SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 07 September 2022**

(Author: **Richard Fidler - Development Manager)**

Purpose: **To consider Planning Application H16-1327-21**

Application Number:	H16-1327-21	**Date Received:**	21 December 2021
Application Type:	FULL		
Description:	Construction and operation of an unmanned Battery Energy Storage System ('BESS') with a power capacity of up to 550 megawatt ('MW') with associated works including control and protection systems, power conversion systems (and associated transformers), temperature regulation systems, a main step-up transformer(s) and switchgear, welfare facilities, electrical cabling and electrical connection, and other associated works.		
Location:	Land at Spalding Power Station West Marsh Road Spalding		
Applicant:	Spalding Energy Park Ltd.	**Agent:**	DWD LLP
Ward:	Spalding Castle	**Ward Councillors:**	Cllr G J Taylor

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-1327-21

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Planning issues merit Planning Committee consideration.

2.0 PROPOSAL

2.1 The application seeks full planning permission for the construction and operation of an unmanned Battery Energy Storage System ('BESS') with a power capacity of up to 550 megawatts ('MW') with associated works including control and protection systems, power conversion systems (and associated transformers), temperature regulation systems, a main step-up transformer(s) and switchgear, welfare facilities, electrical cabling and electrical connection, and other associated works.

2.2 The Spalding Energy Park BESS would comprise:
-Batteries, housed in containers / enclosures, also including:
-Control and protection systems;
-Power conversion systems and associated transformers; and,
-Temperature regulation systems;
-An Electrical Banking Station (comprising a main step-up transformer(s) and switchgear);
-A Welfare Compound (comprising office areas, kitchen facilities, changing / toilet facilities and car parking);
-Electrical cabling and electrical connection;
-Site security (including: fencing; Closed Circuit Television ('CCTV') / security cameras; and, operational (intermittent) lighting columns); and,
-Landscaping.

2.3 Other associated development works include:
·Site preparation (including any necessary ground works to raise the site to the required levels); and,
·Provision of site drainage.

2.4 The Spalding Energy Park BESS would connect to the existing National Grid 400kV Spalding North Substation and would function by taking energy from the electricity grid when demand is low or supply high, and feeding it back on to the grid when demand is higher or supply lower.

2.5 It is considered that the proposed BESS is not EIA development by virtue of its limited scale and impacts, the nature of the receiving environment, and the proposed mitigation.

2.6 If planning permission is granted for the Spalding Energy Park BESS, it would not be possible to implement the remaining components of the Spalding Energy Expansion (SEE) development. Therefore, in practical terms the Spalding Energy Park BESS would replace the unbuilt elements of the SEE development.

3.0 SITE DESCRIPTION

3.1 The application site of 12.6 hectares (ha) is located off West Marsh Road, in Spalding, to the south of the existing InterGen-owned Spalding combined cycle gas turbine ('CCGT') Power Station, and immediately to the west of the existing InterGen-owned Spalding open cycle gas turbine ('OCGT') Power Station.

3.2 Most of the application site comprises the remaining part of the consented and part-implemented Spalding Energy Expansion development site that was granted consent originally in 2010 under Section 36 of the Electricity Act 1989 ('S36 Consent') and Deemed Planning Permission under section 90 of the Town & Country Planning Act 1990. The S36 Consent (as subsequently varied, most recently in 2018) permits the construction and operation of "a combined cycle gas turbine ('CCGT') with open cycle gas turbine ('OCGT') generating station (incorporating a Battery Energy Storage System ('BESS')".

3.3 An OCGT unit has been constructed and commenced commercial operation in 2019; however, the CCGT is not to be progressed and the applicant intends to develop a larger scale BESS than the BESS currently authorised by the S36 Consent. BESS developments now fall to be consented under the Town & Country Planning Act 1990, hence the application has been submitted to SHDC for determination.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

01 Spatial Strategy
02 Development Management
03 Design of New Development
04 Approach to Flood Risk
06 Developer Contributions
07 Improving South East Lincolnshire's Employment Land Portfolio
28 The Natural Environment
30 Pollution
31 Climate Change and Renewable and Low Carbon Energy
32 Community, Health and Well-being
33 Delivering a More Sustainable Transport Network
36 Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 1: Achieving sustainable development;
Section 6: Building a strong, competitive economy;
Section 8: Promoting healthy and safe communities;
Section11: Making effective use of land;
Section 12: Achieving well-designed places;
Section 14: Meeting the challenge of climate change, flooding and coastal change; and
Section 15: Conserving and enhancing the natural environment.

The National Policy Statements ('NPSs') make up the planning policy framework for examining and determining Nationally Significant Infrastructure Projects ('NSIPs'). As the Proposed Development is not a NSIP, the NPSs are not directly relevant; however, they do form material considerations in the determination of the planning application.
The following NPSs are considered to be most relevant:
-Overarching NPS for Energy ('EN-1').
-NPS for Renewable Energy Infrastructure ('EN-3'); and
-NPS for Electricity Networks Infrastructure ('EN-5').

National Policy Statement for Energy (NPS EN-1) (DECC, 2011) provides the need case for larger scale energy projects and is material to decisions on other projects such as this. It identifies at paragraph 3.3.15 'in order to secure energy supplies that enable us to meet our obligations for 2050, there is an urgent need for new (and particularly low carbon) energy NSIPs to be brought forward as soon as possible, and certainly in the next 10 to 15 years'.

Draft National Policy Statement for Renewable Energy (Draft NPS EN-3) (BEIS, 2021).

4.2 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H16-0847-21 - 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.
Approved 03/09/2021.

5.2 H16-0835-17 - Variation of the 2015 varied Section 36 Consent to enable a Battery Energy Storage System (BESS) to be provided alongside the Combined Cycle Gas Turbine Unit(s) (CCGT)and the Open Cycle Gas Turbine Unit(s) (OCGT)'.
No objection to the Section 36 consent and deemed planning permission variation confirmed 28/11/2017.
Granted by the Secretary of State 31/01/2018.

5.3 H16-0605-17 - Non-material amendment to the conditions of the deemed planning permission associated with the Section 36 consent for a generating capacity of the development permitted of up to 945MW (H16-0492-15). Proposed additional condition to provide that a phasing scheme be submitted to and approved by the Local Planning Authority, amendments to Conditions 1, 4, 7, 8, 13, 14, 21, 23, 27, 28, 40, 41, 42, 45, 48, 49 and 50 to allow the details to be submitted prior to the commencement and/or commissioning of each phase of development.
Approved 07/08/2017.

