Our Ref: 5467/NMA

07 October 2026

By email only: planningadvice@sholland.gov.uk

Dear Sir or Madam

PROPOSED NON-MATERIAL AMENDMENT TO PLANNING PERMISSION REF H04-0849-22: DEVELOPMENT OF A PHOTOVOLTAIC SOLAR ARRAY, GRID CONNECTION, ACCESS IMPROVEMENTS AND ANCILLARY DEVELOPMENT AT BICKER FEN, BOSTON AND SOUTH HOLLAND

Introduction

We write on behalf of our client, AGR Solar 2 Limited (the Applicant), in relation to an application for a non-material amendment (NMA) to planning permission reference H04-0849-22. Planning permission reference H04-0849-22 provides for the *'Proposed development of a photovoltaic solar array, grid connection, access improvement works & ancillary development'* on land at Bicker Fen, Boston and South Holland ('the Site').

This application is made under Section 96A of the Town and Country Planning Act 1990 (as amended) (TCPA).

Project Background and Proposed Non-Material Amendment

Planning permission H04-0849-22 was granted by South Holland District Council on 21 July 2024. Planning permission reference B/22/0356, for the same development, was also granted Boston Borough Council on 21 July 2024. The planning permissions were granted subject to 21 no. planning conditions.

Following approval, the Applicant undertook a design review of the approved development, and this resulted in some design changes to the general arrangement of the approved development and indicative cable trench proposals which were approved via a NMA in September 2024 (application ref: H04-0769-24).

A second NMA was approved in July 2025 to amend the document approved under Condition 7 (relating to archaeological investigations) of permission H04-0849-22 (application ref: H04-0508-25).

Further detailed design reviews of the proposed development have taken place due to advancements in available technology, to take into account site operational requirements, and to reflect minor changes to design due to constraints discovered following the commencement of construction. This has resulted in the need for some further minor changes to the approved general arrangement, proposed within this NMA application. The changes are as follows:

- Reduction in the number of solar inverter / transformer stations from 22 to 9;
- Change in Battery Storage Container and Inverter / Transformer Station technology provider;
- Minor changes to the placement and size of the solar panels (within the same solar development areas as approved, no increase in height);

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- Installation of string inverters, attached to the underside of the solar PV panels.
- Realignment of access roads and resultant re-location of solar inverter / transformer stations along these roads;
- Reduction in height of acoustic fence from 5m to 3.5m; and
- The removal of circa 0.5ha of land from development entirely.

The amendments proposed would not extent outside of the current 'fenced development areas' and no changes to the red line boundary are required.

We are also requesting, as part of this NMA, for a minor amendment to the wording of Condition 17 relating to lighting, as set out below:

Prior to the installation of any lighting (other than temporary lighting for construction), ~~and before any above ground works commence,~~ details of all external lighting to all buildings and areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include luminance, fields of illumination, the type, design, location, angle, fall, spread and intensity of the lighting together with a lighting assessment which sets out a lighting strategy and measures to minimise the impact of lighting, particularly on any nearby residences, villages or on wildlife/biodiversity. The lighting strategy shall be informed by the Landscape and Ecological Management Plan required by Condition 19 to minimise the impact of lighting to sensitive receptors and measures to prevent light spillage. The approved lighting scheme and strategy shall be implemented and maintained for the lifetime of the development. There shall be no external illumination other than that so approved.

Reason: To ensure an appropriate level of lighting is provided which is not detrimental to the amenity of the area or biodiversity in accordance with Policies 2, 3, 28 and 30 of the South East Lincolnshire Local Plan 2019.

The above amendment to Condition 17 allows the submission of lighting details that were recently identified during the detailed design of the BESS compound as being necessary, notwithstanding that above ground works have commenced on site. These details will be submitted in parallel with this NMA, under a separate discharge of condition application. No lighting would be installed on site without prior approval from the LPA, in line with this amended condition. Given the nature of the amendment, we do not consider this to be material.

Planning Application Drawing Updates

The amendments identified above result in the need to update a number of approved planning application drawings listed under Conditions 2 and 18. The following table sets out the drawings which are proposed to be amended.

