particular, DM1 notes that development proposals will be expected to demonstrate that they are compatible with surrounding land uses in terms of its impact upon those areas, do not adversely affect the amenity of residents through visual intrusion, and mitigate against impacts due to noise, light and odour pollution, traffic generation or inadequate access, where such mitigation is identified as being necessary.

The application site is set at a significant distance from the nearest residential dwellings, being houses to the north side of the motorway around 200m away. There are also residences at the farm complexes to the south-west and east, around 320m and 300m away respectively. Owing to the nature and scale of the proposed development, it is not considered that the development would result in any material harm to residential amenity, including in terms of visual intrusion or loss of privacy, to the occupants of these or any other residences. The proposal is therefore considered to satisfy the requirements of PfE policy JP-P6, CS policy DM1, and the NPPF.

Fire Safety

Paragraph 117 of the NPPF states that applications for development should, amongst other things, ensure access by service and emergency vehicles. Policy P3 states that developments should be designed to ensure that, amongst other things, there is suitable access for emergency service vehicles.

Greater Manchester Fire and Rescue Service has been consulted on the application and their consultation response is summarised above, which provides advice on emergency access and fire suppression provision.

The application is supported by an Outline Battery Safety Management Plan which provides details of intended arrangement for fire safety arrangements, including the availability of fire hydrants near to the application site, and otherwise sets out how the development would comply with the National Fire Chiefs Council (NFCC) Report Grid Scale BESS Planning Guidance for Fire and Rescue Service.

The management plan appears to be robust in terms of fire service access and subject to the scheme according with these details, it is considered the development would be acceptable in terms of the relevant requirements of paragraph 117 and Core Strategy policy P3.

Conclusions and Recommendation

The application proposes the development and operation of a Battery Electric Storage System (BESS). The proposal would contribute to the diversification of the energy mix within the United Kingdom, contributing to a reduction in carbon emissions and the journey to net zero, whilst improving energy infrastructure and reliability in the Borough.

The proposal would comprise inappropriate development in the Green Belt, and would cause as minor harm to it's openness. It would also result in some harm to character of the countryside locally (though these latter impacts would be mitigated by the design of the scheme and could be further mitigated by the imposition of a temporary permission and an obligation to restore the site after decommissioning).

However, it is considered that Very Special Circumstances (VSCs) would exist which would mean that approval would be consistent with the NPPF and regional and local policy for the Green Belt.

The principle of the development is therefore acceptable, with other issues and concerns appropriately addressed through the imposition of planning conditions.

As such, on balance, it is considered that the proposal represents sustainable development. Accordingly, it is recommended that the application should be approved, subject to the following conditions.

