

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 08 January 2025

(Author: Catherine Sutton - Planning Officer)

Purpose: To consider Planning Application H02-0882-24

Application Number: H02-0882-24

Date Received: 17 October 2024

Application Type: FULL

Description: Construction and operation of micro energy storage facility

Location: Land At Crease Drove Crowland Peterborough

Applicant: AMP Clean Energy

Agent: AMP Clean Energy

Ward: Crowland and Deeping

Ward Councillors: Cllr B Alcock
Cllr J R Astill
Cllr A Harrison

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H02-0882-24>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The land is South Holland District Council owned.

2.0 PROPOSAL

2.1 This is a full planning application for the installation and operation of a micro energy storage facility at land at Crease Drove in Crowland.

2.2 The proposed development would comprise the installation of a concrete plinth foundation, installation of the battery containerised units and associated equipment and the construction of a new fence surrounding the Battery Box.

2.3 The following extract from the planning statement submitted with the application sets out how the proposed energy storage facility works:

2.4 *A Battery Box is an ESS that imports electricity from the local electricity network when demand for electricity is low or when there are high levels of renewable energy available. It then exports that electricity back to the grid when required during periods of high demand. This provides a solution to the growing need for network flexibility and helps address grid reliability issues prompted by an increase of intermittent (wind and solar) generation of the electricity system. Each Battery Box connects into the low voltage (LV) electricity network, this is the lowest and most local point in the distributed system, where there is an increasing demand for electricity with the electrification of transport and heating systems. Stored electricity from the Battery Box will be exported and consumed locally.*

3.0 SITE DESCRIPTION

- 3.1 The site is within an industrial area with two industrial units to the north and west. A substation is located to the north east, with a car park to the east and residential housing further beyond to the east. To the south is open fields.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

4.2 South East Lincolnshire Local Plan, March 2019

- 4.3 If regard is to be had to the development plan for the purpose of any determination to be made under Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

- 4.4 01 - Spatial Strategy
02 - Development Management
03 - Design of New Development
05 - Meeting Physical Infrastructure and Service Needs
29 - The Historic Environment
30 - Pollution
31 - Climate Change and Renewable and Low Carbon Energy
32 - Community, Health and Well-being
36 - Vehicle and Cycle Parking
APPENDIX 6 - Parking Standards

4.5 National Guidance

4.6 National Planning Policy Framework (NPPF), December 2024

- 4.7 Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 6 - Building a strong, competitive economy
Section 9 - Promoting sustainable transport
Section 10 - Supporting high quality communications
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 16 - Conserving and enhancing the historic environment

4.8 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 H02-0493-19 - Full - Construction of two further phases of industrial buildings for sub-division into small units - Approved 05.09.2019

6.0 REPRESENTATIONS

- 6.1 The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

6.2 Lincolnshire Fire & Rescue

- 6.3 In order to be successful in firefighting, adequate access to buildings for fire appliances and immediate access to adequate supplies of water, must be provided. The access to, and proximity of, those water supplies directly affects the resources that Fire and Rescue Authorities need to provide in protecting and mitigating their communities from the effects of fire.

- 6.4 North Level District Internal Drainage Board
- 6.5 Please note that North Level District Internal Drainage Board have no objection to the above planning application.
- 6.6 LCC Highway and Lead Local Flood Authority
- 6.7 Recommendation: No Objections
- 6.8 The proposal is for the construction and operation of micro energy storage facility. The site is located within a private Industrial estate. Construction lasts approximately 4 weeks and there will be 3 HGV movements associated with the construction (6 total). The proposal will not have an adverse impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.
- 6.9 Environment Agency
- 6.10 Environment Agency position We have reviewed the submitted flood risk assessment October 2024, ref 241016_425.064703.00001_Battery Box FRA_Harvester_v01.docx , prepared by SLR Consulting, and do not consider that it proposes adequate mitigation measures to manage the residual flood risk from the failure of flood defences, for the lifetime of the development. However, considering the vulnerability and scale of the proposed development, we have no objection to this application.
- 6.11 Paragraph 173 b) of the National Planning Policy Framework states that in areas at risk of flooding, it should be demonstrated that development is appropriately flood resistant and resilient and that, without significant refurbishment.
- 6.12 In addition, Paragraph 069 of the planning practice guidance section on Flood Risk and Coastal Change outlines that flood resistance and resilience measures may be suitable for less vulnerable development in circumstances where temporary disruption is acceptable, and the development remains safe.
- 6.13 Therefore, we advise that the potential impacts of flooding to the proposed development are fully considered and advise that it is ensured that the residual flood risk is appropriately mitigated, such as through the raising of equipment, as far as is practicable.
- 6.14 SHDC Environmental Protection
- 6.15 No Observations
- 6.16 No comments regarding land contamination
- 6.17 Crowland Parish Council
- 6.18 No comments
- 6.19 Public Representation
- 6.20 This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

