



Appeal Decision

Hearing Held on 15 December 2020

Site visit made on 21 December 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 04 February 2021

Appeal Ref: APP/R5510/W/20/3245309

Land North of Hyde Electricity Substation, North Hyde Gardens, Hayes, UB3 4QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Clearstone Energy against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 73785/APP/2018/3115, dated 23 August 2018, was refused by notice dated 25 July 2019.
 - The development proposed is development of site for gas powered electricity generator and related infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence provided by the main parties has referred to both nitrogen dioxide and oxides of nitrogen as the principal pollutants which are at issue in this appeal. In the interests of clarity, I will be referring to oxides of nitrogen when referring to these pollutants in this decision. As this will cover the range of pollutants at issue which are likely to be generated by the proposal.
3. I note from the signed Statement of Common Ground dated October 2020 that the reasons for refusal relating to drainage and highways have been resolved by the parties, subject to the imposition of appropriate conditions, should the appeal be allowed. I am satisfied that subject to the suggested conditions there are no matters I wish to investigate in these areas.
4. I noted that there was some dispute about the plans upon which the Council made its decision. I understood from the appellant that a full set of plans, including the disputed plans, were supplied to the Council at the time of the planning application which has given rise to this appeal. The disputed plans are GA-001 (General Arrangement), GA-002 (Elevations) and CNH 12 (General Arrangement Plan).
5. The disputed plans show elevations and plans of the proposed buildings and plant to be constructed on the site should the development be implemented. To a large extent the details shown on the drawings reflect those on the illustrative material referenced by the Council. I do not consider that the consideration of the plans would prejudice any third party as they would have

been able to assess the impact of the development from the illustrative material submitted with the planning application. I therefore will take these plans into account in the determination of this appeal.

6. The development plan context for the appeal proposal has altered since the planning application was determined. The Council has supplied a statement on the status of the policies which are relevant to the determination of this appeal and they confirmed this to me at the hearing.
7. Therefore, and in the interests of clarity I confirm that the policies which are of relevance to this decision are those of the London Borough of Hillingdon Local Plan Part 1- Strategic Policies (2012), Part 2 – Development Management Policies (2020) and the London Plan 2016.
8. The saved policies of the London Borough of Hillingdon Local Plan Part 2 (UDP) (2012) have been withdrawn. Whilst the Council has stated that it is not relying on the policies of the Draft London Plan (Intend to Publish Version), December 2019, my attention was drawn to Policy SI1 at the hearing. I have therefore had regard to this policy, as a material consideration, in this decision.

Main Issues

9. The main issues in the consideration of this proposal are:
 - the effect of the proposal on air quality in the area of the appeal site;
 - the effect of the proposal on the character and appearance of the area, including its effect on the heritage assets in the area; and
 - the contribution of the development to the visual and environmental enhancement of the Blue-Ribbon network of the Grand Union Canal and the River Crane.

Reasons

Effect on air quality

Locational factors relevant to air quality

10. The site lies in an area undergoing significant change. The site of the former Nestle's factory across North Hyde Gardens from the appeal site is being redeveloped for commercial and residential uses. The area of the former Nestle's site nearest to the appeal site will be redeveloped for commercial uses, whilst further away from the appeal site there will be higher residential blocks. To the south of the appeal site is an electricity substation, to the north is the Grand Union Canal and further industrial and commercial uses. The east of the site is made up of the River Crane and surrounding vegetation, backed by The Parkway flyover (A312).
11. It is the Council's intention that the area will over time assume a more residential character, especially with the redevelopment of the Nestle's site. This is demonstrated by the area being within the 'Hayes Housing Zone' which appears to give force to the Council's strategy in this area. The Council also produced a plan at the hearing that showed new residential areas which are likely to be developed at other locations around the appeal site. There is existing residential development to the south west of the appeal site comprised

of Nestle's Avenue, North Hyde Road, Gordon Crescent, and other residential streets.

