

# Planning Committee

26 June 2024



<b>Application No.</b>	24/00017/FUL		
<b>Site Address</b>	Land North-East of Eco Park, Charlton Lane, Shepperton, TW17 8QA		
<b>Applicant</b>	Sunbury BESS Ltd		
<b>Proposal</b>	The construction of and operation of a Battery Energy Storage System of up to 200 megawatts electrical output, associated site access and cable route with connection point at the existing National Grid/SSE 132 kV Laleham GSP (Grid Supply Point), with associated works.		
<b>Officer</b>	Matthew Clapham		
<b>Ward</b>	Halliford and Sunbury West		
<b>Call in details</b>	The application has been called in by Cllr Nichols due to impacts upon the Green Belt, so that the Planning Committee will have the opportunity to consider whether or not this application would meet the threshold for development in the Green Belt, and for the Planning Committee to have the opportunity to consider this application fully.		
<b>Application Dates</b>	Valid:04/01/2024	Expiry: 04/04/2024	Target: Extension of time agreed until 28/06/2024
<b>Executive Summary</b>	<p>The proposed development comprises the construction of and operation of a Battery Energy Storage System ('BESS') of up to 200 Megawatts (MW) electrical capacity, associated site access and cable route with connection point at the existing National Grid/SSE 132 kV Laleham Grid Supply Point (GSP), with associated works on land north of Charlton Lane, Shepperton. The proposed development will take energy from the electricity grid when the demand is low or supply is high, and feed this back into the grid when demand is higher or supply is lower, thus operating in either 'energy charge', 'energy storage' or 'energy discharge' modes, providing support balancing services to the National Grid.</p> <p>The proposed site covers an area of approximately 5.86 hectares ('ha'). The site comprises a landfilled former gravel workings site which has since been restored and is located on open land to the north of Charlton Lane in Shepperton. The site is part of a triangular belt of land between the M3 motorway and a railway line and is designated as Green Belt. Access to the site follows the existing track from Charlton Lane.</p> <p>This planning application proposes the erection of 96 battery container units each being 12.27m in length; 2.44 in width and 2.94m in height, each comprising an industrial lithium-ion battery complete with a battery</p>		

	<p>management system and mechanical ventilation. There will also be 48 transformers which are to be connected to each battery within the proposed BESS area. In addition, there will be electrical cabling and an electrical connection 'corridor' to Laleham GSP; grid compliance equipment; switchgear housing; site security (including fencing; CCTV)/ security cameras; maintenance (intermittent) lighting columns; and landscaping and biodiversity enhancement adjoining the proposed BESS area.</p> <p>The proposal is considered to represent 'inappropriate development' within the Green Belt. The proposal would result in a harmful loss of openness of the Green Belt and would conflict with two of the purposes of the Green Belt through failing to assist in safeguarding the countryside from encroachment and to check the unrestricted sprawl of large built-up areas . Careful consideration has been given to the benefits of the proposal in meeting national and local policies with regard to aiding the transition to the delivery of renewable and low carbon energy to mitigate climate change and to aid the transition to increased dependency on renewable energy. This has been accorded substantial weight in assessing these proposals.</p> <p>The proposal is also considered to result in harm to the character and appearance of this rural undeveloped area of land which is clearly visible from a number of vantage points in the public domain including public footpaths.</p> <p>There is an existing objection raised by National Highways regarding the potential impacts upon users of the M3 motorway.</p> <p>Notwithstanding the significant concerns raised regarding fire hazards and health and safety issues, it is not considered that there is sufficient evidence to justify refusal on these grounds, as no objection has been raised by the Surrey Fire and Rescue Service. Moreover, it is considered that the proposal would not adversely impact upon the residential amenity of the surrounding properties nor result in any harmful landscaping or biodiversity concerns.</p> <p>It is therefore concluded that the harm to the Green Belt and the harm to the character and appearance of this rural area, are such that they outweigh the environmental benefits of the proposal.</p>
<p><b>Recommended Decision</b></p>	<p>The application is recommended for refusal for the reasons set out in paragraph 8.</p>

