

Agenda Item: 5.1

Site:	New Farm Rolleston Lane Tutbury DE13 9HE
Proposal:	Installation of a decentralised gas peak power facility generating approximately 10 MW, including generator barn, housing 3 No. containerised generators and a customer substation/electrical cabinet, transformer, sub-station, gas kiosk, oil tanks and radiators.

Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by John Kirkham

[Hyperlink to Application Details](#)

Application Number:	P/2017/01129	
Planning Officer:	Alan Harvey	
Type of Application:	Full	
Applicant:	Mr Van Reyk	
Ward:	Tutbury and Outwoods Ward	
Ward Member (s):	Councillor S P Gaskin Councillor D H Goodfellow	
Date Registered:	12 September 2017	
Date Expires:	An extension of time has been agreed until 15 December 2017	

Councillor Duncan Goodfellow has requested that the application be called to committee given the level of concern raised by local residents in the area and in the light of the previous application for the diesel powered STOR generation ((i.e. that withdrawn). Councillor Goodfellow commented further that it is believed *“that it is a matter of great local importance which should both be considered by the full committee and also local residents should be given the opportunity to verbally state their case and express their views.”*

1. Executive Summary

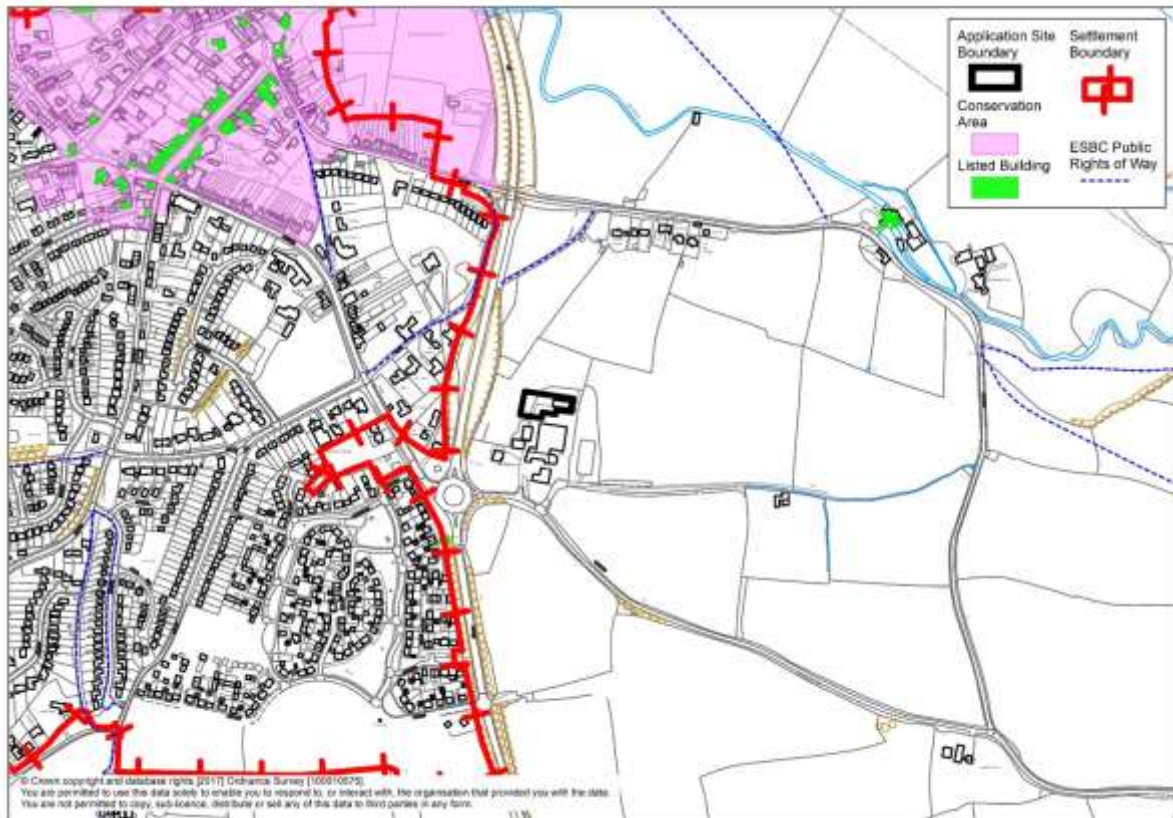
1.1 The application site consists of some 0.12 ha of land in the northern part of the existing New Farm mixed commercial and agricultural site which is accessed off Rolleston Lane, Tutbury, close to a roundabout junction with Burton Road (A511). The application site is bounded to the west by the well treed

embankment to the A511 and to the north, east and south are rolling agricultural lands. Immediately to the western side of Burton Road are recently constructed dwellings on the periphery of the built up area of Tutbury (known as 'Heritage Park') which are at a higher level than the application site.

- 1.2 The application is a full submission for the proposed installation of a decentralised gas peak power facility generating approximately 10 MW, including generator barn, housing 3 No. containerised generators and a customer substation/electrical cabinet, transformer, sub-station, gas kiosk, oil tanks and radiators. The complex is proposed to have a 4 metre high acoustic fence enclosure.
- 1.3 Statutory consultees have raised no objections that cannot be overcome via planning conditions. Tutbury Parish Council have objected to the application on the grounds that the scheme would be contrary to national and local planning policies in terms of its countryside location, that it would be detrimental to visual amenities, that it would impact negatively on local residents and on schoolchildren in terms of noise and air pollution, that it would be a safety risk and that it would be harmful to the setting of the heritage asset that is the village of Tutbury. Tutbury Parish Council also advised that they "will not consider the financial inducement offered (by the applicants) and are "surprised and disappointed that this type of inducement is legal in the planning process." Rolleston On Dove Parish Council advised that they wished to make no comments on the application, although subsequently it was indicated by the Parish Clerk that a couple of Parish Councillors had "commented that they hope there will be a silencer on the exhaust system and that deliveries are made considerately to residents of both Tutbury and Rolleston."
- 1.4 Local residents were notified of the application - as originally submitted and further to the supplementary information submissions of the applicants - and a site notice posted. A total of 33 local residents/interested parties have made representations raising objections/concerns in respect of the proposals as originally submitted (with 9 No. further letters submitted at the time of writing this report in respect of the applicant's additional submissions). There have also been objections to the scheme received from Andrew Griffiths MP, the local County Councillor (Cllr Philip White) and one Borough Council ward member (Cllr Duncan Goodfellow).
- 1.5 The proposal will not have an unacceptably adverse impact on the wider existing highway network nor give rise to sufficient detrimental impacts to nearby residential properties or the wider environment in terms of noise and air pollution that would justify a refusal reason in relation to the application. The scheme would not impact negatively on protected species or biodiversity and would have no detrimental impacts on the setting of heritage assets.
- 1.6 It is considered, however, that the scheme would not in principle be compliant with adopted development plan policies in terms of the location of sustainable development. Further it is considered that the proposal by reason of its scale and siting would be an intrusive feature in the rural landscape which would be detrimental to the visual amenities of the locality.

- 1.7 **Members are advised that the above is a brief summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

Map of site



2. The site description

- 2.1 New Farm is located on rising land - as Rolleston Lane approaches its roundabout junction with Burton Road (A511) - and is surrounded by rolling agricultural lands to the north, east and south. New Farm is accessed off the northern side of Rolleston Lane and is bounded immediately to the west by the well treed embankment to Burton Road (A511). The newly constructed dwellings on 'Heritage Park' - served off the western side of Burton Road - are located at a higher level.
- 2.2 The existing buildings at New Farm predominantly comprise large modern agricultural structures, some of which have been converted to commercial use as set out below in the Planning History section of this report. New Farm farmhouse occupies a position to the south-west of the application site. There are solar panels located on the embankment to the west of the farmhouse.
- 2.3 The application site comprises some 0.12 ha of land in the northern part of the agricultural/commercial complex and is proposed to be accessed via the existing vehicular access serving the complex. The land comprises hardstanding along with an area of grazing land and there is an existing

agricultural barn on the site. There are areas of bunding to the north and east of the site, upon which trees have been planted.

- 2.4 The application site is located outside a settlement boundary as defined in the adopted Local Plan.