7.0 **CONSIDERATIONS**

7.1 Evaluation

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

7.3 In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

7.4 The policies and provisions set out in the National Planning Policy Framework (December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

7.5 Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

7.6 Principle of Development and Sustainability

7.7 The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

7.8 Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

7.9 The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including 'Minor Service Centres', with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

7.10 Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within the countryside, development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

7.11 The application site in this instance lies outside any defined settlement boundary as detailed by Policy 1 and is therefore classed as being within the countryside. However, given the nature of the proposal which seeks to provide an energy storage system "that imports electricity from the local electricity network when demand for electricity is low or when there are high levels of renewable energy available" and its minor nature, the siting is considered to be suitable in this instance.

7.12 As such, the proposal is considered to be acceptable when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety and flood risk, which are discussed in turn as follows.

7.13 Layout, Design and Consideration of the Character and Appearance of the Area

- 7.14 Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed places' and details that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.
- 7.15 Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.
- 7.16 Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.
- 7.17 Likewise, Policy 2 of the South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework (December 2024), in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.
- 7.18 These policies accord with the provisions of the National Planning Policy Framework (December 2024) and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.
- 7.19 Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.
- 7.20 The proposed equipment will be located on an unused patch of grassland next to two industrial units and an electrical substation at Pinnacle Close, Crowland. The proposed energy storage facility would comprise a functional appearance, with the apparatus being enclosed by green paladin fencing. It is considered that the proposed energy storage facility would not detract from visual amenity of the site or wider area, being located within an industrial location.
- 7.21 Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).
- 7.22 Impact on Residential Amenity/Land Users
- 7.23 Paragraph 135 of the National Planning Policy Framework (December 2024) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.24 Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

- 7.25 The nearest neighbouring dwelling is located to the east approximately 55m away. The proposal is located within an industrial area adjacent to two industrial units and an electrical substation. This proposal is unlikely to have an impact on pollution, living conditions and the natural environment. Further to the above, the proposal is not considered to result in any undue overshadowing, overbearing impact or loss of privacy to surrounding occupiers.
- 7.26 SHDC Environmental Health Officers were consulted on the application and raised no objections to the proposal.
- 7.27 As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).
- 7.28 Highway Safety and Parking
- 7.29 Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios".
- 7.30 In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.
- 7.31 The proposal is for the construction and operation of micro energy storage facility. The site is located within a private industrial estate. Construction lasts approximately 4 weeks and there will be 3 HGV movements associated with the construction (6 total). The proposal will not have an adverse impact on the public highway.
- 7.32 The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3 and 36 the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).
- 7.33 Flooding Considerations
- 7.34 Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere". This goes on to state, within Paragraph 172, that all plans "should apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".
- 7.35 Paragraph 173 of the National Planning Policy Framework (December 2024) goes on to state that "A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding", by following the steps set out within Section 14 of the National Planning Policy Framework (December 2024).
- 7.36 Paragraph 174 goes on to state that, "Within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development

should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the strategic flood risk assessment being the tool to demonstrate this.