**MAIN REPORT**

**1. Development Plan**

- 1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:
- SP1 (Location of Development)
  - LO1 (Flooding)
  - SP6 (Maintaining and Improving the Environment)
  - EN1 (Design of New Development)
  - EN3 (Air Quality)
  - EN8 (Protecting and Improving the Landscape and Biodiversity)
  - EN11 (Development and Noise)
  - EN15 (Development on Land Affected by Contamination)
  - SP7 (Climate Change and Transport)
  - CC1 (Renewable Energy, Energy Conservation and Sustainable Construction)
  - CC2 (Sustainable Travel)
- 1.2 Saved Local Plan Policy GB1 (Development Proposals in the Green Belt) is also relevant.
- 1.3 The relevant Emerging Local Plan policies are: -
- ST1: Presumption in Favour of Sustainable Development
  - ST2: Planning for the Borough
  - PS1: Responding to the climate emergency
  - PS2: Designing places and spaces
  - PS3: Heritage, Conservation and Landscape
  - SP4: Green Belt
  - E1: Green and Blue Infrastructure
  - E2: Biodiversity
  - E3: Managing Flood Risk
  - E4: Environmental Protection
- 1.4 The Local Plan was submitted to the Planning Inspectorate under Regulation 19 on 25 November 2022. An Examination into the Local Plan commenced on 23 May 2023. However, on 6 June 2023, the Council resolved the following: Spelthorne Borough Council formally requests the Planning Inspector to pause the Examination Hearings into the Local Plan for a period of three (3) months to allow time for the new council to understand and review the policies and implications of the Local Plan and after the three month pause the Council will decide what actions may be necessary before the Local Plan examination may proceed. At the meeting of the Council on 19 July 2023, it was agreed that Catriona Riddell & Associates be appointed to provide 'critical friend' support to inform the options for taking the plan process forward. On 14 September 2023, the Council considered a report following the

deferral in June. The Council resolved to extend the pause in the Examination timetable until the proposed changes to the NPPF have been published (expected in the Autumn) before determining the next steps and take immediate legal advice to confirm the validity of the minister's directive. The revised NPPF was published on 19 December 2023 and the Council considered its position in light of the implications on the Local Plan and whether Members wished to propose modifications as a result. At an Environment & Sustainability Committee meeting on 29 February 2024, Members agreed to the proposed modifications relating to Green Belt allocations, flood risk sites and the Staines Development Framework, which have been conveyed to the Inspector for his consideration on whether the examination will be able to resume.

As such the policies carry limited weight in the decision-making process of this current planning application.

1.5 Also relevant are the following Supplementary Planning Documents/Guidance:

- SPD on Flooding 2012
- SPD on Climate Change 2024

1.6 New Government policy contained within the National Planning Policy Framework (NPPF) 2023 is also relevant.

## 2. Relevant Planning History

Ref. No.	Proposal	Decision and Date
SP18/01299/SCC	Enlargement of an existing bund, creation of two additional smaller bunds, realignment and resurfacing of third-party access track, and associated landscaping.	Surrey County Council Approval 07.03.19
SP10/0947	Development of a Waste Management Eco Park, comprising: a Gasification Facility; Anaerobic Digestion Facility; Community Recycling Facility; Recyclables Bulking Facility; Education / Visitor Centre and Offices; Other Associated Infrastructure including Infiltration Basin and Landscaping; and the diversion of Public Footpath 70.	Surrey County Council Approval 09.03.12
SP10/0883	Permanent retention of the existing waste management facility, comprising a community recycling centre, materials recycling facility with bulking bays, a waste transfer station with associated infrastructure, an improved access onto Charlton Lane and an acoustic fence adjacent to Ivydene Cottage	Surrey County Council Approval 25.02.2011
04/01212/FUL	Development of the site to create an equestrian	Refused

	centre. Erection of stable block, hay and machinery storage barn and portable building to act as a changing, refreshment and first aid facility. Creation of 2 no. all weather riding areas and a car park.	14.04.2005
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### 3. Description of Current Proposal

- 3.1 The site covers an area of approximately 5.86 hectares. The site comprises landfilled former gravel workings and is located on open land to the north of Charlton Lane in Shepperton. The site which has now been restored, is part of a triangular belt of land between the M3 motorway and a railway line and is designated as Green Belt. Access to the site follows the existing track from Charlton Lane.
- 3.2 The proposed development comprises the construction of and operation of a Battery Energy Storage System ('BESS') of up to 200 Megawatts (MW) electrical capacity, associated site access and cable route with connection point at the existing National Grid/SSE 132 kV Laleham GSP (Grid Supply Point), with associated work on land north of Charlton Lane, Shepperton. The proposed development will take energy from the electricity grid when either the demand is low or the supply is high, and feed this back into the grid when demand is higher or supply is lower, thus operating in either 'energy charge', 'energy storage' or 'energy discharge' modes, providing support balancing services to the National Grid.
- 3.3 This planning application proposes the erection of 96 container units 12.27m in length; 2.44 in width and 2.94m in height, each comprising industrial lithium-ion batteries complete with a battery management system and mechanical ventilation. In addition, the following equipment is proposed:
- 48 transformers which are to be connected to each battery within the proposed BESS area;
  - Electrical cabling and electrical connection 'corridor' to Laleham GSP;
  - Grid compliance equipment;
  - Switchgear housing;
  - Site security (including fencing; CCTV) / security cameras;
  - Maintenance (intermittent) lighting columns; and
  - Landscaping and biodiversity enhancement adjoining the proposed BESS area.
- 3.4 The site of the BESS itself is located within the Metropolitan Green Belt. Parts of the route for the cabling to link the BESS with the Laleham GSP are located within the Zone 2 Flood Risk Area and adjoin the Queen Mary Reservoir Site of Nature Conservation Importance.