3. Planning history

- 3.1 **Application ref:** CU/12963/008 - Change of use of agricultural buildings to business (Class B1) use and storage and distribution (Class B8) use. Approved in November 2001
- 3.2 **Application ref:** PC/12963/013 - Prior Approval for the erection of agricultural building. Determined that Prior Approval was not required in December 2005.
- 3.3 **Application ref:** PC/12963/015 - Retention of land reclaimed from lagoon, and change of use of reclaimed land to form a manege. Approved in March 2006.
- 3.4 **Application ref:** PC/12963/017 - Application under Section 73 of the Town and Country Planning Act 1990 to continue using agricultural buildings for Class B1 and B8 use purposes without complying with Conditions 4, 5 and 8 of planning permission ref: CU/12963/008 dated 28/11/01 relating to landscaping and service area. Refused in April 2006 (with the subsequent Appeal dismissed).
- 3.5 **Application ref:** PC/12963/018 - Raising of ground level with the infilling with topsoil. Approved in July 2016.
- 3.6 **Application ref:** PA/12963/020/RS - Construction of a hardstanding area to form additional parking for Class B8 use operational vehicles and the formation of landscaped bunds and associated engineering works. Approved in July 2007.
- 3.7 **Application ref:** P/2014/00800 - Installation of 4 No. rows of photovoltaic solar panels in field to north of farmhouse and on south facing barn roof to north east of farmhouse. Approved in August 2014.
- 3.8 **Application ref:** P/2016/01107 - Installation of a flexible generation facility with a capacity of approximately 10 MW to include generators, diesel storage tank, transformer station, CCTV, substation and construction of vehicular access. The application, which related to land to the south of Rolleston Lane, was withdrawn by the applicant.

4. The proposal

- 4.1 The application is a full submission for the proposed installation of a decentralised gas peak power facility generating approximately 10 MW, including a generator barn, housing 3 No. containerised generators and a customer substation/electrical cabinet, transformer, sub-station, gas kiosk, oil tanks and radiators. The proposed complex is to be surrounded by a 4 metre high acoustic fence. The application submissions also indicate that CCTV cameras would be provided.
- 4.2 The proposed generator barn, which measures approx 17.7 metres in width by 24.5 metres in depth, occupies the western part of the complex and has a height of some 7.8 metres to its ridge and 8.54 metres to the top of its three protruding flues. The radiators and oil tanks are centrally sited, and are adjoined by the transformer station which has an internal security fence. The sub-station and gas kiosk are located towards the eastern boundary. The existing barn on the site would be removed as part of the development.
- 4.3 The construction of the generator barn will involve cutting into the existing raised banking to the west of the site and thus extend the built form of the development at New Farm beyond the existing fencing enclosing the site.
- 4.4 The application submissions indicate that the plant is expected to operate up to a maximum of 2,000 hours per annum and is designed to be operated at periods of peak demand for electricity. The daily running times will therefore be longer in the winter but will operate between 09.00 and 20.00. The development would be operational for 25 years, with a further year for de-commissioning, upon which the plant will be completely removed and the land returned to agricultural use. It is indicated that the construction period will be over a year.
- 4.5 During the course of the application process additional submissions have been made by the applicants in the light of the initial feedback through the consultation process with regard to planning policy and environmental health related issues.

List of supporting documentation

- 4.6 The following documents have been provided as part of the application:
- Location Plan
 - Proposed Site Layout Plan
 - Proposed Elevations and Isometric Drawings
 - Proposed Site Sections
 - Planning Statement
 - Design and Access Statement
 - Air Quality Assessment (original submission)
 - Noise Assessment (original submission)
 - Ecological Report
 - Transport Note
 - Supplementary Air Quality and Noise Submissions
 - Supplementary Information (Planning Policy)

- 4.7 The relevant findings of the reports are dealt with in section 8 onwards below.
- 4.8 The applicant's agent also submitted a 'community benefit' proposal on behalf of the applicants which advises that :-

“ We would like to offer a community benefit payment for use by the community, should the application be successful. This would not be a S(ection) 106 and we recognise that it would not form part of the planning application, but the Applicant sees it as important to provide local benefits in addition to those identified in the application. The payment would be £10,000.

We have had some pre-application contact with Tutbury (Parish Council), but since there are two Parish Councils affected by the project, I would welcome your (the local planning authority's) views on offering this as a bilateral undertaking with the council, which allows you to subsequently decide which way best to use them. For example, funding of local projects.”

5. Consultation responses and representations

- 5.1 A summary of the consultation responses is set out below:

Statutory and non statutory consultee		Response
5.2	Tutbury Parish Council	<p>Original Submissions</p> <p>The Parish Council raised objection on the grounds that this Development: -</p> <ol style="list-style-type: none"> Does not conform to the local plan 2012-2031. East Staffordshire Local Plan Strategic Policy 8 states that outside settlement boundaries, new developments will not be permitted unless it is essential to the support and viability of an existing lawful or a new business appropriate in the countryside, providing facilities to the local community. There is no significant social or environmental benefit from this facility. There is no overriding need for the development to be in the countryside /farmland. This proposal is outside the settlement boundary but is still near to houses that will be harmed by the air and noise pollution. Paragraph 17 of the National Planning Policy Framework (NPPF) states that protecting the countryside is a core planning principle. <p>Will have significant adverse effect on the character of the area. Tutbury is recognised as being a heritage asset to East Staffordshire. This development would be visible when entering the village, it does not adhere to Strategic Policy 25 Historic Environment states- proposals should enhance buildings of heritage importance, setting and historic landscape. This</p>