12. The Council has recognised that air quality in areas within the Borough needs to be improved. This is evidenced by the designation of the area within which the appeal site is located as an Air Quality Management Area (AQMA). Areas within the AQMA with particularly high concentrations of pollutants - hotspots- are identified as Air Quality Focus Areas (AQFA) and the appeal site is also located in one of these.
13. The principal purpose of these designations is to improve air quality in areas currently affected by poor air quality in order to improve the general health of the population. It is clear to me that the area within which the appeal site is located currently suffers from poor air quality and it is the Council's intention, through these designations, to improve the current situation.
14. The consequence of these designations means that the areas have an Air Quality Action Plan (AQAP) designed to improve air quality over time. The AQAP and the AQMA prioritise the implementation of improvement strategies in the AQFA. This includes using the planning system in the Borough to support the achievement of air quality improvements in relation to new developments.
15. The AQAP has recognised¹ that medical research found no evidence for thresholds for effects even in areas where pollution levels are very low. This means that neither limit values nor guidelines provided by the World Health Organisation define completely safe levels of pollution that pose no harm to the population. The issue of air quality and the effect of poor air quality on health is an important consideration in this appeal.
16. There has been some dispute between the parties about the type of environmental permit needed and the body that will be involved in assessing the proposal in terms of the EPR regime based on thermal inputs should the appeal be allowed. However, the EPR regime and the planning system are separate, but complementary systems, with every relevant proposal having to satisfy the requirements of both systems prior to implementation. It is inevitable under these conditions that there will be some overlap between the two systems. I have therefore applied the policy and guidance to such matters set out in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) in the determination of this appeal.
17. The Framework addresses air quality in chapter 15 and in particular at paragraphs 170(e), 180 and 181. It is manifest in these paragraphs that the planning system has an important role to play in controlling developments that would potentially have an effect on air quality. In particular in controlling the location of potentially air polluting activities where they would impact on AQMAs. Decisions should also contribute to opportunities to improve air quality. Whilst paragraph 183 warns against duplicating controls which are the preserve of the pollution control regimes it is evident that the control over the location of potentially polluting activities is part of the planning system.
18. More detailed guidance on air quality and the planning system is given in the PPG. This reinforces the need for the planning system to take account of the potential impacts of new development on air quality. This is particularly

¹ London Borough of Hillingdon, "Air Quality Action Plan- 2019 to 2024", May 2019, pages 9/10 paragraph 1.1, "The importance of air pollution in Hillingdon"

important where the national assessment indicates that relevant limits have been exceeded or are near the limit or where the need for emission reduction has been identified. This is of relevance to the appeal proposal as it lies in an AQMA and an AQFA and evidence has been produced to show that limits have been exceeded or are near the limit and therefore there is a need to reduce emissions.

19. The PPG also outlines that air quality is relevant to a planning decision depending upon the type of development and its location. Again, as the type of development is a power station, a known emitter of oxides of nitrogen, and the site is within an area of identified poor air quality, air quality is of particular relevance to the planning decision.
20. Moreover, at paragraph 005 of the PPG, location is identified as a matter relevant to the planning decision. Of particular relevance is the site's location in an AQFA and an AQMA. These areas are sensitive to any increase in oxides of nitrogen given the current concentrations in the atmosphere. Therefore, it needs to be established that the location is appropriate for the facility, given the areas designations and the current levels of pollution being experienced. Consequently, the location of the development in these areas is relevant to the planning decision and should not be left solely to the EPR regime, with or without the suggested reduction in hours of operation.
21. It is clear to me that the area within which the appeal proposal is located suffers from existing poor air quality. Consequently, and in terms of the Government guidance and advice contained in the Framework and the PPG, the location of the proposed facility and the air quality in the area where it is proposed to be located is a relevant material consideration in the determination of this appeal. I will therefore be taking into account the potential emissions from the development, in a location identified as having existing poor air quality, in this decision.

Air quality neutral

22. As part of the planning application process and its on-going responsibility to assess air quality in the designated areas, the current air quality situation in the area has been monitored and assessed by the Council. It has used the approach developed jointly by Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IQAM) and data from the London Atmospheric Emission Inventory (LAEI). This approach is recognised as being applicable to planning applications that might have an effect on air quality in an area.
23. The Council's monitoring has established that in the Focus Area where the appeal site is located, the current predicted concentrations of oxides of nitrogen are near or above the annual mean limit value /national objective to safeguard human health of 40mg/m³. The mapped values from the monitoring sites range from 36mg/m³ to 56.4mg/m³. This is consistent with the areas designation as a AQFA and AQMA. In view of the approach used, length of time the AQMA has been in place and the long-term monitoring which has taken place I have no reason to doubt the Council's evidence on this point.
24. The appellant has acknowledged that the site is within the AQFA and AQMA. However, variances in air quality have been noted by the appellant across the AQFA and the AQMA areas, as much of the concentrations of oxides of nitrogen