- 3.5 The BESS would comprise a variety of buildings and structures set within a compound secured by 2.4m high palisade fence. The submitted plans indicate that the 96 battery container units would form 9 rows across the site with the transformers located alongside.
- 3.6 Copies of the proposed site layout and elevations are provided as an Appendix.

#### 4 Consultations

- 4.1 The following table shows those bodies consulted and their response.

Consultee	Comment
County Highway Authority	No objection, recommend conditions
Health and Safety Executive	The HSE has confirmed that it is not located in an area where there are safety concerns and state that it is not in an area of interest to the HSE.
Health and Safety Executive (Fire safety)	No comments to date.
Sustainability Officer	No objection as the development itself serves as a decarbonisation measure
Lead Local Flood Authority (Surrey County Council)	No objection subject to conditions
Environment Agency	No objection subject to conditions
Cadent Gas	No objection
National Grid	No objection
Surrey County Council Archaeology	No objection, recommended a condition
Environmental Health (Contaminated land)	No objection, recommended conditions
Environmental Health (Air Quality)	Requested an Air Quality Assessment and also recommended conditions. This assessment has been submitted and has been forwarded onto the Environmental Health Officers for consideration.
Environmental Health (Noise)	No objection subject to a condition.
Surrey County Council Rights of Way	No objection in principle.
Surrey County Council Waste and Minerals	No objection

Network Rail	No response to date
Surrey Wildlife Trust	Requested additional information with regard to Biodiversity Net Gain, Reptiles and Invertebrates, Trees and impacts on SNCI's together with recommended conditions. Additional information has been submitted and has been forwarded onto the Surrey Wildlife Trust for further consideration.  OFFICER NOTE – The proposal is not liable for Biodiversity Net Gain.
Arboricultural Officer	No objection
Surrey County Council Fire and Rescue	No objection

## 5. Public Consultation

- 5.1 The NPPF seeks to encourage pre-application engagement and front loading and advises that “early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.” The Council’s own Statement of Community Involvement states that the “Council will encourage applicants and developers to undertake pre-application consultation and discuss their proposals with their neighbours or the community before submitting their formal application.”
- 5.2 The applicant submitted a Statement of Community Involvement and notes that letters were sent by email to the Residents Associations covering the areas of Ashford North, Littleton Studios, Lower Sunbury and Charlton Village. A Microsoft Teams call was set up for 19 June 2023 with the Lower Sunbury Residents Association (LOSRA) at which three representatives of LOSRA attended with three members of the applicant team. It is noted that LOSRA challenged the summary of the meeting and their responses that were set out in the original Planning, Design and Access Statement (PDAS) and an amended document was submitted to more accurately reflect their views at the time.
- 5.3 Following receipt of the planning application, 71 properties were notified of the planning application. Statutory site and press notices were displayed as the proposal constitutes a major application, affects a public right of way and is a departure from the development plan. A total of 272 letters of representation have been received objecting to the application. Five letters of support were also received.
- 5.4 Reasons for objecting include: -
- Green Belt

- Character and appearance of the area
- Health and Safety concerns
- Fire Hazard
- Contamination
- Need and justification for the facility
- Lack of local benefits
- Noise and disturbance during construction
- Too much industrialisation of this area
- Too much development on top of Eco Park

5.5 Reasons for support were for the benefits of the proposal with regard to climate change.

## 6. Planning Issues

- Green Belt
- Character and Appearance
- Parking/Highway issues
- Flooding and Drainage
- Health and Safety
- Biodiversity/Landscaping and Ecology

## 7. Planning Considerations

### Green Belt

- 7.1 The National Planning Policy Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 The National Planning Policy Framework states that 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'.
- 7.2 At paragraph 143, the NPPF sets of the five purposes of the Green Belt. These are:
- To check the unrestricted sprawl of large built-up areas;
  - To prevent neighbouring towns from merging into one another;
  - To assist in safeguarding the countryside from encroachment;
  - To preserve the setting and special character of historic towns; and
  - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 7.3 Paragraphs 154 and 155 set out various exceptions as to what constitutes 'Inappropriate Development' and Paragraph 156 reinforces this with regard to renewable energy projects. The proposal is not a development for renewable energy production, rather it's stated aim is to contribute to the transition to renewable energy by allowing the storage of energy for use at peak times or when unforeseen demand is put on the network. Renewable energy sources are highly variable due to their weather dependency and this storage facility allows the storage of electricity generated by renewable forms of energy when the weather is suitable for energy generation for times when the weather or time of day is not suitable to generate electricity.

