

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H16-0847-21 **Applicant:** Spalding Energy Co Ltd, Energy Expansion Ltd & Energy Park

Proposal: 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.

Location: Spalding Energy Expansion Site West Marsh Road Spalding

Terminal Date: 6th September 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Representations:

	Object	Support	No Obj.	Comments
--	--------	---------	---------	----------

CASE OFFICER ASSESSMENT

Proposal

This NMA application proposes non-material changes to condition (1) (Definitions); condition (6) (Removal and/or Reprofiling of the Mound); conditions (21) and (22) (Construction Traffic Management Plan and 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.

To allow the mound re-profiling works to be carried out the Applicant has applied separately (H16-0870-21) for approval of details pursuant to the following conditions insofar as they relate to works to the mound only:

- Condition (4) (Wheel Washing);
- Condition (14) (Construction Environmental Management Plan);
- Condition (16) (Reversing Alarms);
- Condition (21) (Construction Traffic Management Plan and Access Route);
- Conditions (33)-(35) (Contaminated Waste); and
- Condition (40) (Landscaping and Creative Conservation).

Site Description

The site is on West Marsh Road to the south of the first Spalding Power Station. The OCGT station has been constructed and is now operational.

History

The Spalding Energy Expansion generating station was originally granted deemed planning permission by the Secretary of State by way of a direction under TPCA section 90(2) alongside consent under section 36 of the Electricity Act 1989 on 11 November 2010 (SHDC ref. H16-0241-09). Subsequently both the Section 36 consent and the deemed planning permission have been varied, most recently on 31 January 2018 (SHDC ref. H16-0835-17); this constitutes the existing consent. The existing consent incorporates non-material changes to the deemed planning permission previously approved by SHDC on 7 August 2017 pursuant to NMA application ref. H16-0605-17.

Consultation Responses

N/A

Planning Considerations

Whether the changes proposes are of a nature which may be considered to be non-material.

The existing consent envisages removal of the mound that currently occupies part of the Site; these works are listed as one of the 'Permitted Preliminary Works' as defined in condition (1) of the deemed planning permission. There is now an opportunity to retain and reprofile the mound on the site and use it to raise the finished ground levels (required for flood mitigation purposes) in preparation for future development. The Applicant has established that there is no viable demand for the material off-site and rather than disposing of it there is the opportunity to retain and re-use it on site which is considered to be a more sustainable option. The Applicant would like to carry out these works in early September.

The proposed amendments to the wording of the conditions reflects this change to incorporate the retention and reprofiling of the mound on the site.

Conclusion

That the changes to the conditions proposed are acceptable as a non-material amendment.

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.