		<p>development is in an elevated position and will have a negative visual impact from miles away. It is not evident why a green site has been chosen, rather than an industrial site. New Farm is not an industrial estate, it is a working farm in the countryside and includes a farmhouse. Tutbury Parish Council would argue that this proposal will introduce considerable urban form with the development of an additional building and chimneys.</p> <ol style="list-style-type: none"> 2. It does not conform to Local Plan Strategic Policy 1 sustainable development. This does not “integrate with the character of the landscape” with the proposed construction of an additional building and chimneys of nearly 8 metres high. This site is on the edge of a green landscape. National Planning Policy Framework Paragraph 9 states green belt land serves “to preserve the setting and special character of historic towns” 3. This proposal will be unmanned and will not provide any further employment to the local area or contribute to the community in any way. This goes against the Strategic Policy 24 of the Local Plan that developments should contribute positively to the area in which they are proposed, it does not “Enhance the landscapes and protect and enhance biodiversity. This development contradicts the Detailed Policy 2 in the local plan which states “All developments should meet the needs of residents and businesses without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to”. 4. Strategic Policy 14 “<i>Within the Tier 1 and Tier 2 settlement boundaries and rural industrial estate boundaries, employment which would allow for an element of home working and change of use to employment development will be approved if the development does NOT unduly affect the character of the settlement, amenity of neighbouring properties and will not detract from the environment</i>” This proposal DOES both things. SP14 states “Farm diversification proposals will be supported where they can make long-term contribution to sustaining the agricultural enterprise as a whole and where the proposal is consistent with the rural location in terms of use, setting and scale. This proposal does not conform to the policy as it is unsustainable and not agricultural. 5. The technology is not “Sustainable “or “Renewable. This does not conform to Strategic Policy 28 of the Local Plan and does not encourage development of low carbon energy technology. The gas facility will burn fossil fuels contrary to national and international aims to
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		<p>control greenhouse emissions and global warming The NPPF paragraph 9 goes on to state “When defining boundaries, local planning authorities should: ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development;” this development is not sustainable.</p> <p>6. Will produce noise that will affect the nearby houses on Burton Road. There is a lack of direct evidence that truly measures the impact that this will have on the nearby residents. The evidence in the surveys carried out are predictive indicators, rather than figures from similar operating sites and therefore does not show the true impact on the noise issues. The reports supporting the proposal are flawed. Some of the properties are wrongly described and have not been visited. These reports do not consider weather and seasonal changes. Due to the elevated position of this farm, noise and air pollution will be carried in the prevailing winds. Tutbury residents can smell and hear the emissions from the coffee factory in nearby village of Hatton. In the winter, the protection of the trees and vegetation in this area will be limited and the effects of this pollution will be exacerbated. This has already been proven with the traffic noise heard in the houses recently built on Burton Road behind the existing line of trees. The noise survey has not included the residents on Cornmill Lane, these properties are on lower ground behind the proposed site.</p> <p><i>The NPPF Paragraph 11. Conserving and enhancing the natural environment states that the planning system should contribute to and enhance the natural and local environment by:</i></p> <ul style="list-style-type: none"> ● <i>protecting and enhancing valued landscapes, geological conservation interests and soils;</i> ● <i>recognising the wider benefits of ecosystem services;</i> ● <i>minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;</i> ● <i>preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise</i>
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		<p><i>pollution or land instability; “Planning policies and decisions should aim to:</i></p> <ul style="list-style-type: none"> ● <i>avoid noise from giving rise to significant adverse impacts on health and quality of life because of new development;</i> ● <i>mitigate and reduce to a minimum other adverse impact on health and quality of life arising from noise from new development.</i> <p>7. Will increase air pollution. This will contribute to the effects of climate change due to the emissions and goes against ESBC commitment to reduce the effects of climate change in their Climate Change Strategy. The evidence in the surveys carried out are desk studies rather than portraying actual baseline figures for that location and does not show the true impact on the air and environmental issues.</p> <p>8. The proposed site is within 1km of the nearby primary school. The children would be exposed to the pollution particulates, nitrogen oxide, nitrogen dioxide and carbon monoxide emissions.</p> <p>9. Staffordshire Biodiversity Action Plan-. Although this is not a significant site of environmental interest it is farmland and should be protected. Strategic Policy 29 - Biodiversity and Geodiversity aims to ensure that development retains, protects and enhances features of biological or geological interest, and provides for the appropriate management of these features. There is no evidence in this proposal that enhances bio or geo diversity.</p> <p>10. Storing oil tanks represents a fire hazard.</p> <p>11. May bring other similar applications contrary to good planning elsewhere in the Borough, and may set a precedent for further STOR sites to be located near solar energy sites.</p> <p>12. If lights are required on the site it will increase light pollution that would be visible from Cornmill Lane and the Tutbury bypass.</p> <p>13. The government costs of funding this power unit are high. Tutbury Parish Council would prefer schemes that conserve energy for example insulation of new homes, for the benefit of the wider community, or supporting the development of alternative no emission power like hydropower energy,</p>
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14. The proposal would be intended to feed electricity into the national grid at peak times, normally on winter evenings, and at times of exceptional demand, such as when a major power station was offline. This proposal would form part of the National Grid’s Short-Term Operating Reserve (‘STOR’) programme, by which resilience of electricity supply is protected at times of pressure. However, Tutbury already has a solar farm that feeds additional electricity to the grid and nearby power stations that would support the grid, and would offer alternative more suitable locations for this gas peaking facility. The contribution of a relatively small-scale plant to the national grid would be limited. There is a lack of evidence that the need is required in Tutbury and whether the connection to the grid can support this or indeed the existing gas supply is sufficient.

According to the Planning Inspectorate report for a Proposed STOR site in the neighbouring village of Marchington;

“The proposal is founded on making use of available grid capacity in Marchington. The appeal is accompanied by a plan showing electricity network constraint across the East Midlands, and by supporting information on the scope for connectivity throughout East Staffordshire. The Council does not dispute the material presented but questions whether, in the light of these constraints, a connection within East Staffordshire is actually required.”

The justifications applied to Marchington application applies to this New Farm application, as stated in Brendan Lyons Inspection report, the same conclusion should be made for Tutbury.

“I have found that the proposal would compromise infrastructure development, but that the need to locate it outside a settlement boundary has not been conclusively shown. Therefore, the proposal would be contrary to LP Policy SP8. There are no other development plan policies that would pull in a different direction to suggest compliance with the plan as a whole.

The proposal would have modest economic benefits during its construction, but also some environmental harm during this period due to increased traffic through the village. As a small-scale plant, its contribution to the resilience of the national grid would be limited, but would have minor economic and social benefits. Set against that would be the environmental harm of

		<p><i>introducing a quasi-industrial development into the countryside. The Council accepts that the negative effect would not be substantial, and I agree. Nevertheless, the proposal would not fulfil the three dimensions of sustainable development. The conflict with the development plan would not be outweighed by other considerations. The presumption in favour of sustainable development set by the NPPF would not apply.”</i></p> <p>Additional/Supplementary Submissions</p> <p>Tutbury Parish Council advises <i>“that their objections still stands (sic), and will not consider the financial inducement offered. The council are surprised and disappointed that this type of inducement is legal in the planning process.”</i></p>
5.3	Rolleston On Dove Parish Council	<p>Original Submissions</p> <p>Advised that they had no comments , although the Parish Clerk subsequently advised that <i>“whilst I commented ... that Cllrs had no comments to make it would be remiss of me not to tell you that a couple of Cllrs came back to me ...and commented that they hope there will be a silencer on the exhaust system and that deliveries are made considerately to residents of both Tutbury and Rolleston.”</i></p> <p>Revised Submissions</p> <p>The Parish Council has been re-consulted further to the applicant’s additional submissions and any response will be reported to the Committee on the Update Sheet.</p>
5.4	SCC Highways	Raise no objections in principle subject to the routing of construction vehicles in excess of 7.5 tonnes to being limited to that outlined in the submitted Transport Note (namely to be to and from the roundabout junction to the west of the site and along the A511).
5.5	SCC Archaeology	Raise no archaeological concerns regarding the proposed development.

Internal Consultees		Response
5.6	Environmental Health	<p>Original Submissions</p> <p>Requested additional information and clarification on the issues of noise and air quality. No objections raised on land contamination grounds.</p>

		<p>Revised Submissions</p> <p>Comments that further to the provision of the supplemental air quality information, it is considered that the overall information submitted in relation to air quality demonstrates that there will be no significant adverse impact from the proposal. It is, however, considered in air quality terms that conditions (of any approval) would be needed to require the use of the generator of the make and model used in the assessments (or equivalent product), that the individual generators shall not be used for more than 2000 hours per annum and that the operation of the generators shall be limited to the hours of 09:00-20:00.</p> <p>In relation to the supplementary noise information, it is pointed out that it has not been demonstrated to date that there would not be an adverse impact to the residents of properties on Cornmill Lane to the north/north-east of the site. It is also pointed out, however, that the applicants are in the course of making further submissions on this matter for assessment.</p>
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6. Neighbour responses

6.1 Neighbours were notified of the application in its original form and further to the submission of the additional/supplementary information by the applicants and a site notice posted. Comments were received from 33 local residents/interested parties raising the following objections/concerns to the originally submitted scheme as summarised below:-

Neighbour responses	
Principle of the development	<ul style="list-style-type: none"> • the scheme would not be in accordance with Policies SP8 and SP28 of the Local Plan given its countryside location. • the submissions do not demonstrate any direct need for the development in this locality and certainly not in a countryside location • the submission is simply a business opportunity • the use of gas is not sustainable as it is the burning of a fossil fuel • the scheme will be bring no or little local economic benefits to Tutbury. • the scheme would have no social benefits • the proposal is 'out of step' with national green energy policies which are seeking to encourage the use of sustainable resources. • The reference to the appeal for the gas generator scheme allowed in Bolsover is not relevant to East Staffordshire as the development plan policies are not the same. • The submissions are misleading in suggesting there will be 20 jobs created as the premises will be unmanned.