- 7.4 The Council's Local Plan Policy GB1 was saved from the 2001 Local Plan and pre-dates the NPPF. However, the policy is broadly consistent with the NPPF and is afforded significant weight. Saved Policy GB1 does not allow for any development in the Green Belt unless it is one of a number of appropriate uses set out in the policy. This differs from the more recent NPPF, which allows exceptions to inappropriate development, where the identified harm to the Green Belt and any other harm is clearly outweighed by other considerations, which constitute 'very special circumstances'.
- 7.5 The site is presently located within the Green Belt and unallocated in the adopted local plan, and therefore should be considered in this context. The application site is considered to be strongly performing in Green Belt terms based on the Council's Strategic Green Belt Assessment (2018).

#### Inappropriate development

- 7.6 The BESS would constitute 96 containers units 12.27m in length; 2.44 in width and 2.94m in height each comprising an industrial lithium-ion battery complete with a battery management system and mechanical ventilation together with 48 transformers which are to be connected to each battery within the Proposed BESS Area and various other associated equipment, structures and works as set out in paragraph 3.3 above. Consequently, the proposed development would not fall within any of the exceptions listed in paragraphs 154 and 155 of the NPPF. Therefore, it is considered that the proposal would be inappropriate development in the Green Belt and is therefore harmful. Substantial weight should be given to this harm, and very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations.

#### Openness

- 7.7 Openness is an essential characteristic of the Green Belt that has both visual and spatial qualities. The site currently consists of an open area of land covered by grass and some trees and is not immediately enclosed, with limited fencing securing parts of the site and the railway line, however the site is largely open to views from the public domain including the public footpaths which run to the south and east of the site together with vantage points along Charlton Lane where the pavement rises to go over the bridge over the M3 motorway. As such, in visual terms there will be a significant loss of openness. The height of the proposed structures would make the proposal highly visible from the public footpaths, the railway line and surrounding bridges and pavements along Charlton Lane and would alter the rural appearance of the site itself. This would result in a considerable change from an open field into an industrial style setting and would harm the openness of the Green Belt.
- 7.8 The addition of the amount of equipment as set out in paragraph 7.6 above, including the 2.4m high fence, lighting and CCTV columns and the battery units and transformers themselves which are 2.94m in height is considered to have a significant and adverse impact upon the openness of the Green Belt in

spatial terms. The compound housing the battery units and transformers is approximately 8700sqm while the adjoining compound is approximately 3200sqm. The overall footprint of the containers housing the batteries is 1438sqm. It is not considered that some additional landscaping as proposed in the Landscape and Visual Appraisal (LVA) to provide partially screening would overcome the impacts of this particular proposal upon the openness.

#### Purposes of the Green Belt

- 7.9 The level and scale of development is such that it is considered to result in encroachment into the countryside, conflicting with two of the Green Belt purposes in the NPPF, namely to check the unrestricted sprawl of large built-up areas and to assist in safeguarding the countryside from encroachment. The proposal would introduce a range of industrial plant of a purely functional appearance within a fenced compound into an area of countryside that in this part of the overall site is devoid of built form. As such, the proposal is in conflict with one of the purposes of including land within the Green Belt.
- 7.10 Therefore, the proposal, being inappropriate development within the Green Belt would, by definition, harm the Green Belt. The spatial and visual effects combined would result in the loss of openness whilst the proposal would conflict with two of the Green Belt purposes in failing check the unrestricted sprawl of large built-up areas and to assist in safeguarding the countryside from encroachment.

#### Character and Appearance of the Area

- 7.11 Policy EN1 a) of the Spelthorne Core Strategy and Policies Development Plan Document (2009) (CS&P DPD) states that new development should respect and make a positive contribution to the street scene and the character of the area in which they are situated.
- 7.12 Section 12 of the NPPF refers to design - Achieving well-designed places and in particular that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. It states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 7.13 It is recognised that the proposal is located to the north of the Surrey County Council Eco-Park development which dominates the immediate area. However, this forms part of the Surrey County Council Waste Strategy and was built on an existing refuse facility and also provides disposal of waste and recycling facilities for a number of Boroughs within Surrey, including Elmbridge, and its form is the exception in this area which is characterised by open grassed land with some trees and shrubs and has a topography that is generally flat. The LVA submitted with the application does propose some additional planting that would in part screen the proposed BESS from public views. However, landscape screening requires a significant amount of time and even a 40 year 'temporary' period is short for landscape to mature. In addition, the site is of a size and location that currently has an open countryside character that would be replaced by regimented rows of industrial

style structures that even if screened in part by hedgerows and planting, would erode the rural character of the site.

- 7.14 The site subject to this application is open Green Belt land covered with grass, trees and shrubs and is relatively visible from the two public footpaths that run to the east and south of the site. The location of these public footpaths demonstrates the rural feel of the area by providing walks and footpaths for residents to enjoy the open Green Belt land. The site itself would also be visible from pedestrians walking along Charlton Lane and from the railway line to the east as passengers enter and leave Shepperton by rail. As such, the proposal would result in the loss of an open area of land that would be detrimental to the visual amenity of the area and would not make a positive contribution to the character and appearance of the area. This is given substantial weight in assessing this proposal. As such, the proposal is contrary with Policy EN1a) of the CS&P DPD.