CONDITIONS

General

1. The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. This permission relates to the following plans and documents:
- ☐ ELLEN-BESS-001.4 Rev 2 – Site Location Plan
 - ☐ ELLEN-BESS-001.5 Rev 3 – Site Layout Plan
 - ☐ ELLEN-BESS-001.6 Rev 3 – Elevations Plan
 - ☐ YLM-BESS-GEN-001.10 Rev A - 132/33kV Substation Transformer
 - ☐ YLM-BESS-GEN-001.11 Rev A - Water Tanks
 - ☐ YLM-BESS-GEN-001.1a Rev A – 33kV DNO Substation
 - ☐ YLM-BESS-GEN-001.2 Rev A – 33kV Switchroom
 - ☐ YLM-BESS-GEN-001.3 Rev A – Site Cabin / LV Switchroom
 - ☐ YLM-BESS-GEN-001.4 Rev A – 33kV/415V Site Supply Transformer
 - ☐ YLM-BESS-GEN-001.5 Rev A – BESS Transformer c/w Inverters
 - ☐ YLM-BESS-GEN-001.6 Rev A – BESS Battery Cluster
 - ☐ YLM-BESS-GEN-001.7 Rev A – V-Mesh Fence
 - ☐ YLEM1500-11 - Soft Landscape Proposals
 - ☐ Noise Impact Assessment
 - ☐ Flood Risk and Drainage Strategy
 - ☐ Heritage Impact Assessment
 - ☐ Traffic Management Plan
 - ☐ Transport Statement
 - ☐ Biodiversity Impact Assessment
 - ☐ Construction Traffic Management Plan
 - ☐ Outline Battery Safety Management Plan Issue 2 November 2024
3. The use of the BESS facility hereby permitted shall cease on or before 40 years from the date when the site first becomes operational. Written notification of the commencement of operation of the BESS facility shall be submitted to and confirmed in writing by the local planning authority within 14 days of its occurrence.
- Reason: To ensure that the application site is returned to its original open condition and character once the use of the development hereby approved is no longer required, and in order to mitigate the impact of the development upon the Green Belt, in accordance with policy DM1 of the Rochdale Core Strategy, policy JP-G9 of the Places for Everyone joint development plan, and the National Planning Policy Framework
4. No later than 12 months prior to the expiration date of this permission as noted at condition 3 above, a decommissioning and restoration scheme shall be submitted to and approved in writing by the local planning authority. This statement shall include details of the timescale and management of the decommissioning works; the removal of all equipment and all other associated structures and the reinstatement of the land to its former condition. The decommissioning and restoration of the site shall thereafter be undertaken in accordance with the approved scheme and within the agreed timescale.
- Reason: To ensure that the application site is returned to its original open condition once the use of the development hereby approved is no longer required, in accordance with Policy DM1 Rochdale Core Strategy, Places for Everyone JP-G9, and the National Planning Policy Framework

Design

5. Prior to commencement of the development hereby approved, full details of completed ground levels and contours shall be submitted to and approved in writing by the local planning authority, in liaison with National Highways. The development shall be undertaken in accordance with the approved details.
Reason: In order to assess and control the appearance of the completed development in the interests of protecting visual amenity and the landscape character in compliance with policies P2, P3 and DM1 of the Rochdale Core Strategy and the National Planning Policy Framework, and in the interests of protecting the safety of the strategic highways network.
6. Prior to commencement of the development hereby approved, full details of any retaining walls, earthworks and any other structural or engineering elements required as part of the development shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.
Reason: In order to assess and control the appearance of the completed development in the interests of protecting visual amenity and the landscape character in compliance with policies P2, P3 and DM1 of the Rochdale Core Strategy and the National Planning Policy Framework.
7. Prior to any above ground construction related to the development hereby approved, full samples and/or external material specification details for each of the following parts of the development shall be provided to the Local Planning Authority for approval:
- Battery Storage Units
 - DNO Substation
 - Switch room
 - Welfare Cabin
 - Water Tanks
 - Inverter Units
 - Fencing and gates
 - Any hard surface materials

Such details shall include the type, colour and texture of materials.

Development shall be carried out in accordance with the approved details.

Reason: In the interests of protecting the character of the local area and the landscape character in compliance with policies P2, P3 and DM1 of the Rochdale Core Strategy and the National Planning Policy Framework.

8. Prior to any above ground construction related to the development hereby approved, full design details of the proposed access track shall be submitted to and approved in writing by the Local Planning Authority. These details shall include construction details, surface materials, any drainage arrangements, and entrance arrangements onto Bentgate Street. The development shall be undertaken in accordance with the approved details.
- Reason: In the interests of protecting visual amenity and the landscape character in compliance with policies P2, P3 and DM1 of the Rochdale Core Strategy and the National Planning Policy Framework.
9. No external CCTV equipment shall be installed on or within the application site unless a scheme for such CCTV equipment has first been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be fully implemented in accordance with the approved scheme.

Reason: in the interests of visual amenity having regard to Policies P3 and DM1 of the Rochdale Core Strategy and the National Planning Policy Framework.