	<ul style="list-style-type: none"> • Development such as these should be located on industrial sites/former power station sites. • The site is no more suitable than that the subject of the withdrawn application to the south of Rolleston Lane. • There would be no environmental benefits as waste heat/waste water generation would outstrip any use that could be enjoyed by the existing uses at New Farm and thus would end up as waste heat. • The scheme will result in the loss of agricultural and green belt land. • It is questioned based on existing energy provisions as to whether there is actually any need for such a facility. • There is a paucity of detailed information in relation to exact equipment to be used, the refuelling systems, ancillary systems, acoustics, air quality and emissions compliance and safety; all of which may impact on the final format the development may take and which are thus required at this stage of the planning process. • It is questioned as to where the actual connection to the National Grid is located as this is not provided in the application submissions. • The Council should be looking to encourage green and renewable energies and not increase the burning of fossil fuels. • Any approval for the current scheme will set a precedent for further future expansion of this use at the application site.
<p>Impacts on Visual Amenities</p>	<ul style="list-style-type: none"> • Given its height and scale the development would be out of character with Tutbury and its surrounding landscape • The scheme would undermine Tutbury's rural character • The trees surrounding the site are not evergreens and therefore there will not be all year round screening. • There will be light pollution impacts given the sites elevated position in the landscape.
<p>Impacts on Residential and other Amenities</p>	<ul style="list-style-type: none"> • The scheme will generate noise and air pollution to the detriment of surrounding residents and to school children attending nearby schools • The proposals would violate the Environment Act 2011 • The documents in relation to noise and air quality are not considered to be accurately compiled and the impact on residents would be greater than indicated by the applicant's submissions. • The scheme is described as "a standby plant" but the generators at the site could actually be running for just over six months in any year • The prevailing south-easterly winds would blow air pollution over the built up areas of Tutbury. • The noise and air quality submissions are misleading/inaccurate and should be assessed by an independent body. Such issues that need to be taken into account include the heights of residential properties, transfer

	<p>of noise by vibration, different weather conditions/wind speeds and directions, longer/different noise reading times, thermo-effects and frequency characteristics. The submissions do not take into account the impacts on all dwellings in the locality.</p> <ul style="list-style-type: none"> • Carbon fuel burning should be discouraged in close proximity to residential properties. • The scheme would generate additional heavy transport which would add to air pollution. • The development would be a blight on the area. • The proposal will increase the likeliness of illness in the local population. • It is considered a safety risk assessment is fundamental to any application determination . • The submissions do not take into account possible night-time operations and impacts on local residents. • Once the development is built there will be nothing to stop the developer seeking to operate the plant 24 hours a day. • The scheme would bring unwelcome smells to the locality. • Local residents would be subject to noise, dirt and pollution during the one year period that it will take to construct the proposed development.
Wildlife/Landscape Impacts	<ul style="list-style-type: none"> • The scheme would not be beneficial from a biodiversity perspective and thus would be contrary to Policy SP29 of the Local Plan. • The pollution impacts of the scheme would be negative on local wildlife and habitats.
Highways/Transport	<ul style="list-style-type: none"> • There is a weight limit of 7.5 tonnes on Rolleston Lane which would prohibit the construction vehicles needed for the project.
Heritage Impacts	<ul style="list-style-type: none"> • The proposal would be detrimental to attracting tourism to Tutbury, with its castle and other historic assets, and would impact on the local economy. • The development is proposed in the heritage area, close to a historic village which worked hard to increase its profile.
Other Matters	<ul style="list-style-type: none"> • The development would devalue local house prices. • The gas generator in these turbulent times could become a terrorist target. .
Rolleston Civic Trust	<p>Rolleston Civic Trust comment that they :</p> <p><i>“have looked at this Application, which is a modification of the earlier (application ref) P/2016/01107 for which we submitted an objection. We appreciate that the change to gas, and the change to the location, will alleviate the noise, exhaust pollution and unsightliness to the public. However, though we understand the local and national need for auxiliary power supply at certain times,</i></p>

	<p><i>we are concerned that the normal usage of this facility will be so great.</i></p> <p><i>It is stated (in the Noise study) that: "On average the proposed plant will operate for approximately 2500 hours per year, with a theoretical maximum of 3650 hours per year. It is designed to cover peak periods of demand and is therefore known as a 'peaking station'. The daily run time within the hours of operation (09:00 - 20:00) will be greater in the winter when peak demand is at its highest." It is also stated in the Transport Access study that "The development will provide electricity generation capacity only when required by the National Grid, therefore the majority of the time, the facility will not be operational".</i></p> <p><i>However, 2500 hours of operation within an average year is considerable. 11 hours of running would equate to running the facility for 220 days (which could be virtually every weekday except holidays etc) which surely would be classed as 'heavy usage'. Actually, summer usage will be much less but it will presumably be run some weekends in the winter instead.</i></p> <p><i>As such, it is surely more than a 'peak power' facility. Though we are not objecting to the scheme as such, is this substantial usage recognised and acceptable to the Tutbury locality?"</i></p>
<p>Andrew Griffiths MP</p>	<p>Raised objections to the original submission on the following grounds :-</p> <p><i>"This planning application does not meet the Council's Strategic Policy 8 with regard to development outside settlement boundaries, and in particular "provision for renewable energy generation, of a scale and design appropriate to its location.</i></p> <p><i>The applicant's planning document argues that this development would meet that criteria, and in doing so uses an appeal decision in Bolsover District Council. The inspector in that appeal concluded that the wording in Bolsover's Local Plan in relation to renewable energy ("development which is required for the exploitation of sources of renewable energy", appeal decision p.2) was not sufficiently clear as to rule out a development of this kind, as the applicant in that case argued that a gas generation facility would be part of a wider range of energy sources that supported the use of renewable energy. The applicant in this Tutbury application attempts to make the same argument, but the wording in relation to renewable energy in East Staffordshire's Local Plan is not the same as Bolsover's, so it does not follow that this appeal ruling applies in this case. The East Staffordshire Local Plan also has more specific references to renewable energy in Strategic Policy 28, which do not appear to be covered in the Bolsover appeal, and again mean that this ruling does not apply.</i></p> <p><i>Strategic Policy 28 outlines the Council's plans for the generation of renewable and low carbon energy. The Committee on Climate</i></p>

Change, which provides independent advice to the Government on building a low carbon economy and preparing for climate change, does not consider gas to be low carbon. This application therefore does not meet that requirement and should not proceed on this point alone.

As the proposed development is therefore neither renewable nor low carbon, it does not meet the tests of either Strategic Policy 8 or Strategic Policy 28, and must therefore not proceed.

The other way in which this application does not meet Strategic Policy 8 is on the point “infrastructure development where an overriding need for the development to be located in the countryside can be demonstrated”. The applicant argues that the cost of the land means this site could not be located anywhere else – a company’s profit margins should not be considered an overriding need. A more industrial site located far away from a rural settlement would be a much more appropriate location for this kind of development. The applicant also has not demonstrated that there is an overriding need for this application in this area at all, beyond general assurances that it will contribute to the wider electricity grid.

A specific need for extra energy provision in the Tutbury area has not been demonstrated in the application. In fact, in the Renewable Energy in Staffordshire document referred to in East Staffordshire’s Local Plan (p. 148), actually states “...East Staffordshire appears reasonably capable of meeting its energy needs locally, compared to other partner Authorities” (p. 156). Indeed the potential renewable energy sources for the Borough listed in that document have not yet been put in place, and with the obligation to move towards renewables, this should be the Council’s priority for energy generation for the local area, not a gas peak power generation facility, particularly as East Staffordshire continues to have the highest per capita carbon emissions for any Staffordshire local authority.

The Council is clear in Strategic Policy 28 that renewable and low carbon energy is the priority, and rightly so. As East Staffordshire Borough Council has signed up to the Local Government Association’s Climate Local, it is committed to reducing carbon emissions. Allowing a gas peak power plant of this kind to go ahead would fly in the face of that commitment and actually make it more difficult for the Council to meet its commitments.

