DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0271-26**	**Applicant:**	**Spalding Energy Company Ltd.**
Proposal:	Erection of three container units each housing a circa 2 megawatts generator, three circa 120,000 litre fuel tanks (one per generator), three transformers (one per generator), underground cabling, and associated hardstanding associated with the Spalding Power Station.		
Location:	Land At Spalding Power Station West Marsh Road Spalding		
Terminal Date:	20th May 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

- Schedule 2, Part 15, Class B

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is a lawful development certificate (proposed), made under Section 192 of the Town and Country Planning Act 1990, seeking confirmation that the development comprising the: *"Erection of three container units each housing a circa 2 megawatts generator, three circa 120,000 litre fuel tanks (one per generator), three transformers (one per generator), underground cabling, and associated hardstanding associated with the Spalding Power Station"*, is lawful

The proposed development is stated to comprise "approximately 160 m2 and would comprise the fuel tanks/containers (119 m2), the transformers (15 m2), and stairs to the containers (26 m2). The maximum external dimensions of the proposed aboveground equipment are:-
-Container units, including stairwells, and fuel tanks (combined): 14.1 m (L) x 5.2 m (W) x 6.7 m (H); and
-- Transformers: 2.4 m (L) x 2.1 m (W) x 2.05 m (H)".

This lawful development certificate has been submitted parallel to a Prior Approval submission for the same application site.

Site Description

The application site comprises Spalding Power Station, located to the west of West Marsh Road, Spalding.

The application site specifically lies to the eastern side of the wider site and comprises a site area of 0.086ha, including the existing access.

Relevant Planning History

Notwithstanding the plethora of previous applications on site, there are no directly relevant applications for this proposal, with the exception of the corresponding Prior Approval submission.

- H16-0272-26 - Erection of 3 container units to house emergency generators - Prior Approval - Under Consideration.

Consultation Responses

During the application process no consultation responses have been received.

Public Representations

There is no statutory obligation for the Local Planning Authority (LPA) to publicise an application for a certificate of lawful development; however, a site notice has been displayed next to the site for 21 days in the interests of transparency.

During the consultation period, no responses have been received from members of the public.

Planning Considerations

This application is a legal determination and planning policy is not relevant to the determination as to whether the proposed use would be lawful. The planning history of the site was investigated. Permitted development rights had not been removed by any previous permissions and the proposal.

The proposal is considered to comprise development, as defined by section 55 of the Town and Country Planning Act 1990, because it involves building operations that are either "structural alterations of or additions to buildings" or "other operations normally undertaken by a person carrying on business as a builder".

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

There are permitted development rights which allow for the development to be carried out for the purposes of electricity undertakings, by statutory undertakers for the generation, transmission, distribution or supply of electricity for the purposes of their undertaking.

These rights are set out within Schedule 2, Part 15, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The applicant has set out that they consider "the relevant sections of the GPDO are within Part 15 of Schedule 2 to the GPDO, specifically being:
- Class B(e) for the container units housing the generators;
- Class B(f) or the fuel tanks and transformers; and
- Class B(a) for the cable".

In support of this application, the following has been submitted:

- Application Form
- Covering Letter dated 19 March 2026
- DWD001 SP01 Rev 02 - Site Location Plan
- DWD001 PL01 Rev 02 - Proposed Site Layout Plan

- DWD001 SD01 Rev 03 - Container/Genset
- DWD001 SD02 01 - Step Up Transformer
- Layout Rotation Letter, dated 29 April 2026.

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 15, Class B

Schedule 2, Part 15 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) relates to 'Power related development'. Specifically, Class B of this Part relates to 'Electricity Undertakings'.

Schedule 2, Part 15, Class B of the GPDO outlines that the following is permitted development:

"Development by statutory undertakers for the generation, transmission, distribution or supply of electricity for the purposes of their undertaking consisting of:
(a) the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line;
(b) the installation or replacement of any electronic communications line which connects any part of an electric line to any electrical plant or building, and the installation or replacement of any support for any such line;
(c) the sinking of boreholes to ascertain the nature of the subsoil and the installation of any plant or machinery reasonably necessary in connection with such boreholes;
(d) the extension or alteration of buildings on operational land;
(e) the erection on operational land of the undertaking or undertaking of a building solely for the protection of plant or machinery;
(f) any other development carried out in, on, over or under the operational land of the undertaking.