- is derived from pollution from road traffic. Therefore, concentrations of oxides of nitrogen are located along major roads in the area. The concentrations decrease away from these routes.
25. Whilst the evidence produced by both parties show that this is correct, the introduction of an emitter of oxides of nitrogen into the area, away from the major roads has the potential to change the distribution and concentrations of pollutants in the area. It is also important to consider in this respect the changing character of the area from commercial/industrial to residential and the effect the emissions from the appeal proposal might have in the future on sensitive receptors.
 26. The appellant has identified occurrences of high concentrations of oxides of nitrogen in areas which are predominantly industrial at present, and that high concentrations have been associated with particular weather conditions, especially those experienced in 2013. Moreover, the appellant acknowledges that at the locations with the highest annual mean concentrations of oxides of nitrogen, the hourly mean concentration may also be above the air quality objective values.
 27. Whilst I accept these points, it is entirely possible that the weather conditions which gave rise to high concentrations of oxides of nitrogen at the receptors in 2013 could recur when the proposed facility is operating, thereby further reducing the air quality experienced by those in that area.
 28. Furthermore, whilst the high concentrations of oxides of nitrogen might be experienced in industrial areas at present, it is not guaranteed that those areas will remain industrial in the future given the Council's ambitions for the area, due to its designation in the 'Hays Housing Zone'. The London Council's Air Quality and Planning Guidance advises that assessments of potential polluting developments should include both committed developments as well as other proposals which planning officers consider are likely to proceed. Therefore, the occurrences of high concentrations of oxides of nitrogen in areas which are not currently residential is important in this appeal.
 29. The Council's evidence refers to the measures it has put in place to improve the air quality in the area through the AQAP and this includes ensuring that the planning system supports the achievement of air quality objectives. As a result, with all things being equal, without the appeal proposal the air quality in the area around the appeal site is likely to show improvement over time. The introduction of the appeal proposal will be likely to slow down the achievement of the objectives set in the AQAP, even if the impact on receptors is very low to imperceptible as described by the appellant.
 30. The appellant has recognised the appeal proposal will impact on air quality within the area. However, the appellant has argued that the dispersal modelling used to quantify the magnitude of the proposed development on the annual mean and hourly mean concentrations of oxides of nitrogen has shown that the likely impacts from emissions from the application site dispersing to receptors locations within the AQFA as being very low to imperceptible in magnitude at most. This has been characterised in the evidence as 'real world' concentrations being small enough not to delay achievements of air quality objectives. Whilst this might be the case it does not demonstrate that the development will either have no effect on air quality nor contribute to the improvement of air quality in the area.

31. The Council and the appellant have used different approaches to assessing air quality and the impact the development would have on air quality in the area.
32. The appellant has used a methodology based on the Environment Agency's requirement for a dispersion modelling report suitable to accompany an application for an environmental permit under the EPR regime. The appellant stated at the hearing that a permit required under the EPR regime is more procedural than the planning application process.
33. The Council on the other hand has aligned their approach to the London Council's Guidance and, for comparative purposes, applied the Institute of Air Quality Management's (IAQM)². It should be noted that the IAQM guidance states, amongst other things, at paragraph 65 that the EAs risk assessment methodology has not been designed for conducting an assessment to accompany a planning application.
34. The Council's assessment of the impact of the facility on air quality differs significantly from that of the appellant. This, the Council state, is as a result of the appellant's use of the Environment Agency's Risk Assessment Guidance methodology, which is not applicable to the current facility nor in line with the new London Plan, the associated Supplementary Planning Guidance, Planning Practice Guidance and the London Council's Guidance. This assessment accords with the IAQM advice. Furthermore, the Council has calculated the annual oxide of nitrogen emissions would be high, equating the emission to the equivalent of 68.9 tonnes of oxides of nitrogen annually if the facility operates at the proposed 2000 hours pa or 51.7 tonnes pa if it operates at the proposed reduced hours of 1500 pa. As a consequence, it is the Council's view, this would have a significant effect on air quality in the area.
35. I accept that there is a wide variation in the assessment of the air quality impacts of the appeal proposal between the appellant and the Council. However, the Council has followed a methodology for assessing air quality and the impact of the proposed development that is set out in the EPUK/IAQM Guidance and supported by data from LAEI. The appellant on the other hand has used the Environment Agency's Guidance which is more appropriate to the Environmental Permitting regime. I am therefore giving greater weight to the Council's approach and therefore their findings, as this appears to be more relevant to the consideration of a planning proposal.
36. In this respect therefore I find that the appeal proposal would not be air quality neutral. Nevertheless, even if I had found the appellant's methodology more compelling it still demonstrates, albeit at significantly lower levels, that there would be an effect in certain locations on air quality caused by the appeal proposal. It cannot therefore be considered to be air quality neutral.