In addition to this, it is clear that the energy market is moving away from developments of this kind. Earlier this year, Ofgem, the independent energy regulator, dramatically reduced certain subsidies received by these plants as it was seen to be distorting the market. According to the energy industry publication Utility Week, this change to the subsidies may force many of the existing plants of this kind to be forced to give up their contracts as it would no longer be viable. There is therefore the possibility that this plant

	<p><i>would in fact bring no benefit to providing energy to the local or national grid. Indeed National Grid’s own Future Energy Scenarios show that they expect the UK’s energy system to become less dependent on gas, and that more needs to be done to meet renewable energy targets.</i></p> <p><i>The applicant attempts to argue that this site would bring social benefits to the area by creating jobs, but elsewhere in the document states that the site would be unmanned. There would thus be no demonstrable employment benefits once the site is up and running.</i></p> <p><i>Finally, local residents of Tutbury have also expressed their concerns about the proximity of this site to Richard Wakefield Primary School, and to the Heritage Park development. The potential for emissions and noise from a plant of this kind are understandably concerning, and these must be fully taken into consideration.</i></p> <p><i>It is clear to me that this application does not meet East Staffordshire Borough Council’s Strategic Policies as set out in the Local Plan, and therefore must not be approved.”</i></p> <p>In relation to the additional submissions Andrew Griffiths MP confirmed his earlier objection and wishes to make the additional point as follows :-</p> <p><i>“ The additional Supplementary Planning and Policy Information provided attempts to justify the local need for this facility by using research that shows power outages across the UK, and one that shows blackouts across the West Midlands. This does not demonstrate local need at all. The West Midlands is a large regional area with a population of nearly 6million people. Sufficient work has not been completed to demonstrate whether there is a need for this power creating facility in East Staffordshire, and indeed the applicant has ignored the section in the Local Plan referred to in my original objection which states “...East Staffordshire appears reasonably capable of meeting its energy needs locally, compared to other partner Authorities” (p.156).”</i></p>
<p>Ward Member/County Councillor</p>	<p>Cllr Duncan Goodfellow requested that the application be called into committee (as set out at the beginning of this report) and also raises objection on the grounds summarised below:</p> <ul style="list-style-type: none"> • The scheme is contrary to Local Plan Policy SP8 as the development is clearly outside the settlement boundary and does not comply with the development allowed under this policy and would also have an adverse impact on nearby residential properties and the nearby primary school in terms of noise and pollution.

- Whilst there may be a ‘need’ for STOR generation, it is abundantly clear that such facilities should be sited in existing industrial areas, not in rural locations.
- The proposed development, apart from the period of construction will not create, sustain or enhance any employment sites or opportunities. Documentation submitted with the application suggests that the plant will operate “on a remote controlled, unmanned basis, albeit with infrequent maintenance checks, approximately 2-3 times per year.” The application form which states that the development will create 20 full time employees is therefore clearly misleading at best (if alluding to construction work) and otherwise entirely incorrect.
- Obviously gas based power generation does not promote prudent use of finite resources - nor is it a positive use of renewable resources.
- Having regard to Strategic Policy 14 the proposal is not being made by an existing farm for any diversification in the true sense of the word, it is being brought forward by a non-local third party organisation which is merely seeking to utilise the farm area. This is effectively a speculative development by a third party. It makes no long term contribution to sustaining the agricultural enterprise and it’s use, setting and scale would not be consistent with its rural location.
- In respect of Local Plan Policy SP34 (Health and Wellbeing) given the proximity to the school and the potential impact on the student population it is deemed appropriate that an independent Health Impact Assessment is carried out.
- It is understood that gas powered engines are equally as loud as diesel engines due to the power output and cooling fans required and it is recognized that the veracity of the data and information submitted as part of the previous application was brought into question. In relation to the Noise and Environmental impact, an independent opinion on the information provided ought to be sought. A commissioning report should be required to verify stated emission levels are actually provided and additional assessments made if justified nuisance reports are made.

County Councillor Philip White (for Dove Division, which includes Tutbury) raises objection to the planning application on following grounds

- The application is not in compliance with the East Staffordshire Local Plan 2012-2031 or the National Planning Policy Framework and it would have a severe detrimental effect on the locality should it be approved.
- Local Plan Policy SP 8 requires that outside settlement boundaries, new development will not be permitted unless

	<p>it is essential to the support and viability of an existing lawful or a new business appropriate in the countryside and providing facilities to the local community. This proposal does not meet these requirements as it does not relate to the core business of the applicant which is farming and the development offers no benefits to the local community.</p> <ul style="list-style-type: none"> • The applicant seeks to rely on the contention that their proposal meets Policy SP8 that their facility will offer “<i>provision for renewable energy generation, of a scale and design appropriate to its location.</i>” The proposal does not in fact meet this requirement in that it does not support renewable energy generation. • The reference (to the appeal decision) in Bolsover seems too remote to the detail of this application. • The scheme does not meet Local Plan Policy SP 28 in relation to the generation of renewable and low carbon energy as gas is not recognised as a low-carbon energy source. • Tutbury is one of the District’s finest historic settlements and enjoys a rural setting. This proposed additional building and chimneys of nearly 8 metres high on one of the gateways into the village will negatively affect this character in conflict with Local Plan SP 1 and the NPPF (para 9) which states green belt land serves “to preserve the setting and special character of historic towns”. • The application does not conform to Local Plan SP 1 sustainable development which requires that new development will “integrate with the character of the landscape”. This policy is consistent with the NPPF (para 9) which states green belt land serves “to preserve the setting and special character of historic towns”. • The proposed site for this facility is in close proximity to the Heritage Park housing development; the residents of which will be subject to air, light and noise pollution due to the operation of the proposed facility. • There is also particular concern in relation to air pollution generated by the operation of this facility is that the close proximity to Richard Wakefield Church of England Primary School which is less than 1km from this site. • If approved the scheme would set a precedent for other similar planning applications.
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6.2 Further to the submission of the additional documentation by the applicants, 9 No further representations have been received from local residents/interested parties re-iterating the objections/concerns set out above with a number also indicating that the offer from the applicant of the community benefit sum of £10,000 was an inappropriate action on behalf of the applicants.

7. Policy Framework

National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP8 Development outside Settlement Boundaries
- SP24 High Quality Design
- SP25 Historic Environment
- SP28 Renewable and Low Carbon Energy Generation
- SP29 Biodiversity and Geodiversity
- SP34 Health and Wellbeing
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP7 Pollution and Contamination

Supplementary Planning Documents/Guidance

- East Staffordshire Design Guide
- Parking Standards

8. Principle of Development

8.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 14 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

8.2 Paragraph 251 of the NPPF states that `due weight should be given to relevant policies in existing plans according to their degree of consistency with the

NPPF. The closer the policies in the plan to the framework, the greater the weight that may be given’.

- 8.3 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. The policies in the plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government’s presumption in favour of sustainable development.
- 8.4 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. The principles are:
- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
 - it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
 - retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
 - re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting
 - integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
 - designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
 - businesses and the local community or where new development attracts new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;
 - would result in the removal of contamination and other environmental problems associated with the site.
- 8.5 In paragraph 17 of the NPPF protection of the countryside is a core planning principle. The application site lies outside of the settlement boundary as set out in the Local Plan, 2012–2031 and as such Policy SP8 is of particular relevance in this instance. Strategic Policy 8 states that outside development boundaries planning permission will not be granted unless:
- essential to the support and viability of an existing lawful business or the relation of a new business appropriate in the countryside in terms of type of operation, size and impact and supported by relevant justification for a rural location; or
 - providing facilities for the use of the general public or local community close to an existing settlement which is reasonably accessible on foot, by bicycles or by public transport; or
 - in accordance with a ‘made’ Neighbourhood Plan; or
 - development under the Rural Exception Sites policy

- Appropriate re-use of Rural Buildings following guidance set out in the Rural Buildings SPD; or
- Infrastructure development where an overriding need for the development to be located in the countryside can be demonstrated; or
- Development necessary to secure a significant improvement to the landscape or the conservation of a feature of acknowledged importance;
- Provision for renewable energy generation, of a scale and design appropriate to its location; or
- Otherwise appropriate in the countryside

8.6 Strategic Policy 28: Renewable and Low Carbon Energy Generation, which should be considered alongside Policy SP8, states the following :-

“The Council will promote and encourage all technologies and types of renewable and low-carbon energy generation, appropriate to the location in the Borough. This includes schemes that:

- form part of proposed new developments (including stand-alone schemes);
- are incorporated into existing developments; and
- are community-led initiatives.

The Borough Council will encourage technologies that provide the greatest renewable energy generation and carbon savings, whilst recognising the need to balance adverse impacts and location restrictions.

The Borough Council will prepare a Supplementary Planning Document with advice on the types of renewable energy technology and low carbon design that may be most appropriate in the different types of location in the Borough.

Opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers will be encouraged.

To encourage the development of local wood fuel markets, which will, in turn, make it more viable for the woodlands of The National Forest to be brought into management, the Council will support the development of wood fuel systems which take advantage of the abundance of local woodland thinnings. Applicants will be expected to demonstrate that fuel is being sourced as locally as possible to the installation with an expectation that fuel is to be sourced from within The National Forest.”