5.4 H16-0492-15 - Variation of Section 36 consent for a generating capacity of the development permitted of up to 945 MW.
No objection to the Section 36 consent and deemed planning permission variation confirmed 07/07/2015.
Granted by the Secretary of State 30/10/2015.

5.5 H16-0241-09 - Proposed 900MW CCGT Electricity Generating Station.
No objection to the Section 36 consent and deemed planning permission confirmed 28/01/2010.
Granted by the Secretary of State 11/11/2010.

6.0 REPRESENTATIONS

6.1 Lincolnshire Police

No objections.

6.2 Environment Agency

No objection subject to the development being carried out in accordance with the submitted Flood Risk Assessment.

6.3 LCC Historic Environment

Would not recommend that any archaeological impact be required for this present application.

6.4 LCC Local Highway & Lead Local Flood Authority

No objection subject to conditions.

6.5 SHDC Environmental Protection (Noise)

No objection.

6.6 Welland & Deepings IDB

Comment that the site is bounded on the north-west by the Board's Vernatts Drain which is afforded the protection of a 9 metre byelaw which prevents new fences, buildings, structures, landscaping etc being installed within this distance without the prior written consent of the Board. Also advise early consultation with the Environment Agency as surface water for the site will be disposed of via the River Welland.

6.7 Anglian Water

As there is no connection to the Anglian Water sewers, have no comments.

6.8 Lincolnshire Fire & Rescue

When construction and commissioning has been completed, a risk visit and discussion with the operator's subject matter expert will be carried out to enable LFR to plan a response. This proposal is supported as an important and necessary infrastructure development for the County.

6.9 Lincolnshire Wildlife Trust

No objection but ask for further information on:
-How measurable Biodiversity Net Gain will be achieved on site and how it will be in-keeping with local landscape character.
-Landscape planting at the site. This should include native species of local provenance with known value to wildlife, including those at the entrance to the site. Appendix F suggests defensive planting to shield the site from view and deter access rather than for biodiversity benefit. Consideration could be given to an appropriate wildflower meadow mix or other wildflower planting scheme at the entrance.
-If possible, other areas of land within the applicant's control could also be enhanced to contribute to biodiversity net gain at the site and provide more open features consistent with existing habitat.

6.10 Lincolnshire Bat Group

Initially commented that further work be undertaken regarding potential lighting impact. given that both the Vernatt's Drain and the River Welland are major feeding areas for pipistrelle bats, with likely evidence of crossing from one site to the other.

Following the response from the applicant commented that this was reasonable, so fine with this being conditioned.

6.11 Agent's response to Lincolnshire Wildlife Trust

Initial scenarios confirmed that biodiversity net gain can be achieved through post-development on-site habitat enhancement options (for the initial scenarios considered, the average 'Natural England Biodiversity Metric' (v3.0) output is approximately 5%), within the Application Site redline boundary.

It is anticipated that the formal requirement for a detailed landscaping plan, including a detailed Biodiversity Metric output demonstrating a net gain up to and around 5%, will be secured via a condition in the planning permission, allowing a detailed landscaping plan to be developed in parallel with the Spalding Energy Park BESS detailed design. This is considered appropriate in view of the partial status of implementation of biodiversity net gain (i.e. policy but not law, and with no credit system in place) and the importance of ensuring that the development is deliverable so that it can contribute to national energy needs.

Regarding the local landscape character, and native species, the Application Site is located within the 'Settled Fens' Local Landscape Character Type1 . Noting that the 'Settled Fens' LCT is a flat landscape, dissected by ditches (often located on raised banks), drainage channels, rivers and roads, views across the landscape are often shortened by buildings, hedgerows, shelterbelts and woodland.

Regarding the shelterbelts and woodland, the survey area baseline broadleaved (semi-natural) woodland includes an understorey dominated by hazel (Cory/us avellana) and hawthorn (Crataegus monogyna). This habitat was noted to contribute to the biodiversity of the local area, and provide potential habitat for commuting foraging bats, birds and common invertebrates, and terrestrial habitat for otters.

The indicative landscaping plan includes these species and, therefore, agrees with the request of Lincolnshire Wildlife Trust to include native species appropriate to the conditions and locality.

Regarding consideration of other planting, as noted above, post-development on-site habitat enhancement options have included consideration of Grassland; Other Neutral Grassland (in Moderate Condition), such as a "wildflower meadow mix or other wildflower planting". Such consideration aligns with the request of the Lincolnshire Wildlife Trust.

As noted above, it is anticipated that a detailed landscaping plan will be developed in parallel with the Spalding Energy Park BESS detailed design, to allow for the selection / appointment of a BESS integrator and any phasing, as for energy developments it is important that flexibility is retained to allow for the implementation of the optimal technologies available at the point of delivery to respond to policy and regulatory aims regarding energy security, decarbonisation and affordability.

During development, that any proposed planting will also be aligned with any technical requirements. For example, the use of planting at the site entrance will be aligned against any maintenance and visibility requirements.

In summary, the detailed landscaping plan will have regard to, and reinforce, local landscape character, and further consideration will be given to the use of native species, including any issues associated with planting / seeding mixes and provenance, alongside the use of a wildflower mix or other wildflower planting.

The detailed landscaping plan will consider other areas of available land within InterGen UK Limited / Spalding Energy Park Limited's control.

Whilst immediately adjacent to the west, the Application Site does not include the Vernatt's Drain Local Wildlife Site. As such, it is not considered that the Spalding Energy Park BESS will contribute to a material infilling or loss of grassland along the corridor of the Vernatt's Drain Local Wildlife Site.

The Applicant agrees that it is desirable (albeit not mandatory) to seek biodiversity net gains, and anticipate that appropriate conditions in the planning permission will secure and deliver this.

6.12 Agent's response to Lincolnshire Bat Group

"We note that LBG is complimentary on the comprehensiveness of the ecological appraisal work that supports the planning application but suggests that additional information on the potential impact of the external lighting on bats. LBG state that "...both the Vernatt's Drain and the River Welland are major feeding areas for pipistrelle bats, with likely evidence of crossing from one site to the other...".