Assessment of cumulative effects

37. The area within which the appeal site is located is in the process of significant change. This includes the redevelopment of the former Nestle site. However, it was clear from other evidence produced by the Council at the hearing that the focus of development in the area was shifting towards housing. This shift in focus was demonstrated by numerous sites around the appeal site which would be redeveloped for housing.

² EPUK/IAQM, 'Land Use Planning and Development Control: Planning for Air Quality', January 2017

38. The current guidance set out in the PPG, on assessing the impact of a development on air quality in an area includes a requirement to assess the cumulative or in combination effects arising from the development with other likely developments in the area. That encompasses developments with planning permission, such as the Nestles site, and those which are likely to proceed.
39. It was clear from discussions at the hearing that the appellant had not carried out any formal assessment of the cumulative impact of the emissions from the appeal proposal with the other developments planned in the area, apart from how the arrangements of the buildings on the Nestle's site would affect the dispersal of emissions from the appeal site. Therefore, I am unable to draw conclusions as to the cumulative effects of the proposal on air quality within the AQMA/AQFA.

Mitigation

40. The proposed facility has included measures to mitigate its impact on local air quality at its design stage and include: the selection of natural gas as the fuel instead of diesel or heavy fuel oil; the selection of larger engines; the use of elevated release height of 10m and the use of wind shield and cluster flues to increase the effective height of release and therefore increase dilution prior to emissions reaching relevant receptors. No further mitigation measures are considered necessary by the appellant.
41. However, it is clear from the evidence that even with these measures built into its design and construction at the start it would still emit oxides of nitrogen. The difference between the parties is in terms of the effect of the magnitude of the emission on the sensitive receptors in the area. Therefore, even with the mitigation which is built into the design and construction of the plant the proposal would not be air quality neutral.

Suggested condition

42. The Council has suggested a condition, which is not agreed by the appellant, which would have the effect of mitigating the emissions from the proposal over the entire period of its operation (25 years). This would include the appellant supplying an emission mitigation plan to show:
- that the NO_x emissions would be abated to at least 95% of annual emissions since the first year of operation;
 - an air quality assessment evaluating the cumulative impact of the proposed facility with granted planning applications at sensitive receptors (new and existing); and
 - the plan will show that the facility is at least air quality neutral.
43. However, the appellant has objected to the proposed condition and the Council has questioned how the development could be made air quality neutral. Furthermore, the suggested emission mitigation plan is not before me and there is no evidence as to whether the requirements set out in the proposed condition could actually be achieved and the impact any such mitigation would have on the viability of the development.
44. In the light of the uncertainty as to whether the proposed condition would be effective in achieving its stated aims; whether the mitigation measures

required would affect the viability of the proposal; and the impact on the AQMA/AQFA it would not be reasonable to leave the acceptability of any such measures to be approved by way of a planning condition.