8.7 In relation to the applicant’s original submissions it is noted, amongst other things, that it was contended that :-

- The scheme is an essential component of an emerging decentralised energy system and facilitates the growth of renewable energy, which responds to national needs as well as specifically meeting local demand for power.
- It is strongly supported by national policy
- It is appropriate for a countryside location since there is an overriding need for the development to be located at the application site and it provides for

renewable energy generation of a scale and design, appropriate for its location. It therefore complies with Policy SP8 of the Local Plan.

- It is located on an existing agricultural/industrial site, making it suitable for an agricultural setting whilst avoiding higher rental elsewhere which would make the scheme unviable. This also avoids negative impacts on residential amenity.
- It needs to be located away from homes, due the potential impacts of noise and emissions.
- It has access to the power grid with available capacity for the project - this being *"a significant constraint which means these developments cannot be located anywhere."*
- The scheme is based on a strong set of design principles which mean the development would have almost no visual, landscape or townscape impacts as it is within an established site and well related to its setting, that it makes efficient use of land and would not impact on biodiversity/wildlife (including protected species), that it will generate almost no additional traffic once constructed and that will have negligible, if any, impacts on heritage assets.
- The scheme has been clearly shown to meet the requirements of Policies SP8 and SP28 of the Council's Local Plan.

8.8 Subsequent to the original submissions, the applicant's agent responded further to questions raised by officers in relation to the issue of need and to what extent other sites had been investigated. In a summary, the agent responded that it was contended that the proposed development is compliant with national and local policy because : -

- It is necessary as part of delivering clean, secure and affordable energy supplies. While this need is defined nationally and to some extent regionally, delivery of a renewably led decentralised energy system entails identifying projects to connect to local networks in places where capacity exists.
- Potential amenity impacts mean there is an overriding need for it to be located outside of the settlement boundary or within an industrial area. However, no viable industrial sites are available within the study area.
- The suitability of the chosen site has been demonstrated across the criteria set in Policies SP8 and SP28, and is improved considerably by its location within a mixed agricultural and industrial property.
- The development is significantly lower carbon than coal and diesel, but importantly is essential to the effective functioning of the emerging renewables led decentralised energy system, which includes solar and wind power. It therefore complies with Policy SP28.
- If, however, the LPA considers that Policy SP28 does not apply and that the development plan is therefore silent, there is strong national policy support for this type of development.

8.9 The following additional points summarised below were made by the applicants agent in submissions immediately prior to the publication of this report :-

- Out of the 12 remaining UK coal thermal power stations, 3 were closed in 2016. The remain 9 are required to be closed by 2025 in line with Government policy provided sufficient new gas generation is forthcoming.

The 1,000MW capacity Rugeley coal fired power station was the closest to the application site (19km) but has now closed.

- Out of the remaining active sites, three in Nottinghamshire are closest to Tutbury and will currently be supplying most of its power needs (one in Cheshire is also of note). There are still no plans to close these as there is insufficient replacement electricity generating capacity in nearby regions. To enable these coal plants to close, and for the resulting CO₂ emission reductions to be realised, a sufficient number of new flexible lower carbon facilities, such as the one proposed at New Farm, are required to replace them and address the supply gap from past closures. A significant number of these must serve this region.
- All of National Grid's future energy scenarios accept that gas must remain in the energy mix, firstly from a security of supply point of view and, secondly, from a cost perspective as the price of solar, wind and stand-alone battery storage is still prohibitive and would push up the energy bills to unacceptable levels. National Grid also accepts that new large centralised facilities, which connect to the national grid rather than local distribution network, are no longer viable and that new supply will increasingly come from small scale flexible back up plant, such as the one proposed at New Farm. Hence, National Grid are offering potentially viable contracts for developers like the applicants in this region to stimulate those alternatives and enable the transition to lower carbon generation.
- There has been a significant increase in power outages in Tutbury over the past year, including a major outage in the postcode area of New Farm in April 2017 which affected 1,340 customers. This was caused by an unforeseen problem on the high voltage network, which a project such as the one proposed by the applicants on the low or medium voltage network would have helped prevent.
- It is clear that there is a regional need for many small scale flexible generators, such as the one proposed, to avoid further power outages and enable highly polluting coal stations to be replaced. Exactly where this regional need is met geographically is determined by available capacity on the power grid and availability of gas supply. Ideally projects would be on industrial sites, but for this scheme it has only been possible to use a mixed agricultural and industrial site.
- It pointed that there are planning policy and commercial downsides to using purely industrial sites for gas generating stations (and using an example from Ashfield District in Nottinghamshire) in that there will be corresponding impact of displacing an economically beneficial employment use, i.e. there will be a loss of jobs if the is the use of an industrial site:
- Commercially, the viability of small schemes such as this at New Farm precludes the applicants competing with employment uses.
- The facility will be used as a flexible fast response back up power plant, which means it will not operate most of the time but be turned on only emergencies and periods of high demand; typically amounting to 1,500 - 2,000 hours a year or less.
- With regard to visual impact, the applicants would be happy to accept a pre-commencement condition requiring additional screening or similar mitigation to be agreed, which could be informed by a landscape appraisal if necessary.
- The applicants would be happy to proceed in future with the introduction of battery storage units, which can work in tandem with the gas generators,

and ultimately completely replace them when the energy system allows this conversion, but currently the gas generators are the only feasible solution to meeting the regional need.

- 8.10 The applicant's agents in their original submissions also cited in support of their proposals an application for a gas generation plant in the District of Bolsover which was allowed on appeal. That appeal decision was, however, taken on the basis of the Appeal Inspector's interpretation of that particular Authority's development plan policies (i.e. viewing them as not prohibiting a gas generation plant in that instance). Similarly, Ashfield District Council's determination of the gas generation plant application in their administrative area was taken in the light of the policies which apply there (this being a decision referred to by the applicants in later submissions - as set out above). The application at New Farm, on the other hand, clearly falls to be determined in relation to the development plan policies operative in East Staffordshire and in this respect these policies have previously been subject to assessment by an Appeal Inspector in August 2016 in respect of the dismissal at appeal of the proposal for a standby (diesel powered) electricity generation plant on land off Green Lane, Marchington. In relation to the issue of the principle of the development in the Marchington case the Appeal Inspector concluded (at paragraphs 26 and 27) that :-

"I have found that the proposal would comprise infrastructure development, but that the need to locate it outside a settlement boundary has not been conclusively shown. Therefore the proposal would be contrary to LP Policy SP8. There are no other development plan policies that would pull in a different direction to suggest compliance with the plan as a whole."

and that;

"The proposal would have modest economic benefits during its construction, but also some environmental harm during this period due to increased traffic through the village. As a small-scale plant, its contribution to the resilience of the national grid would be limited, but would have minor economic and social benefits. Set against that would be the environmental harm of introducing a quasi-industrial development into the countryside. The Council accepts that the negative effect would not be substantial, and I agree. Nevertheless, the proposal would not fulfil the three dimensions of sustainable development. The conflict with the development plan would not be outweighed by other considerations. The presumption in favour of sustainable development set by the NPPF would not apply."

- 8.11 In terms of the status of the Local Plan itself, the Inspector had earlier commented in the decision letter (at paragraph 7) that :-

"As a recently adopted plan, the policies of the LP are strongly consistent with national policy as set out in the National Planning Policy Framework ('NPPF'). LP Strategic Policy 1 ('SP1') seeks to apply the NPPF presumption in favour of sustainable development at the local level, setting out principles by which such development is to be assessed. Among the core principles of the NPPF is recognition of the intrinsic character and beauty of the countryside. LP Policy SP8 relates to development outside settlement boundaries, and seeks to balance the principle of countryside protection with the need to support rural

enterprise. The policy resists development outside settlement boundaries unless it complies with one of a number of exceptions.”