The application provides the following explanation on lighting: "...there will be no permanent or regular lighting, and only emergency / intermittent lighting is proposed. The operational (intermittent) lighting columns will be motion sensitive (for example, controlled by an infrared motion sensor system), and will switch on only when movement within the BESS site is detected or when essential operational maintenance is required. The emergency / intermittent lighting will be highly directional (for example, controlled by cowling) to avoid excessive light spillage beyond the boundary fencing. The associated lighting design will be undertaken with reference to the relevant guidance such as the 'Guidance Note 01/21 for the Reduction of Obtrusive Light'. Furthermore, whilst they are noted to be up to approximately 4 m in height, the operational (intermittent) lighting columns will be of the minimum height possible to provide the required lighting. As the light emissions from the operational (intermittent) lighting columns will be motion sensitive and highly directional, any nuisance will be extremely limited in spatial and temporal extent / nature." (Planning Statement paragraphs 3.35-3.37). The lighting will be designed both to ensure a safe operational environment and mitigate the cause of any nuisance. The design of the external lighting, however, has not been concluded at this stage as it is solely dependent on the final design of the development as a whole.

We are anticipating that, should planning permission be granted it will be subject to conditions relating to design aspects, which we will comply with, including the lighting scheme.

It should be noted that whilst there is a degree of flexibility sought in terms of layout and design the parameter submitted with the application that defines this flexibility commits to a minimum-sized landscaping zone (10m wide) around the perimeter of the southern half of the application site as defined by the yellow hatching on the parameter plan. The section along the southern boundary in particular provides a realistic flight line which continues to maintain the connection between the water courses. A condition that requires compliance with the parameter plan will therefore ensure that the detailed design incorporates this feature."

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 The key issues to be considered in the determination of this application are:
-Principle of the Proposed Development;
-Design (layout, scale & appearance) and landscape & visual impact;
-Flood risk and drainage;
-Biodiversity;
-Noise impacts;
-Ground conditions; and
-Transport and Travel.

7.3 Principle of the Proposed Development

7.4 The NPPF, in Section 1, states that "The purpose of the planning system is to contribute to the achievement of sustainable development" (NPPF paragraph 7) by way of three overarching objectives: "a) an economic objective - to help build a strong, responsive and competitive economy...b) a social objective - to support strong, vibrant and healthy communities...and c) an environmental objective - to protect and enhance our natural, built and historic environment..." (NPPF paragraph 8). Paragraph 9 confirms that these objectives are not criteria against which every decision can or should be judged but decisions should play an active role in guiding development towards sustainable solutions taking into account the character, needs and opportunities of each area.

7.5 The NPPF in Section 6, paragraph 81 states that "Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation..."

7.6 NPPF, in Section 11, paragraph 120 requires that planning decision should give substantial weight to the value of using suitable brownfield land within settlements for identified needs and support opportunities to remediate land such as the Application Site.

7.7 The NPPF sets out its support for renewable energy development in Section 14). Paragraph 152 states that "The planning system should support the transition to a low carbon future. It should help to...support renewable and low carbon energy and associated infrastructure." Paragraph 158 goes on to state "When determining planning applications for renewable and low carbon development, local planning authorities should...¦not require applicants to demonstrate the overall need for renewable or low carbon energy...and approve the application if its impacts are (or can be made) acceptable...".

7.8 The Overarching National Policy Statement for Energy (EN-1) states that "there are a number of other technologies which can be used to compensate for the intermittency of renewable generation, such as electricity storage". It goes on to state that "electrical energy storage allows energy production to be decoupled from its supply and provides a contribution to meeting peak demand".

7.9 South East Lincolnshire Local Plan (SELLP) Policy 1: Spatial Strategy directs new development to within the settlement boundaries. The Application Site is allocated (under references SP037 ('Spalding Power Station') and SP038 ('Spalding Power Station B')) in Policy 7: Improving South East Lincolnshire's Employment Land Portfolio of the Local Plan as a 'Restricted Use Employment Site' "to encourage investment in power generation-related industries". The supporting text at paragraph 4.2.2 notes that low carbon industries is one of the identified growth sectors.

7.10 SELLP Policy 31: Climate Change and Renewable and Low Carbon Energy, part B, supports the development of renewable energy facilities and associated infrastructure subject to demonstrating no significant harm.

7.11 In September 2021 the Department for Business, Energy and Industrial Strategy released updated drafts of the Energy NPSs on which they were consulting until 29 November 2021. The Draft Overarching National Policy Statement for Energy (EN-1) states that it "has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon power, heat and transport can be integrated" (Draft Overarching National Policy Statement for Energy (EN-1) (September 2021) paragraph 3.3.25). It goes on to state that "Storage is needed to reduce the costs of the electricity system and increase reliability by storing surplus electricity in times of low demand to provide electricity when demand is higher. Storage can provide various services, locally and at the national level. These include maximising the usable output from intermittent low carbon generation (e.g. solar and wind), reducing the total amount of generation capacity needed on the system; providing a range of balancing services to the NETSO and Distribution Network Operators (DNOs) to help operate the system; and reducing constraints on the networks, helping to defer or avoid the need for costly network upgrades as demand increases." (Draft Overarching National Policy Statement for Energy (EN-1) (September 2021) paragraph 3.3.25).

7.12 It is considered the principle of the proposed development both in terms of being located at the application site and in terms of its contribution to energy supply objectives and the transition to a low carbon economy is supported by the NPSs, the NPPF and SELLP policies 1, 7 and 31.

7.13 The application site is previously developed/brownfield land within the defined settlement boundary of Spalding. Further, the application site is specifically allocated under Policy 7 for power generation-related industries. It is acknowledged that the SP037 and SP038 site allocations, which apply to the application site, refer to employment uses directly associated with power-generation and that operation of the Spalding Energy Park will generate limited

direct employment as it will be unmanned. Nevertheless, job opportunities be supported during construction of each phase as well as for ongoing augmentation and maintenance during the lifetime of the Proposed Development. The thrust of Policy 7 is support of economic growth and the proposed development represents economic growth despite not falling within the traditional B class categories.

7.14 Given the suitability of the application site for a development of this nature, in part established through the extant S36 Consent, and the clear support for energy storage in supporting renewable energy and the transition to a low carbon economy set out in SELLP Policy 31 (part B) and the NPSs and NPPF, the principle of the proposed development at the application site is considered to be in accordance with planning policy.