#### Highways

- 7.15 National Highways has advised that they recommend that planning permission not be granted for a specified period (July 30<sup>th</sup>). This is due to the site being in the vicinity of the M3 with which it shares a common boundary. Concerns raised relate to drainage considerations; structural-related concerns; lighting and geotechnical issues relating to the crossing beneath the M3. Therefore, due to the potential safety concerns to the integrity of the M3 and safety issues for its users, the application is recommended for refusal on the ground that insufficient evidence has been submitted to demonstrate that the proposal will not adversely affect the adjoining M3 motorway.

#### Flooding and drainage

- 7.16 The Surrey County Council Sustainable Drainage Team acting as the Lead Local Flood Authority (LLFA) originally objected to the proposed development on the basis that insufficient information has been provided to demonstrate that the proposed surface water drainage scheme meets the requirements set out in the NPPF. However, further submissions have now been received to confirm that the proposal is acceptable and the LLFA has withdrawn its objection and has recommended conditions. In addition, the Environment Agency has not raised any objections on flooding grounds. Therefore, it is considered that the proposal is acceptable and will not adversely impact surface water drainage or result in flooding.

#### The impact upon the residential amenity of adjoining properties

- 7.17 Policy EN1 b) of the Spelthorne Core Strategy and Policies Development Plan Document (CS&P DPD) states that new development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk and proximity or outlook.
- 7.18 The nearest residential properties to the proposed development are those in Charlton Village to the north-west (approximately 220 metres) and Upper Halliford to the south-east (approximately 260 metres). The nearest large

built-up area is Sunbury-on-Thames located approximately 1km to the north-east of the Site. The site is bounded by the M3 motorway to the north-west (beyond which are fields and residential properties off Charlton Road forming Charlton Village, Charlton Lane Waste Management Eco Park to the southwest (beyond which is Charlton Lane and the Sunbury Golf Course, a former landfill site), and the Shepperton to London Waterloo railway line to the south-east beyond which are residential properties in Hawthorn Way. This street forms part of Upper Halliford. There are further properties in Birch Green to the north-east.

- 7.19 In terms of noise, the Council's Environmental Health Officer has raised no objection subject to the imposition of a condition requiring details of noise mitigation measures (e.g. acoustic fencing) to be submitted to and approved by the Local Planning Authority. However, any noise issues from the equipment should be considered in the wider context. There is significant background noise from the M3 motorway in particular, together with intermittent noise from the railway line, the Eco Park and flights from Heathrow Airport. The proposed lighting on the site is in the form of 3m high lighting columns. These lights will only be operational for security reasons when movement is identified by sensors inside the compound, or at times when routine or emergency maintenance is being carried out. In view of existing background lighting and the limited use of lighting on site, no concerns are raised regarding light pollution.
- 7.20 Due to the separation distances involved and the size of the structures proposed at the BESS it is not considered that there would be any adverse impacts upon local residents in terms of any loss of light, loss of privacy or overbearing impact.
- 7.21 Therefore, the proposal is considered to comply with Policy EN1b) of the CS&P DPD and no adverse impacts upon residential amenity to adjoining properties is considered to arise.

#### Health and Safety / Fire Hazards

- 7.22 Careful consideration has been given to concerns regarding health and safety and in particular fire concerns resulting from the use of Lithium batteries on the site. These concerns have been raised by a significant number of third party representations. Reference has been made to a documented incident of a BESS fire in the UK, when a battery system container at a BESS site in Liverpool caught fire. The application has been accompanied by an Outline Safety Management Plan. which details initial appraisal of risks and also a strategy to mitigate any risks during the lifetime of the BESS.
- 7.23 It is of importance to note that neither the Health and Safety Executive, the Health and Safety Executive (Fire) or the Surrey County Council Fire and Rescue advisors have raised any objections to the proposals. It is also noted that BESS sites can be also designed with safety features, such as fire suppression systems, to ensure their safety. In this instance, after discussions with the relevant authorities, access from both the north and south has been provided for emergency vehicles in the event of a fire or other incident at the site and a number of water tanks would be provided on site.

- 7.24 With regard to fire, the site is some distance from the nearest residential properties and therefore the risk of a fire affecting neighbouring residential areas is considered minimal. Notwithstanding the incidents of fires involving Lithium batteries, there is no compelling evidence to demonstrate that this facility would be hazardous. In the unlikely event of a fire, it is considered that the facility would be readily accessible by a fire tender and there is no clear evidence, as illustrated by the lack of objections from the relevant authorities, that this facility would be especially vulnerable to the risk of fire.
- 7.25 Also, concerns have been raised that the proposed BESS could affect the health of local residents through chemicals used in the facility. However, there is also no clear evidence that such a facility would contain hazardous chemicals, likely to impact residents, or that it would result in harm to the local population or users of the adjoining public footpaths.