8.12 In relation to the current application, therefore, whilst the points made in the applicant’s supporting submissions have been given due regard the proposal at New Farm is - like that before it at Green Lane, Marchington - not considered to meet the criteria of Policy SP8 in that it is not essential to the support and viability of an existing lawful business, is not in accordance with a ‘Made’ Neighbourhood Plan, is not appropriate re-use of a rural building, is not infrastructure development where an overriding need for the development can be demonstrated, is not development necessary to secure a significant improvement to the countryside, does not provide for renewable energy generation, does not provide facilities for the general public or local community which are reasonably accessible on foot or by public transport, and is not appropriate in the countryside. In coming to this conclusion the following matters are specifically material :-

- It is considered that Local Plan Policy SP28 cannot be used to determine “*development which is required for the exploitation of sources of renewable energy*”- which the applicant is suggesting that this proposal is - as there is no support for that viewpoint within Policy SP28.
- The applicant has not demonstrated that the proposal is a low carbon proposal to meet Policy SP28 or would lead to a carbon reduction.
- In line with the previous appeal decision in this Borough (in Green Lane, Marchington – as set out above), the application is considered to be infrastructure development. The applicants have sought to provide evidence of need for the development, however, this ‘need’ is not based on local need (to Tutbury or the Borough of East Staffordshire) but rather based on regional need (for West Midlands). As such it is not considered that the evidence presented by the applicant leads to a conclusion of ‘overriding need’ for the development locally and certainly not for a scheme that is located in the countryside outside any settlement boundary. Therefore the sixth bullet point of Strategic Policy 8 is not met.
- The proposed scheme would provide some economic benefit but it is not a benefit (i.e. the provision of more energy generation into the National Grid) that is seen as site specific. It is not seen as providing any significant social or environmental role.
- The NPPF states (at paragraph 93) that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. However, given that the applicant has not demonstrated how the development will support the delivery of actual renewable energy projects or low carbon energy or reduce greenhouse gas emissions there is no compliance with this provision of the NPPF.

9. Design and Impact on the character and appearance of the locality

9.1 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that permission should be refused for development of

poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 9.2 Strategic Policy 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. Policy SP24 lists a number of criteria developments are expected to achieve including creating a sense of place, reinforcing character, reflecting densities and where possible minimise the production of carbon through sustainable construction.
- 9.3 Policy DP1 of the Local Plan re-iterates the design principles set by SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide.
- 9.4 The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context. Design which is relevant to the site and wider context will be important, as this can support local distinctiveness.
- 9.5 The application scheme is located at the northern end of an established agricultural and commercial complex and in terms of views from the public domain from the urban area of Tutbury to the west, south-west and north west (i.e. on the western side of the A511) these are predominantly screened by the existing land form and the established trees and hedges alongside Burton Road (A511). Whilst it is recognised that these trees are not in leaf all year round, it is considered that the density of planting in addition to the physical barrier of the road construction, would provide sufficient mitigation in terms of visual impact when the proposed development is viewed from the west/south-west/north-west directions.
- 9.6 In terms of views from Rolleston Lane and from Cornmill Lane, it is recognised that the application site is largely viewed against a backdrop of mature trees which are higher than the existing buildings on the site. There are also established areas of tree planting on the bunding to the north and east of the application site. Nevertheless, the current application will provide for a building (at some 7.8 metres high to ridge) that would be higher than the existing buildings at the site at New Farm and this would increase the visual extent of built development at the site in views from locations on Rolleston Lane and Cornmill Lane. It is considered, that this increase in built form, by reason of its scale and height, would detract from the rural character of its countryside environs to the detriment of the visual amenities of the locality.
- 9.7 The negative impact of the scheme would be further compounded in views closer to the site whereby the proposed 4 metre high acoustic fence around all sides of the proposed peak generator site would appear as a visually alien feature in its countryside environs. It is recognised that the external elevations of the proposed structures could be finished to reflect the colours of the surrounding landscape and that additional landscaping could be secured by condition. Nevertheless, these provisions are not considered to be likely to have sufficient mitigating effect(s) to make the development acceptable in terms of its visual impacts.
- 9.8 As such it is concluded that the scheme would be contrary to Policies SP1, DP1 and SP24 of the Local Plan.

10. Residential Amenity

- 10.1 Paragraph 17 of the National Planning Policy Framework and Policy DP1 of the Local Plan seek to ensure new development will not have an adverse impact on residential amenities. Policy DP7 of the Local Plan sets out the criteria for the assessment of pollution impacts of developments such as in relation to noise, light and air pollution. Policy SP34 indicates that health and wellbeing are a key part in the delivery of sustainable development and proposals should be delivered in order to enhance health, safety and a sense of wellbeing and as such minimise and mitigate against potential harm from risks such as air, noise, water and light pollution as well as land contamination.
- 10.2 With regard to the physical relationship with existing dwellings, whilst the principal building has a height (to its ridge) of some 7.8 metres, given the separation distances from the nearest dwellings on the western/south-western side of Burton Road (A511), the proposed structure would have no significant overbearing or overshadowing impacts. There may be impacts on views from some properties. However a right to a view is not a material planning consideration. No concerns regarding loss of privacy would arise in this instance due to the nature of the development.
- 10.3 In relation to activities generated by the proposed development at the site it is considered that any traffic associated with the development; either during the construction phase or the operative phase of the scheme, would not give rise to significantly increased levels of noise and disturbance over and above that of existing traffic using the site and travelling along the A511 and connecting highways. Any noise and disturbance issues arising from the construction phase of the development could be adequately addressed by a Construction Management Plan (should the scheme be approved).
- 10.4 In terms of the likely impacts of noise and air pollution from the operation of the proposed development, it is recognised that substantive objections have been raised by local residents and other interested parties to the scheme on the grounds that it would have detrimental impacts on the local population, as well as children attending schools in Tutbury.
- 10.5 Further to the provision and assessment of the supplementary information provided by the applicants the Borough Council's Environmental Protection Section have concluded that there will in principle be no significant adverse impact from the proposals in relation to air pollution. Any approval for the scheme in relation to air pollution issues would nevertheless have to be subject to conditions that would require the use of a generator type of the make/model stated in the applicants assessments (or an equivalent product), that the individual generators shall not be used for more than 2000 hours per annum and that the operation of the generators shall be limited to the hours of 09:00-20:00 on any day.
- 10.6 In relation to the supplementary noise information, ESBC Environmental Protection advise that it has not been demonstrated by the applicants to date that there would not be an adverse impact to the residents of properties on Cornmill Lane to the north/north-east of the site. ESBC Environmental Protection point out, however, that the applicants are in the course of making further submissions on the matter. In light of this situation the matter will be further addressed in the update sheet and should there be no satisfactory

resolution of the noise impact issue, this matter would form a further reason for refusal.

- 10.7 It is considered that any impacts of lighting to serve the proposed development could be suitably controlled by planning condition were the scheme to be approved. As such the scheme would not be likely to have any significant light pollution impacts on the locality.

11. Historic Environment

- 11.1 Paragraph 126 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- 11.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 11.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.
- 11.4 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes. Detailed Policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology.
- 11.5 There are no designated above ground heritage assets - conservation areas or listed buildings - adjoining the application site. The nearest listed structure is the Grade II Milepost which sits alongside the western side of Burton Road (A511) some 200 metres to the south-west of the application site. There is no direct visual linkage between this listed milepost and the proposed development given the relatively small scale of the milepost structure, its function as a road marker alongside the A511, the topography of the locality and the intervening roundabout junction. Some 0.5 km to the north-east of the application is the three storey Grade II listed Tutbury Mill and House Mill, off Cornmill Lane. This building, which sits back from the roadway behind a brick built boundary wall, is considered to be seen both architecturally and historically

in the context of being located alongside the mill leat from which it formally drew power to the northern side of the building. As such, it is not considered that the proposed development at New Farm would impact on the setting of this listed building.

- 11.6 The Tutbury Conservation Area, with its grouping of listed buildings along and around the historic main thoroughfare (High Street), is some 0.3 km distant to the west. The Grade I listed Tutbury Castle, which occupies higher ground, is located some 1 km to the north-west with the Church of St Mary 0.9 km away in a similar direction. Given the topography of the locality and the fact that that the application site is separated from these heritage assets by later building as Tutbury has expanded eastwards and the construction of the Tutbury bypass (A511), means that the proposed development will not have any impacts on the listed buildings or their settings. The topography of the land and intervening landscape features such as trees and hedges mean that the scheme would have no impact on the Rolleston Conservation Area or its setting which lies approximately 1 km to the east.
- 11.7 Accordingly, it is not considered that the proposal will have any impact on any heritage assets or their settings and therefore the statutory duties under Section 66 and under Section 72 are not engaged.
- 11.8 With regard to archaeological value, the County Archaeologist raises no archaeological concerns regarding the proposed development.