10. The approved landscaping details shall be implemented in full no later than the end of the first planting season following the approved development first being brought into use. Any trees, shrubs or hedgerow planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become severely diseased within 5 years of planting shall be replaced within the next planting season by trees, shrubs or hedge planting of a similar size and species (or another suitable species) to those originally required to be planted.

Reason: To ensure that the site is satisfactorily landscaped having regard to its sensitive location and the nature of the proposed development and in accordance with Rochdale Core Strategy Policies G6 and G7 and the National Planning Policy Framework.

Ecology

11. No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless an ecological survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place during the period specified above unless a mitigation strategy has first been submitted to and approved in writing by the Local Planning Authority which provides for the protection of nesting birds during the period of works on site.

Reason: In order to prevent any habitat disturbance to nesting birds in accordance with Policy G7 of the Rochdale Core Strategy and the National Planning Policy Framework

12. Prior to commencement of development, details of a precautionary method of works in relation to reptiles shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of protecting biodiversity in accordance with policy G7 of the Rochdale Core Strategy.

13. The development hereby approved shall not commence until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the off-site land adjacent to the application site indicated for biodiversity net gain (in the report titled Biodiversity Impact Assessment) has been registered as a habitat bank on the Biodiversity Gain Sites Register.

Reason: To ensure that the requirements of The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 are fulfilled and in order to ensure the delivery of a net gain in biodiversity in accordance with the requirements of Policy G7 of the Rochdale Core Strategy, Policy JP-G8 of the Places for Everyone Joint Development Plan and the National Planning Policy Framework.

14. The development hereby approved shall not commence until a Habitat Management and Monitoring Plan (the HMMP) for any habitat areas to be provided on-site in accordance with the Biodiversity Gain Plan approved

pursuant to the statutory biodiversity gain condition has been prepared in accordance with the approved Biodiversity Gain Plan and including:

- a non-technical summary;
- the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved BNG Plan;
- the management measures to maintain habitat in accordance with the approved BNG Plan for a period of 30 years from the completion of development; and
- the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,
- has been submitted to and approved in writing by the Local Planning Authority.
- The development shall thereafter be undertaken in accordance with the approved HMMP.

Reason: To ensure that the requirements of The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 are fulfilled and in order to ensure the delivery of a net gain in biodiversity in accordance with the requirements of Policy G7 of the Rochdale Core Strategy, Policy JP-G8 of the Places for Everyone Joint Development Plan and the National Planning Policy Framework.

15. Notice in writing shall be given to the Council when the:

HMMP has been implemented; and
Habitat creation and biodiversity enhancement works set out in the HMMP have been completed.

Reason: To ensure that the requirements of The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 are fulfilled and in order to ensure the delivery of a net gain in biodiversity in accordance with the requirements of Policy G7 of the Rochdale Core Strategy, Policy JP-G8 of the Places for Everyone Joint Development Plan and the National Planning Policy Framework

Environmental

16. Total noise levels arising from the development hereby approved shall not exceed 40 dB(A) measured 1m from the façade of noise sensitive receptors.

Reason: To safeguard the living conditions of nearby occupants and residents in accordance with Core Strategy Policy G9 and the National Planning Policy Framework.

17. No external lighting shall be installed as part of the development hereby approved prior to the written approval by the Local Planning Authority of full design and technical details for any such lighting. Such details should be designed to avoid impacts on nocturnal animals. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of controlling light pollution in the interest of residential amenity, nature conservation and highways safety in accordance with Rochdale Core Strategy policies DM1, T2 and G9 and the National Planning Policy Framework.

