

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H04-0769-24	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 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.		
Location:	Land To The West Of Cowbridge Road Bicker Fen Boston		
Terminal Date:	7th October 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
05	Meeting Physical Infrastructure and Service Needs
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being

National Guidance

National Planning Policy Framework 2023

- 2. Achieving sustainable development
- 4. Decision-making
- 6. Building a strong, competitive economy
- 8. Promoting healthy and safe communities
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This is an application under S96a for minor amendments to the approved layout following approval reference H04-0849-22 on 21 July 2024 (Proposed development of a photovoltaic solar array, grid connection, access improvement works & ancillary development on land at Bicker Fen, Boston and South Holland).

The application is to amend condition 2 to make changes to the site layout relating to:

1. Removal of the Solar Switchgear Building, Solar Control Building adjacent to Cowbridge Road. These functions have been incorporated into a revised BESS Compound Layout.
2. Revised Battery Energy Storage System (BESS) Compound Layout due to improvements in BESS Technology and relocation of the above elements from the site entrance. The revised layout would be within the consented compound footprint and incorporates a second access. The changes would not be visible externally due to the surrounding acoustic fence.
3. Additional buried cable ducting.

All of the changes are located entirely within Boston. There are no changes to the layout approved within South Holland.

The non-material amendment would correlate with modifications previously approved through the Landscape Ecology Management Plan (Condition 18 (H04-0839-22)). An amendment to the wording of Condition 18 to replace 'Rev E' with 'Rev F' is also sought.

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 21.07.2023.

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

H04-1021-23 - Details of written scheme of archaeological investigation (Condition 7 of H04- 0849-22). Approved 19 December 2023.

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

H04-0204-24 - 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 2 May 2024.

H04-0219-24 - 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.

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

H04-0521-24 - Details of Landscape & Ecological Management Plan (Condition 19 and also relating to Conditions 17, 18 & 20 of H04-0849-22). Approved 9 July 2024.

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

Consultation Responses

None - proposal is a non material amendment.

Planning Considerations

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.

South Holland District 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" indicates that non-material amendments will be approved subject to the following criteria being met:

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.

The criteria set out above are designed to prevent amendments being accepted that would have a detrimental impact upon neighbours or amenity in the wider public interest. Assessing the proposal against the above, the following is considered:

1. There would be no change to red line boundary or application site.
2. The amendment would not conflict with any government guidance or any provisions within the Local Plan.
3. The amendment would not conflict with any of the conditions placed upon H04-0849-22 but the plan numbers for condition 18 would need to be substituted.
4. The proposal would not exacerbate any concerns raised during the consultation process of the original application.
5. There would be no change to the siting or footprint of any buildings in terms of an increase in size. Certain elements are being removed as technology has moved on but this is small in relation to the overall scale of the development and will not be seen.
6. The proposal would not result in an extension, and given the overall scale of the development the decreased size of some of the reduced equipment is not material.
7. The height/volume will not be significantly increased or reduced.
8. The amendments must not result in a fundamental change in the design of the scheme.
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. The amendments do not result in any impacts on neighbouring properties.
11. There is no change to the description of development.

Conclusion

It is considered that the proposals would not have any material impacts in terms of highway safety, residential amenity, the character and appearance of the area, flood risk and other planning considerations. The proposal is non material and is acceptable.

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.