7.15 Design (layout, scale & appearance) and landscape & visual impact

7.16 The NPPF at Section 11 paragraph 119 promotes the effective use of land in meeting identified needs.

7.17 Section 12 emphasises that good design is a key aspect of sustainable development and seeks to ensure that developments meet the following criteria:

(a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting...;
(e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space)...;
f) create places that are safe, inclusive and accessible and...where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience." (NPPF paragraph 130).

7.18 NPPF Section 14, Paragraph 155, states to help increase the use and supply of renewable and low carbon energy, plans ".. should that provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily including cumulative landscape and visual impacts".

7.19 SELLP Policy 2 (Development Management) states that "Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:
(1) size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses;
(2) quality of design and orientation;
(3) maximising the use of sustainable materials and resources;
(4) access and vehicle generation levels;
(5) the capacity of existing community services and infrastructure;
(6) impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;
(7) sustainable drainage and flood risk;
(8) impact or enhancement for areas of natural habitats and historical buildings and heritage assets; and
(9) impact on the potential loss of sand and gravel mineral resources."

7.20 Policy 3 (Design of New Development) states that "All development will create distinctive places through the use of high quality and inclusive design and layout and, where appropriate, make innovative use of local traditional styles and materials. Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable." It goes on to state that development proposals will demonstrate how a number of issues, where relevant to the proposal, will be secured, including relating to accessibility by a choice of travel modes, provision of parking, lighting, orientation of buildings, residential amenity and flood risk.

7.21 The final design of the proposed development is yet to be confirmed, pending factors such as

the selection and appointment of a BESS integrator, detailed design, the selection and appointment of Construction Contractor (or Construction Contractors), further ground investigations, the accuracy of existing services and utilities information and agreements with existing services and utilities operators. In particular it should be noted that the exact size, number and therefore the area to be occupied by the battery containers/enclosures and the associated control (including temperature), protection and power conversion systems and transformers and the associated layout and visual appearance, will be dependent on a number of factors. These include the selected / appointed BESS integrator; the initial BESS power capacity (MW) and duration / energy storage capacity (hours / MWh); and, the subsequent BESS augmentations. Therefore, an appropriate degree of flexibility has been incorporated into the application and supporting reports. To support this approach, a parameter envelope has been determined based on the required flexibility. Appropriate control is afforded by the parameter plans, in particular, by defining maximum extents (horizontal plane) and heights (vertical plane) of the Electrical Banking Station and the main BESS component, which also act to constrain the overall scale and amount of storage.

7.22 Conditions would be imposed to require the Council's approval of final details of design of each phase. Approval of the parameter plans and the imposition of other conditions are considered to provide an appropriate level of control over the form of development and its effects. This is the approach that was taken with the main Power Station and also the Viking Link converter station.

7.23 The design of the BESS in general seeks to maximise durability and reliability due to the importance of the infrastructure, in terms of both regular and long-term maintenance requirements. Materials and finishes would be selected to meet this objective and also to ensure that the appearance of the Spalding Energy Park BESS does not materially deteriorate over its operating lifetime.

The application site is largely surrounded by existing commercial and industrial development. Any views of the Application Site and Proposed Development from the open land to the east of the River Welland would therefore include the context of the existing significant vertical structures and massing of large commercial/industrial buildings and structures. Based on the viewpoint analysis provided in Appendix F of the Environmental and Technical Report, the visual receptors identified are considered to have low vale and low susceptibility to change and therefore it is considered unlikely that there is potential for significant visual effects / impacts, and the Spalding Energy Park BESS would be accommodated within its visual context / setting.

7.24 The proposed soft landscaping around parts of the application site perimeter would create a soft edge between the application site and adjacent accessible areas, creating a more visually pleasing boundary as well as providing opportunities for biodiversity enhancement.

7.25 Finally, the Environmental and Technical Report provided with the application refers to the concept of an accepted environmental impact envelope at the application site, established via the extant S36 Consent for the unbuilt elements of the SEE development (referred to as 'Committed Development'). Compared to a CCGT Power Station (the most significant unbuilt element of the SEE development) a BESS has far fewer tall structures, moving parts, noise generating sources, and cooling systems and does not emit NOx and CO2. Appendix A of the Environmental and Technical Report provides a more detailed comparison of the proposed Spalding Energy Park BESS and the Committed Development. The extant S36 Consent represents a 'fallback' position which constitutes a material consideration in the assessment of the acceptability of the design and visual impact of the proposed development.

7.26 The proposed development is therefore considered to comply with SELLP Policy 2 (Development Management) and Policy 3 (Design of New Development) as well as the principles set out sections of the NPPF identified above.

7.27 Flood risk and drainage

7.28 The NPPF at Section 14 states (at paragraph 159) that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".

7.29 The NPPF further states (at paragraph 161) that "All plans should apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:
-applying the sequential test and then, if necessary, the exception test...".

7.30 With regards to the sequential test, the NPPF states (at paragraph 162) that "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source"; and, (at paragraph 163) "If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied".

7.31 With regards to the exception test, the NPPF states (at paragraph 164) that "...To pass the exception test it should be demonstrated that:
(a) the development would provide wider sustainability benefits to the community that outweigh flood risk; and,
(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall".

7.32 The associated NPPG contains the following statements of relevance:
-At Paragraph 27 (Ref ID: 7-027-20140306) that "The exception test should only be applied as set out in Table 3 and following the application of the sequential test"; and,
-At Paragraph 66 (Ref ID: 7-066-20140306), under 'Flood Risk Vulnerability Classification' that "Essential Infrastructure" includes "essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations, and water treatment works, that need to remain operational in time of flood".