18. Prior to commencement of any part of the development hereby approved that requires the importation of material onto the site, a Materials Management Plan (MMP) shall be submitted to and approved in writing by the Local Planning Authority. The MMP shall include:
- Details of the volumes and types of material proposed to be imported or reused on site
 - Details of the proposed source(s) of the imported or reused material
 - Details of the chemical testing for ALL material to be undertaken before placement onto the site
 - Include the result of the chemical testing which must show the material is suitable for use of the development
 - Include confirmation of the chain of evidence to be kept during the material movement, including material importation and removal from and to the development
- All works shall be undertaken in accordance with the approved document
Reason: To ensure that no unsuitable material is brought onto the site and in accordance with Policy G9 of the adopted Rochdale Core Strategy.

Highways and Public Rights of Way

19. (a) Prior to commencement of above ground works, a full condition survey of the public rights of way in the vicinity of the site (specifically, those numbered MilFp351, MilFp355, MilFp356, MilFp357 and MilFp358) shall be undertaken and submitted to the Local Planning Authority for assessment.
(b) Within 3 months of first operation of the use hereby approved, a full condition survey of the public rights of way proximate to the site shall be submitted to the Local Planning Authority for assessment by the Local Planning Authority in conjunction with the Local Highway Authority. Should any damage have occurred to the carriageways/footways, they shall be repaired and reinstated in accordance with a scheme that shall first be submitted to and approved in writing by the Local Planning Authority and Local Highways Authority. The necessary costs for this repair and/or reinstatement shall be met by the applicant.
Reason: In the interests of protecting the safety of users of nearby public rights of way, in accordance with Rochdale Core Strategy policies T2, DM1 and the National Planning Policy Framework.
20. Prior to commencement of the development hereby approved, full details of any engineering works including retaining walls and embankments adjacent to the public right of way (MilFp358) running to the immediate north of the site shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.
Reason: In the interests of protecting the safety and utility of users of nearby public rights of way, in accordance with Rochdale Core Strategy policies T2, DM1 and the National Planning Policy Framework.
21. Prior to the commencement of any excavation works and landscaping works, geotechnical submissions in accordance with Design Manual for Roads and Bridges Standard CD622 or its successor shall be submitted to and agreed in writing by the Local Planning Authority (in consultation with the Highway Authority for the M62 motorway).
No development pursuant to this application shall commence until a detailed Construction Design Plan and working Method Statement relating to site earthworks has been submitted to and approved by the Local Planning Authority (in consultation with the Highway Authority for the M62 motorway).

Construction of the development shall then be carried out in accordance with the agreed Construction Design Plan and working Method Statement.

Reason: To mitigate any adverse impact from the development on the M62 motorway in accordance with DfT Circular 01/2022.

22. Prior to commencement of development, an updated Construction Traffic Management Plan (CTMP) confirming construction working hours and setting out how the safety and convenience of users of public rights of way adjacent to the application site (specifically, those numbered MilFp351, MilFp355, MilFp356, MilFp357 and MilFp358) will be protected during the development phase, will be submitted to and approved in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved updated CTMP.

Reason: In order to protect the safety of users of nearby Public Rights of Way, in accordance with Rochdale Core Strategy policies T2, DM1 and the National Planning Policy Framework.

Drainage

23. The development hereby approved shall be undertaken in accordance with the drainage details and maintenance arrangements set out in the approved Flood Risk Assessment/Drainage Strategy Rev 3 dated January 2025 by Andrew Moseley Associates, except as may be varied by the requirements of the following condition 24.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. To prevent an increased risk of flooding as a result of the development and to ensure satisfactory disposal of surface water from the site in accordance with Policy G8 of the Rochdale Core Strategy, saved Policy EM/7 of the Rochdale Unitary Development Plan and the National Planning Policy Framework.

24. Prior to the development first being brought into use, the following additional drainage details shall be submitted to and approved in writing by the Local Planning Authority:

- o Confirmation of infiltration rates from site testing and any resulting changes to the design.
- o Updated details of sustainable urban drainage maintenance arrangements addressing maintenance of attenuation storage, permeable paving and firewater storage tank
- o Arrangements for disposal of foul water

The approved updated maintenance details shall be adhered to for the lifetime of the development.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. To prevent an increased risk of flooding as a result of the development and to ensure satisfactory disposal of surface water from the site in accordance with policy G8 of the Rochdale Core Strategy, saved Policy EM/7 of the Rochdale Unitary Development Plan and the National Planning Policy Framework.

