

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H04-0569-25	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 the wording of Condition 13 to enable two way construction traffic down roads specified in Condition 13.		
Location:	Land To The West Of Cowbridge Road Bicker Fen South Holland And Boston		
Terminal Date:	8th July 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal relates to a non-material amendment, under Section 96A of the TCPA 1990, to an approval gained under planning approval H04-0849-22

H04-0849-22 granted planning permission for the development of a photovoltaic solar array, grid

connection, access improvement works and ancillary development on land at Bicker Fen, Boston and South Holland.

This non-material amendment application seeks to amend the wording of Condition 13, to enable two way construction traffic down roads specified in Condition 13.

Condition 13 Details

"Unless agreed otherwise in writing by the Local Planning Authority, all vehicles making deliveries of materials and components to the permitted development shall arrive via the Viking Link haul road and North Ing Drove route described in the submitted Revised Access Strategy Technical Note, dated February 2023, and all departing, unloaded delivery vehicles shall leave the site via the Cowbridge Road, Ing Drove and National Grid haul road route, also described in the same Technical Note. The arrival and departure of Heavy Goods Vehicles during the decommissioning of the permitted development shall be in accordance with routing that shall first be agreed in writing, at the time of decommissioning, by the Local Planning Authority in consultation with the Local Highway Authority and with regard to prevailing conditions of the local highway at the time of decommissioning. No other roads between the A52 and the site shall be used by delivery vehicles during the construction and decommissioning phases".

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 July 2023.

H04-0969-23 - Condition Compliance - Details of training & employment management plan (Condition 16 of H04-0849-22) - Approved 15 December 2023

H04-1021-23 - Condition Compliance - Details of written scheme of archaeological investigation (Condition 7 of H04-0849-22) - Withdrawn

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

H04-0204-24 - Condition Compliance - Details of Methods to prevent the deposit of mud on public highways by vehicles travelling from site during construction of development, together with a Health, Safety & Environment Plan (Condition 11 of H04-0849-22) - Approved 02 May 2024

H04-0184-24 - Condition Compliance - Details of Landscape & Ecological Management Plan (Condition 19 and also relating to Conditions 17, 18 & 20 of H04-0849-22) - Refused 15 May 2024

H04-0219-24 - Condition Compliance - 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) - Approved 30 April 2024

H04-0521-24- Condition Compliance - Details of Landscape & Ecological Management Plan (Condition 19 and also relating to Conditions 17, 18 & 20 of H04-0849-22) - Approved 09 July 2024

H04-0558-24 - Condition Compliance - Details of construction management plan (Condition 10 of H04-0849-22) - Approved 29 July 2024

H04-0769-24 - Non-Material Amendment - Amendment to remove the Solar Switchgear Building, Solar Control Building and Solar Storage Building adjacent to Cowbridge Road in Boston district. Revised Compound Layout and relocation of the above elements from the site entrance in Boston district - Approved 07 October 2024

H04-0199-25 - Condition Compliance - Details of archaeological investigation (Condition 7 of H04-0849-22) - Approved 20 March 2025

H04-0508-25 - Non-Material Amendment - Amendment to Written Scheme of Investigation for Archaeological Mitigation - Approved 24 June 2025

Consultation Responses

Lincolnshire County Council Highways

No Objections: 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. Following discussions with Axis it was concluded that only a small section of Cowbridge Road is affected before vehicles will use the Haul Road and it will not increase vehicle movements.

Planning Considerations

Non-Material Amendment - General

The Local Planning Authority has powers under Section 96A of the Town and Country Planning Act 1990 to make a "non-material" change to a planning permission if the Local Planning Authority is satisfied that the change is not material.

There is no statutory definition of "non-material"; this is because it is dependent on the context of the overall scheme. As such, an amendment that is considered to be non-material in one context, may be material in another.

The Council has therefore introduced a system whereby 'minor amendments' to a scheme can be considered as a way of allowing the planning system to respond in a reasonable and flexible manner to small changes to an approved scheme without seeking a fresh application.

South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions", comprising a guidance note for non-material amendment submissions, indicates that non-material amendments will be approved subject to the following criteria being met:

1. There would be no alteration to the application site boundary (red edge).
2. The amendment would not conflict with Development Plan Policies or other Government Guidance.
3. The proposal would not exacerbate concerns raised by third parties at original planning application stage.
4. The proposed change would not be contrary to a condition on the original approval.
5. The approved footprint/siting of the building will not be moved materially and will not have a material impact on a neighbour.
6. The height of the building or extension would not be increased.
7. The amendment would not result in any potential overlooking of any neighbouring property.
8. The amendments must not result in a fundamental change in the design of the building.
9. The proposal does not amount to new works or elements not considered by any Environmental Statement submitted with the application.

The criteria set out above is designed to prevent amendments being accepted that would have a detrimental or harmful impact, in respect of (but not limited to) neighbours or amenity in the wider public interest, or where the amendments would comprise a notable and material change to the proposed scheme.

If the above cannot be met, or should it be assessed that for other matters considered, that the proposal would not constitute a non-material amendment (and as such constitute a material amendment) a Section 73 application; or a new full application may be required.

Fundamentally, it is recognised that issues can arise following the grant of a planning permission, which may require modification to the proposals. Where such a change is not felt to be significant, this may be through the submission of a non-material amendment application under Section 96 of the Town and Country Planning Act 1990. The Local Planning Authority must be satisfied that the amendment sought is non-material in terms of its effects upon the scheme as a whole.

Non-Material Amendment - Assessment of Amendments

Planning Permission H04-0849-22 was granted for the development of a photovoltaic solar array, grid connection, access improvement works & ancillary development. The development relates to land at Bicker Fen, across the districts of Boston and South Holland.

The development permitted is currently under construction. The site has been subject to various submissions, comprising Non-Material Amendments and Discharge of Condition applications as detailed within the report above.

Notable in respect of this application is reference H04-0558-24. This comprised a construction management plan, pursuant to Condition 10 of the initial grant of permission under reference H04-0849-22. This includes provision for the management of two-way HGV traffic.

It is noted that the applicants have engaged with Lincolnshire County Council prior to the submission of this application. The details of this correspondence, whereby confirmation that such a change would be acceptable to Lincolnshire County Council as Local Highway Authority, have been submitted in support of this application.

However, it is acknowledged that local residents, amongst others, have previously raised concerns relating to highway and vehicle movement matters. It is also worth noting that, whilst no representations have been received from nearby residents, that within the correspondence submission to Boston Borough Council, representation has been received from the Parish Council and neighbouring residents raising concerns; further emphasising this matter.

It is noted that construction management, and in particular the impacts of HGV's and other construction traffic is a significant amenity consideration in this application. With that in mind, any application to agree an alternative would be considered a material change to the impacts this scheme has on the amenity of residents.

It should be noted that, whether that change is fundamentally acceptable or not is not a consideration for this application, it is only necessary to consider whether an amendment would be 'non-material'.

In this case it is not considered that the change would be material owing to the sensitivity of construction matters on the amenity of residents in the wider area.

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.

Conclusion

It is considered that, having regard to the effect of the change, together with the sensitivity of construction matters on the amenity of residents in the wider area arising from the routing of construction traffic, the proposals would have a material effect upon planning permission H04-0849-22.

It is therefore considered that the proposal cannot be considered non-material and is therefore refused.