7.33 SELLP Policy 4 reflects the NPPS and states that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3)...will be permitted, where:
1. It can be demonstrated that there are no other sites available at a lower risk of flooding (i.e. that the sequential test is passed).....The sequential test is not required for sites allocated in the Local Plan...
2. It can be demonstrated that essential infrastructure in FZ3a & FZ3b...provide wider sustainability benefits to the community that outweigh flood risk.
3. The application is supported with a site-specific flood risk assessment, covering risk from all sources of flooding including the impacts of climate change and which:
(a) demonstrate that the vulnerability of the proposed use is compatible with the flood zone;
(b) identify the relevant predicted flood risk (breach/overtopping) level, and mitigation measures...;
(c) propose appropriate flood resistance and resilience measures...to ensure the development maintains an appropriate level of safety for its lifetime;
(d) include appropriate flood warning and evacuation procedures where necessary...;
(e) incorporates the use of Sustainable Drainage Systems (SuDS)..and confirms how these will be maintained/managed for the lifetime of development...;
(f) demonstrates that the proposal will not increase risk elsewhere and that opportunities through layout, form of development and green infrastructure have been considered as a way of providing flood betterment and reducing flood risk overall;
(g) demonstrates that adequate foul water treatment and disposal already exists or can be provided in time to serve the development;
(h) ensures suitable access is safeguarded for the maintenance of water resources, drainage and flood risk management infrastructure"

7.34 SELLP Policy 2 (Development Management) identifies 'sustainable drainage and flood risk' as one of the sustainable development considerations that development proposals should meet.

7.35 The application site is located within a Flood Risk Zone 3 (High Probability).

7.36 In respect of the sequential test, the application site is allocated (under references SP037 ('Spalding Power Station') and SP038 ('Spalding Power Station B')) in SELLP Policy 7 (Improving South East Lincolnshire's Employment Land Portfolio) as a 'Restricted Use Employment Site' "to encourage investment in power generation-related industries" and was subject to sequential testing in the Strategic Flood Risk Assessment (March 2017). Accordingly,

no further sequential testing is required.

7.37 The Spalding Energy Park BESS is considered to be essential infrastructure. Table 3 of the NPPG (paragraph 067 (Ref ID 7-067-20140306)) notes that essential infrastructure can be located within Flood Zone 3 as long as the exception test is passed / satisfied, and as long as the Spalding Energy Park BESS can be "designed and constructed to remain operational and safe in times of flood".

7.38 With regards to the exception test, the sustainability credentials of the Proposed Development comprise:
-The need case set out in section 3, which demonstrates an urgent national need for this type of infrastructure;
-The site selection case set out in section 3, which demonstrates the need applies in this specific location; and
-The efficient use of resources such as through the reuse of existing electrical connection infrastructure; and the efficient use of land and construction materials due to the ability to stack the containerised battery units.

7.39 In terms of the requirement for the Spalding Energy Park BESS to remain operational and safe in times of flood and the requirement for the Proposed Development not to increase flood risk elsewhere, the Flood Risk Assessment in Appendix E of the Environmental and Technical Report provides further detail on the relevant mitigation measures. These include that the relevant parts of the Application Site (i.e. the BESS, Electrical Banking Station and Welfare Compound will be raised to 6.7mAOD above the 2075 1-in-200 (0.5%) flood event tidal/water levels for the River Welland and the 1-in-1000 (0.1%) event tidal / water levels for The Wash.

7.40 Further flood resistance/resilience measures will be fully considered and incorporated where necessary and feasible at detailed design stage.

7.41 Regarding surface water drainage any captured surface water drainage requirements will connect into the existing Spalding OCGT Power Station site drainage system, which (in turn) connects into the existing Spalding CCGT Power Station site drainage system, including a storm / surface water pond. The existing storm/surface water pond periodically discharges to the River Welland and is likely to be able to accommodate surface water drainage from the application site. However, if surface water attenuation within the application site is required, a range of potential attenuation options (SuDS techniques) could be implemented / utilised to reduce peak flows and storm volumes, and also to improve overall water quality. Based on the Indicative Scheme's layout and maximum potential impermeable area, the undeveloped parts of the Application Site provide adequate space to accommodate the captured site drainage storage requirement.

7.42 During construction the Construction Contractor will be required to prepare and implement a CEMP. The CEMP will include a number of aspect-specific management plans, including a 'Flood Warning and Evacuation Plan'.

7.43 On this basis it is considered the proposed development complies with SELLP Policy 2 and Policy 4, the NPPF and the NPPG.

7.44 Biodiversity

7.45 NPPF Section 15 paragraph 174 states that states that planning policies and decisions should contribute to and enhance the natural and local environment by various means, including by "minimising impacts on biodiversity and providing net gains in biodiversity". Improving biodiversity is also noted as one contributing factor to the 'environmental objective' component of achieving sustainable development (NPPF Section 2 paragraph 8).

7.46 SELLP Policy 2 (Development Management) identifies 'impact or enhancement for areas of natural habitats' as one of the sustainable development considerations that development proposals should meet. Policy 3 (Design of New Development) similarly requires development proposals to demonstrate "the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity..."

7.47 SELLP Policy 28 (The Natural Environment) seeks to protect, enhance and manage natural assets, including internationally, nationally and locally-designated sites and protected or priority habitats and species. Part 3 seeks to ensure that all development proposals provide an overall net gain in biodiversity by: "(i) protecting the biodiversity value of land, buildings and trees (including veteran trees) minimising the fragmentation of habitats; (ii) maximising the opportunities for restoration, enhancement and connection of natural habitats and species of principal importance; (iii) incorporating beneficial biodiversity conservation features on buildings, where appropriate; and maximising opportunities to enhance green infrastructure and ecological corridors, including water space; and (iv) conserving or enhancing biodiversity or geodiversity conservation features that will provide new habitat and help wildlife to adapt to climate change..".

7.48 An Ecological Impact Assessment (EcIA) has been undertaken and submitted. The EcIA reports the outcome of a desk study; an Extended Phase 1 Habitat Survey (including daytime inspection for bats) of a wider survey area than the application site; and further Phase 2 Protected Species Surveys for reptiles and riparian mammals (otter and water vole).

7.49 Habitats of more than 'negligible' importance that were assessed as having potential to be affected comprise poor semi-improved grassland (within the south-eastern part of the survey area adjacent to West Marsh Road); the earth bank (within the central part of the survey area); introduced shrub (within the southern part of the survey area); and tall ruderal vegetation (within the central and southern parts of the survey area).

7.50 Species that were assessed as requiring further consideration include badger (likely absent from the application site but highly mobile); bats (potentially present on the application site); birds (potentially present on the application site); otter (potentially present on the application site); and reptiles (present on the application site). The EcIA notes however that within the application site no evidence was recorded of badger or setts; no buildings /trees were present with potential to support roosting bats and only limited habitat for use by commuting/foraging bats; and there was no suitable habitat for use by otters.