25. The development permitted by this planning permission shall be carried out in accordance with the approved non-mains drainage assessment including the following specific mitigation measures detailed therein:

- Soakaways to be constructed to BS6297:2007
- No connection to watercourse or land drainage system and no part of the soakaway system is within 10 metres of any ditch or watercourse

- No siting of any septic tank/package sewage treatment plant within 50 metres or upslope of any well, spring or borehole used for private water supply

Reason: The river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition, the impact will cause deterioration of a quality element to a lower status class and/or prevent the recovery of and/or cause deterioration.

Other

26. The development shall be undertaken in accordance with the fire safety design measures set out in the Outline Battery Safety Management Plan submitted with the application.

Reason: In the interest of ensuring safe access for emergency vehicles in accordance with Rochdale Core Strategy policy P3 and the National Planning Policy Framework.

Statutory Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

a) a Biodiversity Gain Plan has been submitted to the planning authority, and;

b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Rochdale Metropolitan Borough Council.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

The permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In summary: Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans)

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024;or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
 - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
 - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
 - 4.5 Self and Custom Build Development, meaning development which:
 - i) consists of no more than 9 dwellings;
 - ii) is carried out on a site which has an area no larger than 0.5 hectares; and
 - iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

“original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted. Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 modifies the general biodiversity condition for planning permissions which are phased development. Instead of the standard approach for the Biodiversity Gain Plan:

- ☐ an Overall Biodiversity Gain Plan must be submitted to and approved by the planning authority before any development can begin; and
- ☐ a Phase Biodiversity Gain Plan for each phase must be submitted to and approved by the planning authority before the development of that phase can begin.

The Overall Biodiversity Gain Plan for a phased development (which is not related to a section 73 permission) must include the following matters:

- ② information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- ② the pre-development biodiversity value of the entire onsite habitat;
- ② any registered offsite biodiversity gain allocated or proposed to be allocated to the entire development and the biodiversity value of that gain in relation to the development;
- ② any biodiversity credits purchased or proposed to be purchased for the entire development; and
- ② the post-development biodiversity value of the onsite habitat for the entire development and each phase of development*

*The post-development biodiversity value of the onsite habitat for the entire development and each phase is a projection of the biodiversity value at the completion of the entire development (not after the completion of each phase). Where firm proposals for development and habitat enhancement on each phase have yet to be finalised, assumptions about the likely development and habitat enhancements should be used to determine this post-development value. This value will set the expectations about the biodiversity value of onsite habitats, and the final value will need to be set out in later Phase Biodiversity Gain Plans.

The content of a Phase Biodiversity Gain Plan is intended to be more limited in scope than an Overall Biodiversity Gain Plan, instead of detailing the overall strategy (like the Overall Plan), the Phase plan focusses on a phase's contribution to biodiversity net gain and confirming progress towards the overall biodiversity gain objective for the entire development. It must include the following matters:

- ② the post-development biodiversity value of the onsite habitat for the phase of the development (which is the subject of the Plan);
- ② the post-development biodiversity value of the onsite habitat for each other phase of development (whether begun or otherwise);
- ② any registered offsite biodiversity gain allocated to the entire development and the biodiversity value of that gain for the development prior to submission of the phase plan;
- ② any registered offsite biodiversity gain which is proposed to be allocated to the entire development and the biodiversity value of that gain in relation to the development;
- ② any biodiversity credits purchased for the entire development prior to submission of the phase plan; and
- ② any biodiversity credits proposed to be purchased for the entire development.

Notes for Applicant:

United Utilities advice – on website

GM Fire and Rescue advice – on website