In this instance, the proposal relates to the erection of three container units, each housing a circa 2 megawatts generator, three circa 120,000 litre fuel tanks (one per generator), three transformers (one per generator), underground cabling, and associated hardstanding associated with the Spalding Power Station. More specifically, the proposed development and units would comprise "the fuel tanks/containers (119 m2), the transformers (15 m2), and stairs to the containers (26 m2). The Proposed Development also includes an underground electric cable".

As detailed within the submission, "The maximum external dimensions of the proposed aboveground equipment are: - Container units, including stairwells, and fuel tanks (combined): 14.1 m (L) x 5.2 m (W) x 6.7 m (H); and - Transformers: 2.4 m (L) x 2.1 m (W) x 2.05 m (H)".

B.1 of Part 15, Class B sets out that development is not permitted by Class B if:

(a) in the case of any Class B(a) development; (i) it would consist of or include the installation or replacement of an electric line to which section 37(1) of the Electricity Act 1989 (consent required for overhead lines)155 applies; or (ii) it would consist of or include the installation or replacement at or above ground level or under a highway used by vehicular traffic, of a chamber for housing apparatus and the chamber would exceed 29 cubic metres in capacity;
(b) in the case of any Class B(b) development; (i) the development would take place in a National Park, an area of outstanding natural beauty, or a site of special scientific interest; (ii) the height of any support would exceed 15 metres; or (iii) the electronic communications line would exceed 1,000 metres in length;
(c) in the case of any Class B(d) development: (i) the height of the original building would be exceeded; (ii) the cubic content of the original building would be exceeded by more than 25% or, in the case of any building on article 2(3) land, by more than 10%, or (iii) the floor space of the original building would be exceeded by more than 1,000 square metres or, in the case of any building on article 2(3) land, by more than 500 square metres;
(d) in the case of any Class B(e) development, the building would exceed 15 metres in height, or
(e) in the case of any Class B(f) development, it would consist of or include; (i) the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected, or (ii) the installation or erection by way of addition or replacement of any plant or machinery exceeding 15 metres in height or the height of any plant or machinery replaced, whichever is the greater.

Schedule 2, Part 15, Class B - Conditions

B.2 of Schedule 2, Part 15, Class B, details that development is permitted by Class B subject to the following conditions:

(a) in the case of any Class B(a) development consisting of or including the replacement of an existing electric line, compliance with any conditions contained in a planning permission relating to the height, design or position of the existing electric line which are capable of being applied to the replacement line;
(b) in the case of any Class B(a) development consisting of or including the installation of a temporary electric line providing a diversion for an existing electric line, on the ending of the diversion or at the end of a period of 6 months from the completion of the installation (whichever is the sooner) the temporary electric line is removed and the land on which any operations have been carried out to install that line is restored as soon as reasonably practicable to its condition before the installation took place;
(c) in the case of any Class B(c) development, on the completion of that development, or at the end of a period of 6 months from the beginning of that development (whichever is the sooner) any plant or machinery installed is removed and the land is restored as soon as reasonably practicable to its condition before the development took place; and
(d) in the case of any Class B(e) development, approval of details of the design and external appearance of the buildings must be obtained, before development is begun, from: (iii) in any other case, the district planning authority.

Schedule 2, Part 15, Class B - Assessment

The proposed development, as per 'Table 1 - Relevant Part of the GPDO 2015 for each Item of Infrastructure', as submitted within the applicants supporting statement, can be considered within three distinct elements; namely, the three container units housing the generators, fuel tanks and transformers, and the underground cable.

In this regard, it is considered that the relevant sections of Part 15, Class B are relevant:
-Class B(e) for the container units housing the generators;
-Class B(f) or the fuel tanks and transformers; and
-Class B(a) for the cable.