7.51 The EcIA notes that the application site contained suitable habitat for use by breeding birds and foraging barn owl, which would be lost; however, this would represent a small area of the total nesting/foraging area, and with no replacement habitat nesting/foraging could occur elsewhere such that any habitat loss would not be expected to affect the conservation status of any species. The application site was assessed as containing habitat suitable for reptiles and one adult grass snake was identified during the reptile surveys.

7.52 The EcIA explains that potential impacts during construction will be mitigated by the CEMP with specific measures set out in the EcIA, such as appropriate timing of vegetation clearance i.e. outside the bird nesting season and preparation of precautionary working method statements for badgers, otter and reptiles comprising a site walk over of relevant areas and a 'Toolbox Talk' to all construction personnel.

7.53 Post-construction, impacts of the Proposed Development are to be mitigated by on-site landscaping. The application incorporates flexibility on the final layout and siting of the proposed development; however, the submitted Site Plan Parameter Drawing reserves an area of 8,843sqm around the perimeter of the southern portion of the Application Site. Given the relatively low ecological value of the application site a landscaping strip of this size would be sufficient to delivery net gain provided appropriate measures are implemented. Measures proposed in the EcIA include creation for birds including bird nest boxes and a barn own nesting box and habitat creation for reptiles including south facing bunds and/or refugia within the landscaping along the western boundary adjacent to Vernatt's Drain. It is proposed that final landscaping and associated biodiversity enhancement details are secured by condition to be developed in parallel with the detailed design stage of the Spalding Energy Park BESS.

7.54 The proposed development is therefore considered to comply with the relevant parts of SELLP Policy 2 (Development Management); Policy 3 (Design of New Development) and Policy 28 (The Natural Environment), as well as the NPPF.

7.55 <u>Noise impacts</u>

7.56 NPPF, Section 15 paragraph 174 states that "Planning policies and decisions should contribute to and enhance the natural and local environment by... various means including... preventing new and existing development from contribution to, being put at unacceptable risk from, or being adversely affected by, unacceptable level...noise pollution..".

7.57 The NPPF goes on to state at paragraph 185 that "Planning policies and decisions should also ensure that new development is appropriate for its location taking account the likely effects (including cumulative effects) of pollution on heath, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life"; (b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason..."

7.58 SELLP Policy 2 (Development Management) identifies "impact upon neighbouring land uses by reason of noise" as one of the sustainable development considerations that development proposals should meet.

7.59 SELLP Policy 30 (Pollution) also requires that development proposals do not give rise to unacceptable adverse noise impacts.

7.60 A Noise Impact Assessment (NIA) has been undertaken. The NIA reports that the outcome of a baseline sound survey at five 'Noise Sensitive Receptors' in the vicinity of Application Site. The NIA then identifies the main sources of noise from the proposed Spalding Energy Park BESS and notes the relevant assumptions on the number of battery units.

7.61 Without mitigation, potential impacts are identified which at four Noise Sensitive Receptors is assessed as minor adverse/not significant and at one Noise Sensitive Receptor is assessed as moderate adverse/potentially significant. The NIA then identifies specific options of features/measures to mitigate this, including an attenuated main step-up transformer and/or a noise barrier or stacked containers along the southern edge of the Electrical Banking Station. Other measures will be considered at detailed design stage as necessary; however, on the basis of these identified measures the impacts at all the Noise Sensitive Receptors is reduced to minor adverse/not significant with the specific noise levels being within the No Observed Effect Level of -10dB(a) or less as set out in BS:4142 (2014): Methods for Rating and Assessing Industrial and Commercial Sound and the Noise Policy Statement for England (2010).

7.62 It is proposed that a condition be imposed requiring an updated noise assessment following detailed design and the imposition of mitigation measures if required.

7.63 On this basis it is considered that the proposed development complies with SELLP Policy 2 (Development Management) and Policy 30 (Pollution) as well as the NPPF.

7.64 Ground conditions

7.65 NPPF, Section 15 paragraph 174 states that "Planning policies and decisions should contribute to and enhance the natural and local environment by... ...preventing new and existing development from contribution to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil...pollution or land instability". Paragraph 183 states that "Planning policies and decisions should ensure that: (a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination...(b) after remediation, as a minimum, land should be capable of being determined as contaminated land...; and (c) adequate site investigation information, prepared by a competent person, is available to inform these assessments".

7.66 SELLP Policy 2 (Development Management) identifies "maximising the use of sustainable materials and resources" as one of the sustainable development considerations that development proposals should meet. The supporting text at paragraph 3.3.5 notes that this includes the "sustainable use of existing materials on site (e.g. reuse of excavated materials for landscaping or raising ground levels)."

7.67 SELLP Policy 30 (Pollution) also requires that development proposals do not give rise to unacceptable adverse impacts upon surface and groundwater quality.

7.68 The central part of the application site is largely comprised of a mound of 'Made Ground', formed during the redevelopment of the former sugar beet factory when the Spalding CCGT Power Station was built. The mound which contains sugar beet washings from the factory's settlement lagoons is approximately 4m higher than the remainder of the site.

7.69 Ground clearance and levelling is due to be / is being carried out pursuant to the S36 Consent, facilitated by the recent NMA approval (ref. H16-0847-21) and discharge of conditions. Reprofiling and retaining the mound material on the Application Site will contribute to the works to raise the levels to 6.7mAOD to mitigate potential flood risks. Any excess material is proposed to be retained to create landscaped bunds of up to 2m in height in the designated landscaping/bund zone. The principle of this is supported by SELLP Policy 2 (Development Management) criterion 3.

7.70 A Ground Conditions Phase 1 Preliminary Environmental Risk Assessment has been undertaken. The assessment reports the outcome of the desktop review of available evidence including information prepared as part of previous development proposals at the application site.

7.71 Previous ground investigations have indicated that the application site is not significantly contaminated and does not exhibit concentrations of contaminants / pollutants in excess of the commercial and industrial criteria. In addition, (during the previous ground investigations) the collection of groundwater samples has indicated that the groundwater is not significantly contaminated, in particular noting that the metal concentrations were low and were considered to be indicative / representative of local background levels. Ground gas is being generated by this Made Ground, with previous ground gas monitoring investigations indicating that the ground gas concentrations and flows are reducing, as would be expected for the decomposition of the Made Ground material.