Table 1 – Planning Application Drawing Updates

Approved Drawing No.	Drawing Title	Updated Drawing Number
2920-01-03 Rev F	General Arrangement – Full Layout	2920-01-03 Rev H
2920-01-03a Rev F	General Arrangement – Sheet 1	2920-01-03a Rev H
2920-01-03b Rev F	General Arrangement – Sheet 2	2920-01-03b Rev H
2920-01-03c Rev F	General Arrangement – Sheet 3	2920-01-03c Rev H
2920-01-04	Illustrative PV Frame & Panels	2920-01-04 Rev A
2920-01-05	Solar Farm Inverter-Transformer Station	2920-01-05 Rev A
2920-01-11	Battery Storage Containers	2920-01-11 Rev A
2920-01-12	Battery Inverter and Transformer Station	2920-01-12 Rev A
2920-01-15	Acoustic Screen	2920-01-15 Rev A

2920-01-17	General Arrangement with Sky Lark Mitigation Area	2920-01-17 Rev A
N/A	String Inverter	2920-01-24

Planning Document Updates

In addition to the amendments to the approved planning application drawings, the following documents submitted to discharge planning conditions have been updated to reflect the updated site layout shown on General Arrangement 2920-01-03 Rev H.

Table 2 – Approved Documents to Discharge Conditions Updates

Condition No.	Discharge of Condition Ref.	Submitted Docs	Update
15	H04-0078-24	Foul and Surface Water Drainage Scheme Technical Note (Weetwood, 18 January 2024)	To be read alongside: Surface Water Drainage Scheme Technical Note (Weetwood, 22 June 2026)
19, 20	H04-0521-24	Landscape and Ecological Management Plan v5 (Avian, 06/06/2024)	To be replaced by: Landscape and Ecological Management Plan v6 (Avian, 10/06/2026)

Additional Document Provided

A Noise Technical Note (Noise & Vibration Consultants Ltd, July 2026) is provided alongside this submission which assesses the updated site layout (General Arrangement 2920-01-03 Rev H), including the impact of reducing the acoustic screen height from 5m to 3.5m, and concludes that noise levels at the nearest sensitive receptors would remain within the limits set out within Condition 21.

Consideration of Materiality

Section 96A of the Town and Country Planning Act 1990 (brought into force in England via the Planning Act 2008) states that:

"(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material;

(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted…"[1]

On-line Planning Practice Guidance provided by the Department for Communities and Local Government states that:

"*There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another.*

[1] *Town and Country Planning Act 1990*. (s96a). London: HMSO.

The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application..."[2]

The judgement on 'materiality' in any particular case is one of fact and degree, considered against the development as a whole, not just part of it. The benchmark for forming the judgement is the original planning permission, and the extent to which the proposed amendments could give rise to materially different planning judgements.

In Axis' experience the following questions are frequently used to interrogate the materiality of a proposed change.

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.) in relation to the original approved development?

The proposed amendments, which would improve technical and operational efficiency of the scheme, involve the reduction in the number of solar inverter / transformer stations proposed from 22 to 9, a reduction in the height of the acoustic fence surrounding the Battery Storage Facility compound from 5m to 3.5m, and the removal of circa 0.5ha of land within the site boundary from development all together.

The remaining changes, i.e. change in Battery Storage Container and Inverter / Transformer Station technology provider, minor changes to the placement and size of the solar panels (no increase in height), and realignment of access roads and resultant re-location of solar inverter / transformer stations along these roads would not result in any significant change in terms of scale when compared to the current approved development.

The minor amendment to Condition 17 relating to the submission and approval of lighting details would have no impact relating to scale.

2. Would the proposed change result in a detrimental impact either visually or in terms of amenity in the context of the development as a whole?

The change would be barely noticeable from publicly accessible viewpoints, and given the reduction in the number of solar inverter / transformer stations proposed, reduction in the height of the acoustic fence, and the removal of circa 0.5ha of land from development, visual impact would likely be reduced when compared to the current approved scheme.

As set out previously, the proposed amendments all sit within the same fenced development areas as currently approved. As such, it is unlikely that someone looking into the site would perceive a change in the context of the view.

The minor amendment to Condition 17 relating to the submission and approval of lighting details would have no impact relating to visual or amenity effects. No lighting would be installed on site without prior approval from the LPA, in line with this amended condition.

It is therefore considered that there would be no material change in the visual impact of the proposed development on nearby receptors and no material change in landscape character or visual amenity.

[2] Department for Communities and Local Government, 2014. Planning Practice Guidance. Flexible Options for Planning Permissions. Paragraph 002 Reference ID 17a-002-20140306 [online] https://www.gov.uk/guidance/flexible-options-for-planning-permissions#Making-a-non-material-amendment

3. Would the proposed change result in other impacts which would be materially different to the original approved development such that they could alter the planning judgments made by the decision maker?

We have provided a brief review in the following table of the other key environmental topics addressed in the original application.