Air quality – overall conclusion

45. I have concluded that the effect of the proposal on air quality is an important consideration in this appeal and that the location of the development within an area of poor air quality is of particular relevance to this decision. Even on the basis of the appellant's assessment the proposal would emit oxides of nitrogen and would not be air quality neutral.
46. Whilst the appellant has given some consideration as to how tall buildings on the adjacent Nestle's site might affect the dispersal of pollutants from the appeal site, no systematic/methodical assessment of the appeal proposal and its likely cumulative effects with other planned or proposed developments in the area has been carried out. In this respect the policy requirements of the Framework and the PPG have not been complied with.
47. I note in both the evidence supplied by the Council and the appellant that there is reference to off-site mitigation works. I have not seen in the evidence how the impact of the oxides of nitrogen generated by the proposed facility could be mitigated, other than by the measures which the appellant has suggested, or other measures which could be incorporated into the design and operation of the facility. Moreover, the mitigation measures proposed, do not make the facility air quality neutral and are not sufficient to overcome the impact of the emissions in this location.
48. Finally, I have concluded that the suggested condition would not be reasonable or meet the tests set out in the Framework and PPG. In any event I cannot be certain that it would overcome the harm which I have identified.
49. The development plan for the area comprises the London Plan 2016 (LP16), the Hillingdon Local Plan Part 1 (November 2012) (HLP1) and the Hillingdon Local Plan Part 2 (2020) (HLP2). The policies of these plans that are relevant to this matter are Policies 5.3 and 7.14 of the LP, EM1 and EM8 of HLP1 and DMEI 14 of the HLP2.
50. At the hearing my attention was also drawn to the Draft London Plan 2020 (Intend to Publish Version), December 2019 (LP20) Policy SI1. Whilst the LP20 is not yet part of the development plan, given the stage it has reached towards publication and that the relevant policy is not one which is under discussion between the Mayor and the Secretary of State, I give this policy substantial weight in the determination of this appeal.
51. Policy 7.14 of the LP16 seeks, amongst other things, that development should be at least air quality neutral and not lead to further deterioration of existing poor air quality such as AQMAs.
52. Policies EM1 and EM8 of the HLP1 seek to minimise the impact of pollutants on local air quality and that developments do not cause a deterioration in local air quality.
53. Policy DMEI 14 of the HPL2 goes further by expecting new developments to demonstrate appropriate reductions in emissions and that proposals should be at least air quality neutral.

54. The LP20 at Policy SI1 seeks to tackle poor air quality by resisting development that would lead to the deterioration of existing poor air quality and not to create any new areas that exceed air quality limits.
55. The appeal proposal would increase the emissions of oxides of nitrogen in areas of existing poor air quality, in this case the designated AQFA and AQMA. Furthermore, it would not contribute to the aims of Policy DMEI 14 and the designation of the area as a AQMA and AQFA to reduce harmful emissions of oxides of nitrogen in the area. Therefore, the proposal is in conflict with these policies of the development plan.

Character and appearance

56. The overall character and appearance of the location is industrial and commercial, with large buildings, commercial vehicles interspersed with plant and machinery. Despite the redevelopment of the former Nestle's factory for mixed use, the uses closest to the appeal site will be commercial. As a consequence, maintaining the prevailing industrial and commercial character of the immediate area of the appeal site.
57. The appeal proposal would introduce a primarily horizontal structure with taller stacks. It would be seen against the backdrop of the existing electricity substation when viewed from the Grand Union Canal. Its narrowest elevation would face on to North Hyde Gardens and the redeveloped Nestle's site. Other principal views would be from The Parkway flyover. At other points there might be glimpsed views of the facility.
58. The proposed colour scheme and the landscaping would limit the visual impact of the building. Consequently, whilst the building itself would have some effect on the appearance of the area, it would largely be appreciated in the context of other commercial and industrial buildings in the locality.
59. The parties have referred to the proximity of the Botwells/Nestles Conservation Area (CA) and to the listed structure known as Bulls Bridge to the appeal site.
60. The appeal site is not within the CA, however the Council have argued that the appeal proposal would harm the setting of the CA. Paragraphs 189 and 190 of the Framework require an assessment of the particular significance of any heritage asset that might be affected by a proposal, including by development affecting its setting.
61. There is no CA appraisal for the Botwells/Nestle CA. Its significance is primarily derived from its use as a factory, its relationship with the canal and railway line, the layout of the buildings and the original buildings and structures which still exist on the site. These are locally listed and comprise the former canteen, railings and gates which are primarily appreciated from Nestle's Avenue. Additionally, the east, west and southern facades of the former factory are to be retained.
62. The appeal site lies some distance from Nestle's Avenue and these features. The part of the CA closest to the appeal site is currently vacant, pending redevelopment for commercial uses. The construction of these buildings will further reduce any relationship between the appeal site and the features which give the CA its significance. Consequently, the appeal site and the proposal would have no material effect on the significance of the CA and therefore would not harm its setting.

