DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0219-24**	**Applicant:**	**AGR Solar 2 Limited**
Proposal:	Details of the parts of North Ing Drove, Cowbridge Road and Ing Drove that will be used by vehicles making deliveries of materials and components shall be recorded by written notes, still and moving photographic images during an inspection (Condition 14 of H04-0849-22)		
Location:	Land To The West Of Cowbridge Road Bicker Fen Boston		
Terminal Date:	7th May 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2023

Section 12: Achieving well designed and beautiful places.
Section 14: Meeting the challenge of climate change, flooding and coastal change
Section 15 Conserving and Enhancing the Natural Environment.

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

Details of the parts of North Ing Drove, Cowbridge Road and Ing Drove that will be used by vehicles making deliveries of materials and components shall be recorded by written notes, still and moving photographic images during an inspection (Condition 14 of H04-0849-22).

Site Description

As per host consent.

History

H04-0849-22 - Proposed development of a photovoltaic solar array, grid connection, access

improvement works & ancillary development on land at Bicker Fen, Boston and South Holland. Approved 21 July 2023.

H04-0078-24 - Details of foul & surface water disposal (Condition 15 of H04-0849-22). Approved 22nd March 2024.

H04-0184-24 - Details of Landscape & Ecological Management Plan (Condition 19 and also relating to Conditions 17, 18 & 20 of H04-0849-22). Undetermined at the time of writing.

H04-0204-24 - Details of Construction Management Plan & Method Statement and precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from site during construction of development (Conditions 10 and 11 of H04-0849-22). Undetermined at the time of writing.

Consultation Responses

Lead Local Flood Authority and Local Highway Authority

The condition states that those public roads shall be maintained, at the cost of the Applicants, in a safe and suitable condition throughout the construction phase of the permitted development and shall be reinstated to no less than the standard of their pre-commencement condition following completion of the construction phase. The Applicants shall also follow a reciprocal process during the decommissioning of the permitted development.

The Local Highway Authority assert that once the construction phase is complete a further inspection will be required and any agreed remedials rectified at the Applicants expense.

Planning Considerations

Condition Wording

The wording of Condition 14 as follows:

"Prior to the commencement of any part of the development hereby permitted, the condition of the parts of North Ing Drove, Cowbridge Road and Ing Drove that will be used by vehicles making deliveries of materials and components to the permitted development shall be recorded by written notes, still and moving photographic images during an
inspection that shall be undertaken by the Applicants' representatives in the company of an officer of the Local Highway Authority. Those public roads shall be maintained, at the cost of the Applicants, in a safe and suitable condition throughout the construction phase of the permitted development and shall be reinstated to no less than the standard of their
pre-commencement condition following completion of the construction phase. The Applicants shall also follow a reciprocal process during the decommissioning of the permitted development.

Reason: To ensure the safety and free-passage of the public using North Ing Drove, Cowbridge Road and Ing Drove during the construction and decommissioning of the permitted development. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019."

Condition Detail

The submission consists of a series of video and audio recordings and a photo montage of the condition of the roads as they are before work starts. It documents that some of the roads are in poor condition, but acts as a record to show which parts of the road were imperfect before works started.

The submission also contains a technical note that provides further details of the condition of the surrounding roads. This provides a detailed accurate record of the conditions of the surrounding roads.

Appraisal

The Local Highway Authority attended a meeting in which the condition of the existing roads was recorded prior to works starting.

The purpose of this application is to record the state of the roads before work starts. This is to ensure that should the works start and cause further damage to the roads, the physical state of the roads can be compared with the 'baseline' conditions because they have been recorded. The roads will then need to be reinstated as required.

The interpretation of the Local Highway Authority of this condition, i.e. that a further set of information needs to be submitted to discharge condition 14 post construction, and post decommissioning is acknowledged and noted. However, the condition does not state that a further set of information should be submitted to and approved in writing by the Local Planning Authority. Nor is the condition broken up into numerical or alphabetical parts to allow partial discharge in phases. As a result, this condition can only be either fully discharged, or never discharged since the condition also states:

"The applicants shall also follow a reciprocal process during the decommissioning of the permitted development".

It is the interpretation of the Local Planning Authority that the intention of the condition is to monitor the state of the roads before works start, and for the condition of the roads be reinstated if either the installation or the decommissioning or the solar farm damages the roads. Should damage to the roads occur, at either of these points in time, this condition compliance application can act as a record. At that point, it becomes an enforcement matter to resolve if damage has occurred. This safeguards the intention of the condition to ensure roads are not damaged, but the rectification of the damage will be through the enforcement process, not via 2 further discharges of condition 14.

As a result of this stance, the material that has been submitted is considered to be a satisfactory factual record of the state of the roads, and as a result, condition 14 can be discharged.

Conclusion

It is considered that the submission details are recorded satisfactory.

It is considered that the details associated with Condition 14 can be discharged.

Additional Considerations

Public Sector Equality Duty

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.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

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).

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.