- 7.37 Paragraph 175 details that "The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)".
- 7.38 If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in Zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.
- 7.39 The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The maps do not take into account any flood defences.
- 7.40 The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.
- 7.41 It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.
- 7.42 In this instance, the proposed development comprises the construction and operation of a micro energy storage facility to serve the area. The development has been accompanied by a flood risk assessment, which identifies that the lifetime of the development is 30 years, and following this all infrastructure will be removed. It also explains that should there be a breach of the River Welland flood defences the site would flood, but accepts that failure of the installation due to flooding would have little or no consequence beyond the immediate locale of the site.
- 7.43 In discussion with the Environment Agency, it has been concluded that the view is that as this ESS will store additional electricity, and due to the small size, failure of this development will have limited impact on the local network. The Environment Agency have therefore, raised no objections.
- 7.44 Overall, when considering the development on balance, it is considered that the proposal would not comprise 'Essential Infrastructure' and it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy Framework (December 2024) in this regard.
- 7.45 **Biodiversity**
- 7.46 Section 15 of the National Planning Policy Framework (December 2024) seeks to protect sites of biodiversity value, and minimise and provide net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures, including the need to incorporate features which support priority or threatened species such as swifts, bats and hedgehogs.
- 7.47 Policy 28 of the South East Lincolnshire Local Plan (2019) seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace and promote biodiversity net gain by protecting the biodiversity value of land, maximising opportunities to enhance and

connect natural habitats, incorporate biodiversity conservation features to enhance green infrastructure and ecological corridors, and conserve or enhance habitat to adapt to climate change.

- 7.48 Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.
- 7.49 For applications that are submitted prior to the introduction of this requirement, a standard biodiversity condition is appropriate and the mandatory 10% requirement would not apply. However, this application was submitted following the introduction of this legislation. As such, unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.
- 7.50 In this instance, a Biodiversity Net Gain Exemption Statement was submitted with the application. It is considered that the application is subject to the de minimis exemption, due to the proposal not impacting a priority habitat and the development impacts less the 25 square metres of onsite habitat.
- 7.51 In light of this, the development in this instance is exempt from the statutory 10% Biodiversity Net Gain requirements. However, it would remain appropriate, given the context of Section 15 of the National Planning Policy Framework (December 2024) and requirements of Policy 28 of the South East Lincolnshire Local Plan (2019), that a standard condition is attached, requiring a level of Biodiversity Net Gain.
- 7.52 Other Matters
- 7.53 It should be noted that Lincs Fire and Rescue provided comments during the consultation period. Following these comments the agent for this application provided a fire safety explainer which addressed all the comments from the Lincolnshire fire and rescue service. The agent also confirmed that for each of these projects a full risk assessment is produced and sent to the fire and rescue services as well as being at the site. It is therefore considered that the proposal is acceptable in relation to fire and rescue.
- 7.54 Planning Balance
- 7.55 As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.
- 7.56 The proposal represents appropriate development outside the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework (December 2024) when viewed as a whole.
- 7.57 In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.
- 7.58 **Additional Considerations**
- 7.59 Public Sector Equality Duty
- 7.60 In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - B. Advance equality of opportunity between people who share a protected characteristic and

those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 7.61 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.62 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 7.63 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.64 Human Rights
- 7.65 In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).
- 7.66 It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.
- 7.67 **Conclusion**
- 7.68 Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024).

8.0 RECOMMENDATIONS

- 8.1 **Based on the assessment detailed above, it is recommended that the proposal should be approved subject to those conditions listed at Section 9.0 of this report.**

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

Application Form
Plan 1 - Site Location Plan
Plan 2 Rev A - Site Layout Plan
Plan 3 - 3D Image Paladin Fencing
Plan 4 - Plans & Elevations - Battery Box Battery Equipment
Plan 5 - Plans & Elevations - Electrical Cabinet Equipment
Plan 6 - Paladin Fence Elevations
BNG Exemption Statement
Fire Safety Explainer
Planning Statement dated October 2024
Flood Risk Assessment by SLR dated October 2024

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The materials of the development hereby permitted shall be carried out in accordance with those detailed within the application form and approved plans.

Reason: In the interests of the architectural and visual integrity of the overall development and the visual amenity of the area in which it is set.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

5. **Biodiversity Net Gain**

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

The effect of Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

Based on the information available and submitted in support of this application, the Local Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

- The development comprises a 'De minimis exemption' under regulation 4.

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

Irreplaceable habitat

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

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

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

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

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

- (a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and
- (b) the conditions subject to which the planning permission is granted:
 - (i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and
 - (ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite

habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A - Plan A