63. The A312/Parkway flyover lies to the east of the site and views can be obtained of the appeal site and the proposal from this direction. However, whilst this road is set above the appeal site, the proposed development would still be seen in the context of the industrial development to its north, the electricity substation to its south and the commercial element of the redeveloped Nestles site on the opposite side of North Hyde Gardens. Moreover, the traffic on the flyover is moving relatively quickly at right angles to the site. Therefore, the views of the site from vehicles would be fleeting at best.
64. This would not affect the significance of the Botwells/Nestles CA as the appeal proposal would still reflect the commercial and industrial character of the immediate area, especially when viewed from the A312.
65. I acknowledge the concern the Council has with regard to the effectiveness of landscaping to screen the development given the constraints with regard to planting that are present on the site. However, the site would be viewed in the context of the surrounding commercial and industrial development and the absence of mature landscape at the time the proposal is constructed would not unduly harm the character and appearance of the locality. Furthermore, the proposed planting whilst not screening the building entirely would relatively quickly break up the impact of the building from the principal viewpoints.
66. In terms of the views of the proposal from the flats which are to be developed on the former Nestle's site, as discussed at the hearing. These will be separated from the appeal site by lower, but still substantial commercial buildings. The view from the flats will also take in the commercial and industrial buildings to the north of the canal and the electricity substation to its south. In this context therefore, and from the flats in the tall blocks in the western part of the Nestle's site, the appeal proposal will appear as another industrial and commercial operation amongst a collection of similar uses. This in itself will not harm the character and appearance of the area.
67. The grade II listed Bull's Bridge lies some distance along the canal from the appeal site and on the opposite side of the Park Way flyover. The appeal proposal would have no effect on the conservation of the heritage asset of Bull's Bridge and therefore the overall effect of the development on the heritage asset would be neutral.
68. At the hearing it was established that the relevant policies for the consideration of the effect of the proposal on the character and appearance of the area are: HLP1 (2012) BE1 and EM3, HLP2 (2019) DMBH1, DMBH3, DMBH4, DMBH11, DMBH12, DMBH13, DMHB14, DMEI18 and DMEI14, together with policies 3.5 and 7.5 of the LP16.
69. The policies referred to seek, amongst other things, to ensure that development in the Borough is of a high quality, maintains and improves the area within which it is situated and appropriate to its context. I note that the area within which the appeal site is located was formerly designated for commercial and industrial uses and that this designation has now changed with the adoption of the HLP2.
70. However, the site is still in an area with a predominantly industrial or commercial character and appearance and the immediate area of the site is unlikely to change in the near future. This is because there are established industrial/commercial uses north of the canal, an electricity substation to its

south and commercial uses are being developed on that part of the former Nestle's site closest to the site.

71. I therefore find that the appeal proposal would be consistent with the policies of the development plan in that it would be appropriate to its context in terms of its character and appearance. It would be sited in an existing industrial and commercial area and the area immediately around the appeal site would be unlikely to change in the near future.
72. Moreover, for the reasons given above it would not have an adverse effect on the heritage assets referred to by the Council and therefore would be consistent with the policies of the development plan which seek to protect these assets.

Effect on the Blue-Ribbon network

73. The Grand Union Canal which passes the northern boundary of the site is part of the Council's Blue-Ribbon network of watercourses in the Borough which includes main rivers, canals along with their tributaries and smaller streams. These form part of the Boroughs strategic green infrastructure network.
74. The policies of the development plan, in particular DMEI8 of the HLP2 and 7.30 of the LP16, seek amongst other things, to ensure that development along water ways protects local character, enhances the waterside environment and, where a development benefits from a frontage on to the Grand Union Canal, contribute to its improvement.
75. The Council has highlighted that the appellant's Townscape and Visual Impact Assessment has identified three viewpoints from the canal towards the appeal site as sensitive. However, the current views from these points would be of a vacant site backed by an electricity substation. The appeal proposal would introduce a long and relatively low building with high chimney stacks. This would have the effect of replacing the current view of a vacant site with an electricity substation behind with the power station building and additional planting. This would be unlikely to alter the character and appearance of the locality to the extent that it would result in visual harm to its appearance, especially when the proposed additional planting is taken into account.
76. Moreover, as the appellant described at the hearing, the Grand Union Canal is 137 miles long and the appeal site represents a very small proportion of its bankside environment.
77. Therefore whilst I consider that the proposed building, plant and equipment could be viewed from the canal, given the small proportion of its bankside it would occupy, the presence of other industrial and commercial uses in the immediate locality and the landscaping and planting proposed the proposal would not harm the character or appearance of the Blue Ribbon network.
78. Policy DMEI8 and 7.30 requires, amongst other things that development located in or adjacent to waterways should enhance the waterside environment by demonstrating a high-quality design with respects the historic significance of the canal and the character of the waterway.
79. Whilst the design of the proposed facility would present a utilitarian appearance alongside the canal this would reflect the character and appearance of many buildings found along its banks. Moreover, it would redevelop a currently

vacant site, break up the appearance of the electricity substation to its rear and provide the opportunity for enhanced planting with the development. Consequently, and in these respects the proposal is consistent with these policies.