#### Biodiversity/Ecology and Landscaping

- 7.26 The site is not located within any specific area of ecological or biodiversity designation. The Queen Mary Reservoir which is located south and west of the proposed route of the cabling from the BESS facility to the Laleham GSP is designated as a Site of Nature Conservation Importance (SNCI), as is an area to the northwest of the facility on the other side of the M3 - Land East Of Charlton Village (north of M3).
- 7.27 A Screening Opinion has been made regarding the need for an Environmental Impact Assessment (EIA) and it was determined that an EIA is not required.
- 7.28 The applicant has submitted a Landscape and Visual Appraisal and a Landscape Strategy Plan which sets out various proposals for landscaping and planting that firstly will help to mitigate the visual impacts of the proposal upon the Green Belt and the open character of the area and secondly to provide enhancements that it proposes will improve the biodiversity of the site and local area. It should be noted that due to the date that the application was received, Biodiversity Net Gain does not apply to this proposal.
- 7.29 The proposal would result in the loss of a number of existing trees and shrubs together with grassland. However, the Council's Arboricultural Officer has not raised any concerns regarding the loss of any landscaping and is satisfied with the scope of the Landscaping Strategy Plan.
- 7.30 Notwithstanding this, the Surrey Wildlife Trust (SWT) has made various comments and has requested further details and information. This relates to further clarification regarding the reptile survey methodology; Clarification as to why an invertebrate survey was not undertaken; consulting Natural England with regards likely impacts on statutory sites; and requesting that the applicant demonstrates biodiversity net gain. As stated previously, Biodiversity Net Gain does not apply to this application and the site itself is not located within an SNCI. A screening opinion was undertaken and determined that an EIA is not required for this proposal. Further information has been received from the

applicant and this has been forwarded to the SWT and any updates will be reported to the Committee.

#### Air quality

- 7.31 The applicant has submitted further information in the form of an Air Quality Assessment (AQA) following initial comments from the Council's Environmental Health Officer (EHO) who, whilst not raising a specific objection did request further detail and recommended suggested conditions and informatives. The EHO is currently reviewing the document and any further updates will be reported to the Committee.

#### Contaminated land

- 7.32 The applicant has submitted a contaminated land assessment. This has been reviewed by the Council's Environmental Health Officer (EHO), who recommended conditions in accordance with para. 189 of the NPPF and Council Policy EN15.

#### Archaeology

- 7.33 The Surrey County Council Archaeological Officer has confirmed that the submitted 'assessment has demonstrated that deposits across at least the greater proportion of the site have previously been destroyed by mineral extraction but that there remains a potential for archaeological remains to survive within the parts of the Site where no quarrying is recorded and that mitigation for impact of those areas would be reasonable. This office is in agreement with these findings' and has recommended that a condition is applied should permission be granted in order to mitigate the impacts of development.

#### Other Considerations

- 7.34 The applicant accepts that the proposal represents inappropriate development and has submitted a specific Very Special Circumstances Report (VSCR) to support the proposal. Of particular relevance is that 'The UK Government has committed to meeting a legally binding target of net-zero carbon emissions by 2050 and a related political target of 2035 for a net zero electricity system. Spelthorne Borough Council have subsequently declared a climate emergency'.
- 7.35 The VSCR specifically lists six justifications which are considered in turn:
1. The need for renewable energy generation and its role in meeting the challenge of climate change

#### Applicants points

- 7.36 The applicant has stated that 'there is a significant and quantifiable need for the deployment of battery storage and the role it plays in supporting

renewable energy generation, which is being driven by government at local and national level in the UK.' This is supported by various government publications and statements including the UK governments commitment to decarbonise the UK's electricity system by 2035 and the 'Net Zero Strategy, Build Back Greener' which sets out a vision to end the country's contribution to climate change and reverse the decline in the natural environment.

- 7.37 The applicant re-affirms that in order to meet these targets, a major investment in proven technologies is required in order to meet the economic, social and environmental dimensions of sustainable development set out in the NPPF which in itself is supported by the Government's Energy White Paper and the National Policy Statement EN-1. (NPS). The NPS states that 'storage has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon power, heat and transport can be integrated'.
- 7.38 In the VSCR the applicant also reiterates the benefits of battery storage in assisting the National Grid in balancing the electricity transmission network brought about by fluctuating power generation and surges and dips in consumption, confirming that the 'BESS has the capacity to hold the power and release it into the grid as and when is required'. The VSCR also notes that the BESS does not emit carbon dioxide as it does not generate electricity but only stores it for use when required. Various other appeal decisions for proposals elsewhere in the country are referred to.