Table 3 – Key Environmental Topics

Topic	Impact of the change
Agricultural Land	The Agricultural Land Classification (ALC) survey report submitted within the original planning application (Appendix H of the Planning Statement) identified that the Site comprises Grade 2 and 3a Best and Most Versatile (BMV) agricultural land. Given the removal of circa 0.5ha of land within the site boundary from development proposed within this NMA, there would be a reduced impact on BMV agricultural land as a result of the development, when compared to the current approved proposals.
Heritage	A programme of comprehensive non-intrusive and intrusive archaeological evaluation has been undertaken on the site, and an Archaeological Mitigation Strategy subsequently approved under Condition 9 (PCAS Archaeology, June 2025). The proposed development would continue to accord with the approved Archaeological Mitigation Strategy.
Flood Risk and Drainage	The drainage details submitted to discharge Condition 12 have been updated to reflect the updated General Arrangement (Rev H) and are provided within the 'Surface Water Drainage Scheme Technical Note' prepared by Weetwood (dated 22nd June 2026) included within this submission. This confirms that no material changes to the approved drainage scheme are required, ensures that sufficient attenuation has been provided, and identifies that the updated drainage scheme already has consent approval from the Black Sluice Internal Drainage Board (IDB).
Ecology	The updated General Arrangement has been accounted for within an updated Landscape and Ecological Management Plan and detailed landscaping scheme (see Landscape and Ecological Management Plan v6 (Avian, 10/06/2026)). The BNG delivered from the proposed development will remain significantly in excess of the 10% requirement. As such, the proposed amendments would not have any material ecological impact.
Noise	The proposed amendments result in a significant reduction in the number of inverter / transformer stations required, which are the primary noise source. Furthermore, the Noise Technical Note (NVC, July 2026) provided with this submission identifies that noise impacts would remain within the limits set out within Condition 21 with the reduction in height of the acoustic fence from 5m to 3.5m.
Transport	The amendment would not have a material impact on the construction traffic management proposal and given the reduction in the number of inverter / transformers proposed and therefore requiring delivery, is likely to result in a slight decrease in HGV traffic generation during the construction period.

4. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

On the basis that the amendment would not have a material impact on any of the environmental issues considered in the original determination of the application, and the fact that the amendments relate solely to land within the ownership and control of the applicant, we do not consider that the interest of any third party or body would be disadvantaged.

On the basis of the above, we consider that the amendments proposed do not have a material impact on the planning judgements made when the original application was determined. As such, it is considered that the amendments are non-material in nature and thus can be subject to an application under Section 96A of the Town and Country Planning Act 1990.

Conclusion

A non-material amendment is sought to the approved drawings listed under Condition 2 and 18 of planning permission H04-0849-22, to update details submitted to discharge Conditions 15 (Detailed Drainage Design), 19 and 20 (Landscape and Ecological Management Plan), and a minor amendment to the wording of Condition 16 (Lighting).

This Section 96A application comprises:

1. The completed application form;
2. The relevant fee of £408 (including the £99 service charge) paid via the Planning Portal;
3. This Covering Letter;
4. Planning Drawing 2920-01-03 General Arrangement (Rev H);
5. Planning Drawing 2920-01-03a General Arrangement (Rev H);
6. Planning Drawing 2920-01-03b General Arrangement (Rev H);
7. Planning Drawing 2920-01-03c General Arrangement (Rev H);
8. Planning Drawing 2920-01-04 Illustrative PV Frame & Panels (Rev A);
9. Planning Drawing 2920-01-05 Solar Farm Inverter-Transformer Station (Rev A);
10. Planning Drawing 2920-01-11 Battery Storage Containers (Rev A);
11. Planning Drawing 2920-01-12 Battery Inverter and Transformer Station (Rev A);
12. Planning Drawing 2920-01-15 Acoustic Screen (Rev A);
13. Planning Drawing 2920-01-17 General Arrangement with Sky Lark Mitigation Area (Rev A);
14. Planning Drawing 2920-01-24 String Inverter;
15. Landscape and Ecological Management Plan v6 (Avian, 10/06/2026);
16. Surface Water Drainage Scheme Technical Note (Weetwood, 22 June 2026); and
17. Noise Technical Note (Noise & Vibration Consultants Ltd, July 2026).

We trust the contents of this letter are self-explanatory and look forward to receiving your decision on the non-material amendment application. If you have any queries regarding the proposed amendments or wish to discuss this application in further detail, then please do not hesitate to contact the undersigned.

Yours faithfully

H. Walsh

Hannah Walsh

Associate on behalf of Axis