DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0508-25**	**Applicant:**	**AGR Solar 2 Limited**
Proposal:	Proposed development of a photovoltaic solar array, grid connection, access improvement works & ancillary development on land at Bicker Fen, Boston and South Holland - Approved under H04-0849-22. Amendment to Written Scheme of Investigation for Archaeological Mitigation		
Location:	Land To The West Of Cowbridge Road Bicker Fen Boston		
Terminal Date:	24th June 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Section 96A of the Town & Country Planning Act 1990 (as amended)

Representations:

	Object	Support	No Obj.	Comments
OTHER STATUTORY BODIES	0	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This is an application made under S96A of the Town & Country Planning Act 1990 (as amended) to amend a previously approved permission. Planning permission was achieved under H04-0849-22 for:

Proposed development of a photovoltaic solar array, grid connection, access improvement works & ancillary development on land at Bicker Fen, Boston and South Holland

Condition 7 of the permission required the developer to submit a written scheme of archaeological investigation, that was to be submitted to and approved in writing by the Local Planning Authority. Therefore control over the WSI remained in place.

Condition 7 was subsequently discharged by SHDC under H04-0199-25 however, variations to the proposed works necessitate alterations to that approved WSI this present document is sought to replace the previously approved WSI.

The application form for the proposed NMA, describes the amendment sought in the following way:

Amendment to the document approved under condition 7 (Condition Discharge Application Ref. H04-0199-25)

Site Description

The application site predominantly comprises arable farmland made up of large fields, crossed by a network of ditches and drains. It also includes the grid connection corridor where underground cables would be laid. Field margins are typically formed by open ditches, however in some locations established hedgerows and hedgerow trees make up the field boundaries. These features are characteristic of the wider local landscape. The landscape is interspaced by occasional farm buildings (both residential and functional) of varying size and condition. A Public Right of Way follows Hammond Beck in a broadly north/south direction.

The site is not subject to any landscape, heritage or conservation area designations and there are no listed buildings on the site itself. There are listed buildings in Bicker to the east, but these are some distance away. There are no formal ecological designations within 2.5km of the site

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 21-07-23

H04-0199-25 - Details of archaeological investigation (Condition 7 of H04-0849-22). Approved 20-03-25

H04-0569-25 - Proposed development of a photovoltaic solar array, grid connection, access improvement works & ancillary development on land at Bicker Fen, Boston and South Holland - approved under H04-0849-22. Amendment to the wording of Condition 13 to enable two way construction traffic down roads specified in Condition 13. Pending

Scope of Assessment for Non-material amendments

As an NMA is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

The local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission.

In this instance there is one pending NMA (see planning history) and the Historic Environment Team have also been consulted.

Consultation Responses

Historic Environment Officer

The following WSI version is acceptable to proceed with and recommend that it is used as a basis for the archaeological mitigation strategy: "Version 8 - 10.06.2025 Archaeological Mitigation Strategy - Amendment 2

Planning Considerations

South Holland District Council Local Planning Authority sets out criteria for non-materials amendments. This is set out on the council webpages. It states:

Non-material amendment criteria

Each application will be considered on its merits. The proposed change may be a non-material amendment if:
1.There would be no change to the application site boundary and the proposal would be located within it (red line boundary)
2.The amendment would not conflict with development plan policies or other Government guidance
3.There would be no conflict with any conditions on the planning permission
4.The proposal would not make worse any concerns raised by third parties when the original planning permission was considered
5.The approved footprint/siting of the building will not be moved in any direction by more than 1 metre
6.The proposal would not result in an extension to development already approved
7.The height/volume of the building or extension would not be increased or significantly reduced
8.The amendments must not result in a fundamental change in the design of the building
9.The change does not amount to new works or elements which have not been considered by any environmental statement submitted with the original application
10.Amendments to windows/doors/openings must not have any overlooking impact on neighbouring properties
11.There would be no change to the description of development in respect of number of proposed units

These criteria are designed to prevent amendments being accepted that would have a harmful impact. If the above cannot be met:

·a Section 73 application or
·a new full application may be required.

Assessment

The proposal seeks to replace the already approved WSI it represents a variation from a previously approved WSI prepared by AOC Archaeology Group for a programme of mitigation consisting of preservation in situ, strip map and sample and monitoring and recording. This proposed programme of further archaeological mitigation consists of targeted archaeological excavation in three areas where significant archaeological remains have already been identified, archaeological strip, map and sample where large-scale preliminary groundworks encroach on archaeologically sensitive areas and archaeological monitoring and recording during groundworks in areas thought to be of archaeological potential.

The amendment approach is brought about due to the necessity to change the mitigation strategy. The replacement of the previously approved WSI with this new WSI does not alter the mitigation element of condition 7 (it adheres to it), nor does it have implications for other archaeological related conditions. The Historic Environment Team have been consulted and confirmed that this new approach to mitigation is acceptable (in essence it would have been discharged if submitted in that manner).

In this instance as there is no material change to the approved scheme, only the approach to mitigation shown in the updated WSI it is considered that the changes do not represent a 'material' change over what has already been approved. On this basis the NMA would satisfy the criteria set out for NMAs on the SHDC website as well as the guidance contained with Planning Practice Guidance.

It is therefore considered that the changes proposed by this application are considered not to have a material effect upon the previously approved scheme.

Conclusion

Having regard to the effect of the change, together with previous changes made under section 96A it is considered that the proposals would not have a material effect upon planning permission H04-0849-22

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.