#### Officers Response

- 7.39 The Council recognises the policy support for the delivery of renewable and low carbon energy and associated infrastructure to mitigate climate change. However, the proposal is not a renewable energy project, although it would provide enhanced energy resilience in the National Grid. As such, while the energy to be stored in the proposed BESS would be generated by both renewable and non-renewable energy, it could, over time, provide greater support for renewable energy production.
- 7.40 These benefits and proposals of this type are supported by Government policy and this is given significant weight in assessing this proposal in relation to the harm to the Green Belt and any other harm. In considering the justification above, the NPPF lends general support for initiatives to support low carbon and decentralised energy networks. Paragraph 152 states that 'The planning system should support the transition to a low carbon future in a changing climate..... It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure'.
- 7.41 Paragraph 163 of the NPPF states that 'When determining planning applications for renewable and low carbon development, local planning authorities should: (a) not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions;

and (b) approve the application if its impacts are (or can be made) acceptable. The UK Energy White Paper, Powering Our Net Zero Future (2020) is also relevant as it sets out and describes the costs of inaction. Therefore, these issues are accorded substantial weight.

## 2. The requirement for the BESS in this location and the lack of alternative sites

### Applicant's Points

- 7.42 The applicant has confirmed that the site was chosen due to its close proximity to the Laleham Grid Supply point which is located 2.8km away from the proposed site which is at the end of viability in terms of the efficiency in providing the overall financial viability of the proposal due to the cost of laying cables long distances.

The key criteria in selecting the site were set out as follows:

- Separation from residential areas and settlements, including sensitive uses such as schools and hospitals;
- Site area required for the Proposed Development;
- Current suitability of the Site for the Proposed Development (former Quarry Land);
- Existing visual screening provided by the M3 Motorway, Charlton Lane Waste Management and Eco Park and trees and hedgerows around the perimeter of the Site;
- Ease of access to the site for construction and HGV's (no amendments are required to the public highway to facilitate the Proposed Development; and
- Lack of environmental constraints (e.g., ecological/landscape designations, heritage assets, flood risk, etc.).

- 7.43 A search area was also identified showing the area 3km away from the Laleham GSP, the point of connection.

### Officer's Response

- 7.44 While acknowledging that there is need for such energy supply facilities to meet national and local need, particularly with the current uncertainty over energy supplies, insufficient evidence has been provided to justify why the proposal should be located in this location. The applicant has submitted a justification as to why this site was selected and this is partly due to the proximity to the Laleham GSP which at 2.8km away is on the limit of the distance for which a proposal of this nature is viable. No specific alternative sites have been suggested or identified, with a summary of 'all closer potential sites were either scheduled for housing or commercial development' or were too small. The search area also refers to that 'there were no suitable proposed site allocations for commercial, industrial, energy-related or miscellaneous development within the emerging Spelthorne Borough Local Plan'. As stated in paragraph 1.4 above, the emerging Local Plan carries limited weight and with regard to the impacts upon the Green Belt are accorded moderate weight as the evidence is not sufficient to confirm that the

BESS could not be provided in a less harmful location elsewhere in the locality.

### 3. Support for the rural economy;

#### Applicants points

- 7.45 The applicant notes that the proposal has the potential to support economic growth through the creation of jobs associated with ongoing maintenance of the BESS as well as indirect jobs associated with its construction and decommissioning. The VSCR also states that BESS sites contribute to a more reliable, affordable and sustainable energy supply in rural areas and that significant weight should be attached.

#### Officer's response

- 7.46 The applicant suggests that the proposal will provide benefits in the form of new jobs both from the operation of the BESS facility and through the construction and decommissioning. These benefits are considered to be limited with the site being subject to only occasional maintenance when in operation and the actual construction and commissioning is likely to involve specialist contractors which are not necessarily to be from the locality. The benefits to the local economy are therefore given limited weight.
- 7.47 The applicant has stated that BESS sites assist the National Grid in balancing the electricity transmission network. No evidence has been provided to support the assertion that they, or this site in particular, would contribute to a more reliable, affordable and sustainable energy supply. In addition, since it relates to the national grid, the specific reference to rural areas must be irrelevant. Therefore no weight can be afforded to this consideration.

### 4. Wider environmental benefits including planned biodiversity net gain;

#### Applicant's points

- 7.48 The VSCR asserts that the existing site is considered to be of limited ecological value and the proposal will result in a number of biodiversity enhancements as set out in the Landscape Strategy Plan will result in a Biodiversity Net Gain.

#### Officer's response

- 7.49 The applicant has stated that the site is considered to have limited ecological value and that the proposed Landscape Strategy Plan will result in Biodiversity Net Gain (BNG). However, the Surrey Wildlife Trust has requested further evidence that BNG will result from the proposals, which has been received and is currently under consideration. However, it is noted that BNG is not a statutory requirement for this application. Furthermore, whilst noting the benefits of aiding the constant supply of energy to the National Grid, the BESS is about storage rather than energy creation through

renewables with no sustainable energy production forming part of the proposal. Therefore, it is considered that there is no more than a limited landscape effect if mitigation measures through the use of landscaping as set out in the Landscape Strategy Plan are taken into account and as such is given limited weight in assessing this proposal.