7.72 Regarding the clearance works, during detailed design / prior to construction, a geophysical survey will be used to identify any remaining underground obstructions / services with subsequent clearance of any likely to impede the BESS development. Regarding the remediation works, during detailed design / prior to construction, validation surveys will be undertaken to verify the previous remediation works, and determine the need for any further remediation works such as asbestos-in-soil testing; collection of groundwater samples and associated analysis; and further ground gas monitoring. This will inform the preparation of risk assessments and allow consideration to be given to the need for protection measures to be imported into the detailed design of the Proposed Development e.g. gas/vapour protection in structures.

7.73 Based on the above, it is considered that adequate site investigation information, prepared by a competent person, is available to inform the assessment and that further investigations, assessments, remediation and verification requirements (as required) can be appropriately secured by conditions.

7.74 On this basis it is considered the proposed development complies with SELLP Policy 2 (Development Management) and Policy 30 (Pollution) as well as the NPPF.

7.75 Transport and Travel

7.76 The NPPF, Section 9 at paragraph 104 states that "Transport issues should be considered from the earliest stages of plan-making and development proposals, so that the potential impacts of development on transport networks can be addressed". Paragraph 110 advises that development proposals should ensure that "...appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location; ...safe and suitable access to the site can be achieved for all users";...and "any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an appropriate degree". Paragraph 111 confirms that "development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residential

cumulative impacts on the road network would be severe".

7.77 SELLP Policy 2 (Development Management) identifies "access and vehicle generation levels" as one of the sustainable development considerations that development proposals should meet. SELLP Policy 5 (Meeting Physical Infrastructure and Service Needs) similarly notes that "Planning permission will be granted for new development provided that developers can demonstrate that there is, or will be sufficient physical infrastructure and service needs capacity to support and meet the needs of the proposed development".

7.78 SELLP Policy 32 (Community, Health and Well-being) states that development will not be permitted unless it (where possible and appropriate) ...protects and enhanced exiting public rights of way...". Policy 33 (Delivering a More Sustainable Transport Network) similarly notes the requirement to "protect existing footpaths, cycle routes and public rights of way from development" as well as seeking to mitigate congestion at pinch points on roads.

7.79 A Transport Statement has been submitted, which considers potential impacts during construction and operation of the Spalding Energy Park BESS.

7.80 The Transport Statement explains that access to the Application Site during construction and operation will be via the existing Gate C access off West Marsh Road. The Transport Statement notes that the access already takes the form of a priority junction and benefits from good visibility splays in both directions.

7.81 During the peak construction period (anticipated to be Q1 and Q2 2024) when equipment delivery and installation and electrical works and pre-commissioning activities are taking place, it is estimated that there will be approximately 100 HGV two-way movements (no more than 5 in an hour) and 290 car/van two-way movements during a day, assuming a conservative one construction personnel per vehicle.

7.82 The Spalding Energy Park BESS will be an unmanned operational facility, noting that continuous and remote monitoring / regular inspection and maintenance visits will be undertaken, and each phase will have an operational lifetime of approximately 20 to 25 years. As such, during normal operation, the Spalding Energy Park BESS will not generate material / significant traffic movements. The augmentations that will take place to ensure that the batteries are returned to their original capacity are also not anticipated to generate material / significant additional traffic movements.

7.83 Therefore, during both normal operation and augmentation, any potential effects / impacts will be negligible.

7.84 Notwithstanding, it is proposed that the construction contractor will be required to prepare and implement a Construction Transport Management Plan (CTMP). The requirement for a final CTMP will be secured via a condition.

7.85 The Transport Statement also notes the committed development i.e. the remaining unbuilt elements of the SEE development that would in effect be replaced by the Spalding Energy Park BESS. The Transport Statement concludes that the construction traffic movements are anticipated to be lower and experiences for a shorter duration than those associated with the committed development.

7.86 With regard to the policy requirements to protect and where possible enhance public rights of way, it should be noted that the proposed development does not interfere with the footpath that runs along the western boundary of the site along the bank of Vernatt's Drain. Furthermore, the proposed landscaping along part of the western boundary of the Application Site should enhance the amenity of the PRoW.

7.87 It is also relevant to note that at the time the Spalding OCGT Power Station was developed, S106 Agreement financial contributions were made by SEEL for the Council to apply towards the provision, improvement or upgrading of cycleways and footpaths linking the application site with Spalding.

7.88 The Indicative Scheme illustratively shows a small car park in the Welfare Compound for visiting inspection and maintenance personnel. It is proposed that these details, including cycle parking provision, are considered following detailed design and will therefore form part of the approval process via a condition.

7.89 In conclusion in respect of traffic and transport matters no significant residual significant effects/impacts are anticipated or considered likely. Therefore, the proposed development is considered to be compliant with the NPPF and SELLP Policy 2 (Development Management), Policy 5 (Meeting Physical Infrastructure and Service Needs), 32 (Community, Health and Well-being), Policy 33 (Delivering a More Sustainable Transport Network) and Policy 36 (Vehicle and Cycle Parking).

7.90 Developer Contributions

7.91 The previous consents for the Power Station included a S106 agreement, which was modified when the OCGT was approved. Obligations for the OCGT total approximately £2.0m including £900,000 towards air quality monitoring and £160,000 towards addressing impacts on the employment land designation which then applied to the site. The OCGT unit has been constructed and commenced commercial operation in 2019. These payments have been and will be made following the trigger dates in the signed S106 agreement, and the payments are unaffected by the BESS development.
As the CCGT is no longer going to be developed and in effect will be replaced by the current proposal for a larger scale BESS. The applicant's agent has set out the following:

7.92 "In planning terms this has considerably reduced, and resulted in different, impacts relative to the CCGT and OCGT developments. A BESS has few employees as it is unmanned, remotely operated; has far fewer tall structures, moving parts and noise generating sources and does not emit oxides of nitrogen, carbon dioxide or other pollutants to air.

The development economics are also very different to a CCGT development. Across the energy sector for many years, new build CCGTs proposed by a range of developers have failed to secure Capacity Market contracts and have not been viable. In contrast SEPL's sister company Gateway Energy Company Limited has recently been awarded a Capacity Market Auction placing to develop at least 320MW of BESS in Thurrock, Essex. TCPA planning permission for this development (for up to 450MW) is expected to be received soon and this could be built, operating, and paying substantial annual business rates to Thurrock Borough Council, within four years. The Gateway site has an existing S36 consent for 320MW of BESS. SEPL are very keen to be in a position to deliver the 550MW BESS at Spalding and would therefore like to agree a set of robust (justified) planning obligations.