12. Highway Matters (including Public Rights of Way)

- 12.1 The NPPF in section 4 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should ensure development proposals have taken the opportunities for sustainable transport modes and to ensure safe and suitable access to the site to be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 12.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.
- 12.3 The County Highway Authority raises no objections subject to any routing of the construction vehicles in excess of 7.5 tonnes to and from the site being in accordance with the applicants submitted Transport Note. In essence, this would enable the use of the approximate 100 metre long stretch of Rolleston Lane from the Burton Road roundabout to provide access to and from the A511; with Rolleston Lane otherwise having an upper weight limit for vehicles of 7.5 tonnes.
- 12.4 There are no public rights of way which physically cross the lands the subject of this submission; with the nearest public footpath being situated off Cornmill

Lane to the north-east. As such there will be no direct impacts on the use of any public rights of way.

13. Flood Risk and Drainage/Contaminated Land

- 13.1 Section 10 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.
- 13.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value.
- 13.3 The application site is situated in Flood Zone 1 - being that of the lowest flood risk - and as such the scheme will have no flooding implications. ESBC Environmental Protection has raised no objections to the scheme on land contamination grounds. Any drainage requirements could be adequately accommodated by the existing services at New Farm.
- 13.4 There have been a number of objections raised in relation to the safety of surrounding residents in relation to the operation of the plant at the site and the safe storage of gas, oil and other materials at the site. These concerns are acknowledged. However, having regard to the potential use of planning conditions (on any approval) to provide for secure storage and the requirements that would necessarily have to be put in place under other regulations (for example Building Regulations and Health and Safety legislation) it is not considered that the Local Planning Authority would be able to sustain a reason for refusal on safety grounds.

14. Green Infrastructure/Biodiversity/Impact on protected species

- 14.1 The National Planning Practice Guidance is clear that green infrastructure is important to the delivery of high quality sustainable development, alongside other forms of infrastructure such as transport, energy, waste and water. Green infrastructure provides multiple benefits, notably ecosystem services, at a range of scales, derived from natural systems and processes, for the individual, for society, the economy and the environment. To ensure that these benefits are delivered, green infrastructure must be well-planned, designed and maintained. Green infrastructure should, therefore, be a key consideration in planning decisions where relevant.
- 14.2 Strategic Policy 23 states that development should contribute towards the creation, enhancement or ongoing management of a series of local green infrastructure corridors. The policy lists 10 standards which green infrastructure is expected to meet.

- 14.3 Paragraph 118 within Section 11 of the National Planning Policy Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, planning permission should be refused.
- 14.4 The Natural Environment and Rural Communities Act 2006 states that public authorities in England have a duty to have regard to conserving biodiversity as part of policy or decision making.
- 14.5 Strategic Policy 29 lists criteria including development needing to retain features of biological interest to produce a net gain in biodiversity in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefits.
- 14.6 The application scheme will result in the loss of some existing mature trees as a consequence of the development proposals. However, it is considered that such a loss could be mitigated by replacement planting should the scheme be approved. Protection measures could also be secured by condition (of any approval) for existing hedges/trees to be retained during the course of the development.
- 14.7 With regard to the impact on habitats, there are no protected species likely to be affected and the scheme would not give rise to any other specific wider wildlife concerns that could not be appropriately addressed by the landscaping and tree/hedgerow planting secured as part of any condition(s) in relation to an approval for the development scheme. A mitigation condition (of any approval) could also ensure that works undertaken involving the removal of trees/hedges are not executed during the bird breeding season. The scheme will not result in any significant loss of agricultural land.
- 14.8 It is therefore concluded, in the light of the applicant's submissions along with necessary mitigation conditions, that the issue of the impacts on protected species and biodiversity could be appropriately addressed in this instance.

15. Other Matters

- 15.1 The applicant's agent has submitted a 'community benefit' proposal on behalf of the applicants which advises that :-

" We would like to offer a community benefit payment for use by the community, should the application be successful. This would not be a S(ection) 106 and we recognise that it would not form part of the planning application, but the Applicant sees it as important to provide local benefits in addition to those identified in the application. The payment would be £10,000.

We have had some pre-application contact with Tutbury (Parish Council), but since there are two Parish Councils affected by the project, I would welcome your (the Local Planning Authority's) views on offering this as a bilateral undertaking with the council, which allows you to subsequently decide which way best to use them. For example, funding of local projects."

- 15.2 As the applicant's agent recognises in their submission the issue of the proposed 'community benefit' is not a matter that would form part of the

planning application. As such therefore, and having regard to the government advice set out in the NPPF no weight can be given to the 'community benefit' offer from the applicants in the determination of this application.

- 15.3 It is noted that there are concerns that the approval of this present scheme may set a precedent for further such gas generator facilities to be located near solar energy sites. However it is a fundamental tenet of proposed development that any planning application is considered on its own merits. Similarly, any future proposals to expand the use at New Farm (should the scheme be approved) would have to be determined on their own merits.

16. Conclusions

- 16.1 The proposed development would be located outside the settlement boundary for Tutbury as defined in the adopted East Staffordshire Local Plan and would not in principle be compliant with Policy SP8 of the Local Plan in terms of the location of sustainable development. It is also considered that the proposal by reason of its scale and siting would be detrimental to the visual amenities of its countryside environs. The application is thus recommended for refusal.

17. RECOMMENDATION

REFUSE,for the following reasons :-:-

1. Policy SP1 of the East Staffordshire Local Plan 2012 - 2031 lists principles in determining whether proposals constitute sustainable development.. Strategic Policy 8 of East Staffordshire Local Plan 2012 – 2031 states that outside settlement boundaries new development will not be permitted unless it is essential to the support and viability of an existing lawful business or the creation of a new business appropriate in the countryside, providing facilities for the general public or local community which are reasonably accessible on foot or by public transport, in accordance with a 'Made' Neighbourhood Plan, is development under the Rural Exceptions Sites policy, is appropriate reuse of Rural Buildings, is infrastructure development where an overriding need for the development to be located in countryside can be demonstrated, provides renewable energy generation of a scale and design appropriate to its location and is otherwise appropriate in the countryside.

The construction of a peak power gas generator for the National Grid is not a form of development which falls within any of the types of development permitted outside settlement boundaries as set out in of the East Staffordshire Local Plan 2012-2031. While information has been provided seeking to justify why this proposal needs to be constructed in this location it is considered that this is not sufficient to meet the policy requirements in that there is no site specific overriding need in this case. Consequently, the proposal would not be essential to support the viability of an existing lawful business, nor is it close to an existing settlement and intended to provide facilities for the general public, nor is it infrastructure development where an overriding need for the development to be located in countryside can be demonstrated. it would not provide renewable energy generation of a scale and design appropriate to its location and would not qualify as development otherwise appropriate in the countryside. The proposed development is thus directly contrary to policy SP8 of the Local Plan 2012 - 2031 and would

result in development in the open countryside for which there is no substantive justification for it being constructed in the proposed location.

2. Strategic Policies 1 and 24 of the East Staffordshire Local Plan 2012 - 2031 indicate that development proposals must contribute positively to the area in which they are proposed. Policy SP24 lists a number of criteria which developments are expected to achieve in order that development proposals must contribute positively to the area in which they are proposed. Policy DP1 of the Local Plan re-iterates the design principles set by SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide.

It is considered that by reason of their scale and height the proposed new generator barn building and the proposed acoustic fence surrounding the peak generator plant complex at New Farm would detract from the visual amenities of the locality at the eastern approach to Tutbury in views from Rolleston Lane and Cornmill Lane. As such it is considered that the scheme would be contrary to Policies SP1, SP24 and DP1 of the adopted East Staffordshire Local Plan 2012 - 2031.

18. Background papers

18.1 The following papers were used in the preparation of this report:

- Papers on the Full Planning Application file reference: P/2017/01129
- Papers on the Full Planning Application file reference: P/2016/01107
- Papers on the Full Planning Application file reference: P2015/01310 (including associated Appeal Decision) in relation to Green Lane, Marchington.

19. Human Rights Act 1998

19.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

20. Crime and Disorder Implications

20.1 It is considered that the proposal does not raise any crime and disorder implications. It is pointed out that the applicants have addressed the comments of the Police Architectural Liaison Officer in their most recent site layout.

21. Equalities Act 2010

21.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

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