Class B(e) - Container units housing the generators

Class B(e) permits" the erection on operational land of the undertaking or undertaking of a building solely for the protection of plant or machinery". It is considered that the proposed container units as detailed within the supporting covering letter and as shown within the submitted plans, accords with the criteria of Part 15, Class B(e) as detailed above, such as the limiting of the height to 15m, with this proposal being notably below this requirement.

Given that the proposal largely relates to the erection 'on operational land of the undertaking or undertaking of a building solely for the protection of plant or machinery, under Class B(e) of Part 15, the requirements of condition B.2(d) are relevant in this case. As such, approval of details of the design and external appearance of the buildings must be obtained by the district planning authority. In this regard, a Prior Approval application has been submitted to accompany this lawful development certificate, which sets out the design and external appearance of the containers, as required by B.2(d).

It should be noted that whilst a prior approval application has been submitted under reference H16-0272-26 in light of the requirements of Class B.2(d), given its requirement for approval to be obtained from the relevant district authority in respect of the design and external appearance of the containers, there is no express procedure set out for the prior approval under Class 15, Part B. Notwithstanding this, it was considered appropriate to review the detail in this manner. Irrespective of such, this Prior Approval submission considered that the details submitted where acceptable with regard to the design and external appearance.

Class B(f) - Fuel tanks and transformers

Class B(f) permits "any other development carried out in, on, over or under the operational land of the undertaking". The proposal in this instance, in this regard, seeks to provide "three circa 120,000 litre fuel tanks (one per generator) and three transformers (one per generator)".

Part 15, Class B sets out, in relation to this development, that development would not be permitted

by this part if:
"(e) in the case of any Class B(f) development, it would consist of or include (i) the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected, or (ii) the installation or erection by way of addition or replacement of any plant or machinery exceeding 15 metres in height or the height of any plant or machinery replaced, whichever is the greater".

The design and appearance of this development would be similar, and in keeping, with the utilitarian and genderised built form and structures within the Spalding Power Station site. In this regard, the proposal would not result in its design or external appearance would being e materially affected. Furthermore, "the fuel tanks and transformers would not exceed 15 m in height. The fuel tanks and transformers are not replacing any other plant or machinery". As such, the proposal as detailed within the supporting covering letter and as shown within the submitted plans, accords with the criteria of Part 15, Class B as detailed above

Class B(a) - Fuel tanks and transformers

Class B(a) permits "the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line".

Relevant here is B.1(a), B.2 (a) and B.2(b). In this regard, the submitted details show that the cable would be laid entirely underground within the curtilages of the existing Spalding Power Station site. This comprises a new cable and does not seek to replace or temporarily divert an existing electric line; as such, the requirements of B.1(a) are satisfied.

B.2(a) details that "in the case of any Class B(a) development consisting of or including the replacement of an existing electric line, compliance with any conditions contained in a planning permission relating to the height, design or position of the existing electric line which are capable of being applied to the replacement line".

B.2(b) states that "in the case of any Class B(a) development consisting of or including the installation of a temporary electric line providing a diversion for an existing electric line, on the ending of the diversion or at the end of a period of 6 months from the completion of the installation (whichever is the sooner) the temporary electric line is removed and the land on which any operations have been carried out to install that line is restored as soon as reasonably practicable to its condition before the installation took place".

In respect of B.2(a), the proposed development, when considered as a whole, would comprise the installation of an underground electric cable. Notwithstanding this, in this instance there is no existing electric line being replaced, and as such, whilst this does require replacement electric lines to comply with any conditions contained in the extant planning permission relating to the height, design or position, this does not apply to the proposed underground cable in this case.

With regard to B.2(b), the proposal does not seek replace or temporarily divert an existing electric line.

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

The proposal constitutes permitted development and conforms with the relevant requirements and conditions under Schedule 2, Part 14, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Recommendation

Based on the assessment detailed above, it is recommended that the proposal is deemed lawful under delegated authority.