80. I therefore find that the proposed development is consistent with the policies of the development plan that relate to the Blue-Ribbon network.

Other Matters

81. The appellant has made reference in their evidence to the likely effect of the proposed development on European nature conservation sites which are covered by the Habitat Regulations. These are the South West London Water Bodies Special Protection Area (SPA) and Ramsar site, and the Richmond Park Special Area of Conservation (SAC).
82. Given the effect of the development on these sensitive sites it might have been necessary for me to carry out an Appropriate Assessment if I were minded to allow the appeal. Nevertheless, considering that the appeal is to be dismissed for other matters referred to in this decision no further consideration is required on this matter.

Planning Balance

83. I have had regard in this decision to the information supplied by the appellant relating to the need for the facility as part of the national energy supply. I have also had regard to the attributes of the location of the appeal site in relation to the access to a gas main, the national grid and the proximity of the key areas of demand for the electricity. I also note the inefficiencies involved in transporting electricity over long distances. I give these locational factors moderate weight in the determination of this appeal.
84. I also acknowledge that there is a need for this type of facility as the country moves towards energy generation based on greater use of renewable technology. I note that the facility would emit less carbon dioxide than a coal fired power station. However, it would still burn fossil fuel in a conventional way and therefore be an emitter of carbon dioxide. On the other hand, the facility would complement the move to renewable energy, by acting as a reserve source of energy for when renewables are unable to operate. I give this factor limited weight as the facility is not required to be sited in this location in order for this benefit to be realised.
85. In terms of character and appearance I have found that the facility would not harm the character and appearance of the area through the implementation of a landscaping scheme and the development of a currently vacant site. However, this could apply to most development schemes for the site. I therefore give this factor neutral weight in this decision.
86. The starting point for my consideration of this appeal has to be the development plan. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan has clear policies that relate to the improvement of air quality in the Borough.

87. In particular Policy DMEI 14 of the recently adopted HLP2 seeks development proposals to demonstrate appropriate reductions in emissions. It states as a reason for this to sustain compliance with and contribute towards meeting EU limit values and national air quality objectives for pollutants. However, whilst this is stated as a reason, the intent of the policy is clear and that is for development proposals to assist in helping the Council to reduce emission generally and thereby safeguard the health of the local population.
88. In terms of emissions the policy, as a minimum, expects developments to be air quality neutral, include sufficient mitigation to ensure that there is no unacceptable risk to sensitive receptors and to actively contribute to the improvement of air quality especially in AQMA. Furthermore, the Framework and the PPG expect that any assessment should consider the cumulative effects of such developments with other proposals in the area. No systematic/methodical assessment of the appeal proposal and cumulative effects have been carried out. In this respect the policy requirements of the Framework and PPG have not been complied with.
89. It is clear from the evidence that the development will not be air quality neutral, as even at very low to imperceptible levels described by the appellant, the amount of oxides of nitrogen in the local atmosphere would still be increased by the proposal. Therefore, it would not contribute to the improvement in air quality in the area which is covered by an AQMA and a AQFA. I attach substantial weight to the conflict between the proposal and the policies of the development plan in terms of the effect of the development on air quality in these areas and therefore its effects on the health of the population in these areas.
90. Therefore I consider that the benefits of the proposal in terms of the need for the facility to be located next to a connection to the National Grid, a gas main and close to centres of demand and the neutral effect brought about by the development on the character and appearance of the area, to be outweighed by the effect of the development on local air quality and the conflict with the development plan in this regard.

Conclusion

91. The appeal should be dismissed.

Peter Mark Sturgess

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Graham Robinson-Hodges	Planning Consultant
Mr Garry Gray	Air Quality
Mr Neil Northrop	Landscape and Visual Impacts
Mr Justin Kilduff	Representative of the Appellant

FOR THE COUNCIL

Dr Ana Grossinho

London Borough of Hillingdon

Mr Stephen Volley

London Borough of Hillingdon

DOCUMENTS SUBMITTED AT THE HEARING

- Email exchange between the Council and the Environment Agency with regard to the type of EPR permit the facility would require.
- Appeal decision APP/R5510/W/19/3230503, dated 26 March 2020