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TOWN AND COUNTRY PLANNING ACT 1990 NON MATERIAL AMENDMENT

Reference: H16-0847-21 **Date of Decision:** 3rd September 2021

Applicant: Spalding Energy Co Ltd, Energy Expansion Ltd & Energy Park
30 Crown Place
Earl Street
London
EC2A 4ES

Location: Spalding Energy Expansion Site West Marsh Road Spalding

Description: Non-material amendment to the conditions of the deemed planning permission associated with the Section 36 consent for the construction and operation of an electricity generating station of up to 945MW (H16-0835-17). Amendments to condition 1 (definitions), condition 6 (removal and/or reprofiling of the Mound), conditions 21 & 22 (construction traffic management plan & access route), condition 43 (biodiversity enhancement measures and condition 45 (surface water drainage) in order to allow for removal and/or reprofiling of the mound as part of the permitted preliminary works and to omit the permitted preliminary works from triggering certain requirements under conditions that would be more appropriately dealt with as part of future development proposals.

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

1 Condition 1 Definitions

In these Conditions unless the context otherwise requires -

"BS 4142:2014" means British Standard 4142:2014 - Method for rating and assessing industrial and commercial sounds;

"Bank Holiday" means a day that is, or is to be observed as, a Bank Holiday or a holiday under the Banking and Financial Dealings Act 1971;

"BREEAM" means the Building Research Establishment Environmental Assessment Method (www.breeam.org);

"the commencement of the Development" means the date on which the Development shall be taken to be initiated in accordance with section 56 of the Town and Country Planning Act 1990, as amended;

"the commencement of each phase of the Development" means the date on which a specified phase of the Development shall be taken to be initiated in accordance with section 56 of the Town and Country Planning Act, as amended;

"the commissioning of the Development" means the date on which, following completion of the testing of the Development, the Development first supplies electricity on a commercial basis;

"the commissioning of each phase of the Development" means the date on which, following completion of the testing of the specified phase of the Development, such phase first supplies electricity on a commercial basis;

"the Company" means Spalding Energy Expansion Limited and its assigns and successors;

"the Construction Environmental Management Plan" shall mean a construction environmental plan based on the Environmental Statement;

"the Construction Traffic Management Plan and Access Route" means a construction traffic management plan and construction traffic access route based on the Environmental Statement;

"the Council" means South Holland District Council and its successors;

"creative conservation" means the establishment of areas which are capable of sustaining locally indigenous species of flora and fauna as well as habitat such as those outlined in the local biodiversity action plan or its equivalent from the UK Biodiversity Action Plan;

"the Development" means a generating station at West Marsh Road, Spalding, Lincolnshire of up to 945 MW comprising:

a combined cycle gas turbine unit of up to 645 MW, a BESS of up to 175 MW and open cycle gas turbine unit(s) of less than 300 MW;

"emergency" means circumstances in which there is reasonable cause for apprehending imminent injury to persons, serious damage to property or danger of serious pollution to the environment;

"Environment Agency" means the Environment Agency and its successors;

"Environmental Statement" means the document titled "Spalding Energy Expansion Environmental Statement" prepared by Spalding Energy Expansion Limited March 2009, the "Spalding Energy Expansion Environmental Statement Further Information Document"

prepared by Spalding Energy Expansion Limited 14 April 2015, and the "Spalding Energy Expansion Further Information Document" prepared by Spalding Energy Expansion Limited 9 August 2017 (in the event of conflict between the information contained in these documents, the information in the later document shall take precedence);

"heavy commercial vehicle" has the meaning given by section 138 of the Road Traffic Regulation Act 1984;

"Natural England" means Natural England and its successors;

"operating weight" in relation to a goods vehicle has the meaning given by section 138 of the Road Traffic Act 1984;

"Permitted Preliminary Works" means:

(i) landscaping and creative conservation, providing these do not require the delivery or removal of bulk filling materials to or from the Site and have been approved pursuant to Condition (39);

(ii) the removal and / or the reprofiling of the mound in accordance with the requirements of Condition (6);

(iii) installation and diversion of utility services within the Site;

(iv) surveys and geotechnical surveys;

(v) provision of wheel cleansing facilities required pursuant to Condition (4); and

(vi) provision for temporary contractors' facilities necessary for (i) to (v) above within the Site;

"relevant planning authority" means South Holland District Council and its successors;

"sewerage undertaker" means the water company responsible for providing a sewerage service within the area of the Development;

"Sheffield stand" means a stand for cycles which has a flat top and two 90° bends with the option of a horizontal bar for added security;

"the Site" means the area of land edged red on Drawing Number 1620002349-009-01A Rev P.03 dated 22/02/2017, annexed hereto.