5. The temporary and reversible nature of the proposal:

Applicant's points

- 7.50 The applicant confirms that the development would be temporary, for a period of 40 years after which the site would be decommissioned and returned back to its current use. Therefore, the impact on the Green Belt is temporary and fully reversible avoiding any long term impacts. A comparable appeal decision was presented and the applicant considers that moderate weight should be given to the consideration of very special circumstances.

Officer's response

- 7.51 It is proposed that the BESS would be in place for a period of 40 years, 14 years beyond the net-zero carbon emissions of 2050 and 29 years beyond the related political target of 2035 for a net zero electricity system, and then would be decommissioned and the land returned to its former condition. In the context of the level of harm identified, the adverse effects would be experienced over a significant period of time and the suggested temporary nature for a considerable period of 40 years is not considered to mitigate the harmful impacts upon the Green Belt. This therefore is accorded limited weight.

6. Community benefits.

- 7.52 The applicant does not elaborate on the community benefits in the VSCR. As set out in paragraph 7.18 there are considered to be limited benefits in economic terms and as the BESS will feed into the National Grid directly there is no substantive evidence that the proposals will benefit the local community rather than it supporting the national supply of power and therefore these benefits are accorded limited weight.

Equalities Act 2010

- 7.53 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The question in every case is whether the decision maker has in substance had due regard to the relevant statutory need, to see whether the duty has been performed.

- 7.54 The Council's obligation is to have due regard to the need to achieve these goals in making its decisions. Due regard means to have such regard as is appropriate in all the circumstances.
- 7.55 The NPPF defines people with disabilities as individuals that have a physical or mental impairment, which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. This can include but is not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs. It is considered that it would be possible for individuals with disabilities to access the development and the proposal is acceptable in regard to the equalities act.

#### Human Rights Act 1998

- 7.56 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.57 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.58 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 7.59 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

#### Financial Considerations

- 7.60 Under S155 of the Housing and Planning Act 2016, Local Planning Authorities are now required to ensure that potential financial benefits of certain development proposals are made public when a Local Planning Authority is considering whether or not to grant planning permission for planning applications which are being determined by the Council's Planning Committee. A financial benefit must be recorded regardless of whether it is

material to the Local Planning Authority's decision on a planning application, but planning officers are required to indicate their opinion as to whether the benefit is material to the application or not. In consideration of S155 of the Housing and Planning Act 2016, the proposal is not a CIL chargeable development and will not generate a CIL Payment This is a material consideration in the determination of this planning application. The proposal will not generate a New Homes Bonus and Council Tax payments which are not material considerations in the determination of this proposal.

### Conclusion

- 7.61 The proposed development represents inappropriate development within the Green Belt would, by definition, substantially harm the Green Belt. The spatial and visual effects combined would result in the substantial loss of openness whilst the proposal would result in the encroachment into the countryside. The applicant has submitted Very Special Circumstances Report to justify the proposal and has highlighted national policies supporting such proposals which carry some weight in assessing the proposal. It is considered that the harm to the Green Belt, the loss of openness and other harm to the character and appearance of the area by eroding the open countryside appearance of the area when viewed from the public domain by the introduction of an industrial form of development are not clearly outweighed by other considerations in supporting the transition to renewable forms of energy generation. Furthermore, insufficient evidence has also been submitted to demonstrate that the proposal will not harm the users of the adjoining M3 motorway, with an objection having been received from National Highways.
- 7.62 Therefore, it is considered that the proposed development is unacceptable in this location and that 'very special circumstances' do not exist that would justify the proposal. The NPPF states that 'local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'.
- 7.63 Therefore, the application is recommended for refusal.

## **8. Recommendation**

### 8.1 REFUSE for the following reasons:

1. The proposal is considered to represent inappropriate development within the Green Belt for which no very special circumstances have been demonstrated. It would also result in a substantial loss of openness within the Green Belt and conflict with the purposes of the Green Belt. Therefore, it is contrary to Section 13 of the National Planning Policy Framework (2023) and 'Saved' Policy GB1 of the Spelthorne Borough Local Plan (2001).
2. The proposed development, by virtue of its location in an open area of land, would result in significant harm to the character and appearance of this rural area, contrary to the National Planning Policy Framework

(2023) and Policy EN1 of the Spelthorne Core Strategy and Policies Development Plan Document (2009).

3. Insufficient evidence has been submitted to demonstrate that the proposed development will not result in any adverse harm upon the integrity of the M3 and result in safety issues for its users. It is therefore contrary to the National Planning Policy Framework (2023) and Policy CC2 of the Spelthorne Borough Core Strategy and Policies DPD (2009).