2 Condition 6 Removal and / or Reprofiling of Mound

Unless otherwise approved in writing by the Council, the removal of the mound from the Site and / or the reprofiling of the mound on the Site shall take place in accordance with the environmental mitigation measures detailed in Chapter 6 of the "Spalding Energy Expansion Environmental Statement" prepared by Spalding Energy Expansion Limited March 2009.

Reason: To allow for the Site to be prepared prior to the start of the construction of the Development.

3 Condition 21

The removal and / or reprofiling of the mound pursuant to Condition (6) and the commencement of each phase of the Development shall not take place until a Construction Traffic Management Plan and Access Route which incorporates adequate provision for addressing any abnormal wear and tear to the highway has been submitted to, approved in writing by and deposited with, the Council. The Construction Traffic Management Plan shall include proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure that no other local roads are used by construction traffic. The construction of the specified phase of Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing by the Council.

4 Condition 22

For the duration of the construction period of the Development and the removal and / or reprofiling of the mound, all heavy commercial traffic associated with the construction of the development or the removal and / or reprofiling of the mound will comply with the Construction Traffic Management Plan and use only the Construction Traffic Access Route and no other local roads unless approved in writing with the Council in consultation with the Highway Authority or is associated with an emergency.

Reason: To ensure reasonable and proper control to be exercised over the methods of construction of the Development and to reduce the number of traffic movements for the safety of other road users and pedestrians.

5 Condition 43

Except for the Permitted Preliminary Works, the commencement of the Development shall not take place until a scheme of Environmental Enhancement Measures has been submitted to, approved in writing by the Council in consultation with Natural England. The Measures shall be adhered to in accordance with the required scheme except in so far as any variation has been approved in writing by the Council, in consultation with Natural England. The Scheme shall be based on the information outlined in Chapter 13 of the Environmental Statement (March 2009) and Chapter 11 of the Variation Application Environmental Statement Further Information Document (March 2015) and include the following:

(i) the measures to be taken to secure and enhance the welfare, on the Site, of flora and fauna (including badgers, bats, otters, amphibians, reptiles, nesting birds and water voles) which are found on, inhabit or use the Site during the construction, operation and decommissioning of the Development.

(ii) Agreed monitoring and mitigation as detailed in Chapter 13 of the Environmental Statement (March 2009) and Chapter 11 of the Variation Application Environmental Statement Further Information Document (March 2015).

Reason: To ensure that any adverse impact on wildlife is properly compensated for.

6 Condition 45

Except for the Permitted Preliminary Works, the commencement of each phase of the Development shall not take place until a surface water drainage scheme for the Site associated with the specified phase of the Development, based on the information outlined in Chapter 12 of the Environmental Statement (March 2009) and Chapter 18 of the Variation Application Environmental Statement Further Information Document (March 2015) based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the Development, has been submitted to and approved in writing by the Council. The scheme shall be implemented in accordance with the approved details prior to the commissioning of the specified phase of the Development unless otherwise agreed in writing by the Council.

Reason: To ensure there is no increase in the risk of flooding, both at the Site and to third parties, as result of the Development.

Notes:

The determined plans are:

Application form;
1620002349-009-01A Rev P.03;
Covering letter from DWD Property & Planning dated 6 August 2021;
Draft amended deemed planning permission.

This Decision Notice should be read in conjunction with that of the parent deemed planning permission reference H16-0835-17 and all conditions (plus the amended wording to the six conditions the subject of this non-material amendment) imposed on the previous deemed planning permission apply to the proposal as now amended.



Phil Norman
Planning Manager
South Holland District Council

BUILDING REGULATIONS:

This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.