Regulation 122(2) of the CIL Regulations 2010 establishes the law in respect of S106 obligations. Potential topics for a planning obligation are reviewed below as to the planning tests, allowing recommendations made as to what might constitute an appropriate obligation.

Cycleways and Footpaths
A PRoW passes by the western edge of the site. However, screening planting/bunding is being provided, the BESS will not cause noise or amenity impacts upon PRoW users, and the development will be unmanned and not operate as much as a CCGT.

A small contribution would be reasonably related in scale and kind to the proposed development. It would be appropriate to set these somewhat lower than the OCGT development which had low staffing levels but higher noise/air emissions. Setting at half the payments made for the OCGT, this would total £17,600 (initial payment) plus £9,600 on the first and second anniversaries of commencement of development.

Employment land
The Application Site is allocated (under references SP037 ('Spalding Power Station') and SP038 ('Spalding Power Station B')) in Policy 7: Improving South East Lincolnshire's Employment Land Portfolio of the Local Plan as a 'Restricted Use Employment Site' "to encourage investment in power generation related industries". The supporting text at paragraph 4.2.2 notes that low carbon industries is one of the identified growth sectors. The proposed BESS is entirely in line with this designation, and impacts upon the fulfilment of policy objectives are not likely.

We have been unable to discern a robust justification for a financial contribution on employment

land grounds.

Apprenticeships
Indirect employment is generated through ongoing preventative and unplanned maintenance. The operation of the BESS would likely result in six additional jobs including at the the existing station. These could support two apprenticeships.

Two apprenticeships are suggested, with a fallback position of a financial payment for each position not filled. An indexation would need to be applied to the amounts in the 2010 S106 i.e. £36,667 per position (£73,334). A related education contribution would also be appropriate to publicise these opportunities. The amount in the existing S106 is £1,600.

Community Facilities
The former British Sugar social club was located on land occupied by the OCGT and was removed some time ago. For both reasons the loss of this facility is not well related to the BESS development. The BESS will also be unmanned and is on land set back from surrounding communities.

SEPL have been unable to discern a robust justification for a financial contribution towards community facilities.

Town centre improvements
The local plan has designated the site for power uses. The BESS is unmanned and does not generate footfall and local shop spend in the way that some power or employment developments would. Generally speaking impacts upon traditional town centre uses have accelerated with online shopping and the pandemic.

A degree of relevance and proximity exist for a contribution here. In terms of amounts, we note that £500,000 is being spent by SHDC on regeneration in Spalding and Holbeach town centres. SEPL would consider any payment should not exceed ¼ of the Spalding portion of this i.e. £62,500 given the very limited extent of the impacts. SEPL would want to identify whether this would go towards specific events, officer resource, or physical improvements.

Biodiversity Enhancement
National policy in relation to biodiversity enhancement has strengthened in recent years. The site is situated adjacent to or near several Local Wildlife Sites (adjacent to Vernatt's Drain and River Welland, and within 500m of Coronation Channel LWS; Pinchbeck Marsh LWS; Spalding Cemetery LWS). However, the BESS will create new habitats within its boundary which is secured by planning condition, and will not have noise, air quality, lighting, shadowing, run-off, footfall, or other impacts on habitats or species.

Due to proximity, and the greater focus of national policy on biodiversity enhancement, a payment towards enhancements to local wildlife sites within 500m could be appropriate. This could be set at around half of the CCGT payment of £27,200 (2010 prices). Indexation could be applied using a construction pricing index. Alternatively, if there are specific projects in mind to improve these sites that have funding calculations SEPL would be content to consider these.

Highway Surfacing
The BESS will mainly be unmanned (up to 6 people employed at the existing station as noted above) and will hence not cause material traffic or congestion impacts. The construction of the BESS would give rise to a small number of heavy vehicle movements and abnormal indivisible load (AIL) movements. AILs would be regulated via the standard procedures that exist for notification of highways authorities and removal/reinstatement of street furniture. General powers exist in the Highways Act 1980 to recover costs from vehicle operators for surface damage. Nevertheless there is potentially a small degree of impact of these HGV and AIL movements upon the road surface.

No payment was shown in the extant S106 despite the substantial civil works proposed. A small contribution could be made recognising the nature of the impact being relevant but the likely extent being small. This could comprise the cost of a survey of the existing road condition before and after the construction phase, for the intended construction traffic/AIL route(s) and then the cost of any identified remedial works.

Planning function resourcing
Once the BESS conditions have been discharged (for which LPA fees are payable by regulation) there is unlikely to be a material statutory planning role in relation to the BESS development. It will be unmanned, industrial in nature and with few traffic movements.

We have been unable to discern a robust justification for a financial contribution towards resourcing statutory planning functions or administering particular covenants/obligations. The typical S106 legal drafting and monitoring costs will be
payable in the usual way.

Total
Without applying suitable indexation total contributions of around £187,000 (plus the costs of road condition surveys and remedial works identified therein) have a reasonable justification. In addition, the reasonable costs of the local authority in drafting and monitoring the S106 would be payable."

7.93 The view of officers is that the above sets out a robust case for the areas that a S106 agreement could legitimately contribute and the offer is therefore in principle considered to be acceptable

7.94 Planning Balance

7.95 Taking all of the above assessment into account, the planning balance is considered to be in favour of the proposed development.

7.96 **Conclusion**

7.97 The principle of battery storage development is supported by local and national planning policy and the proposed development is considered to be an appropriate use of the site which is allocated in the South East Lincolnshire Local Plan (2019) for development associated with power generation-related industries.

7.98 **Additional Considerations**

7.99 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.

7.100 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.

8.0 RECOMMENDATIONS

8.1 **Grant planning permission subject to those conditions listed in Section 9.0 of the report and the completion of a Section 106 agreement requiring financial contributions towards cycleways and footways, apprenticeships and related education contribution, town centre improvements and biodiversity enhancements.**

9.0 CONDITIONS

1. "Permitted Preliminary Works" means works including or comprising the following:

-The clearance of ecological features and exclusion or translocation of species using qualified consultants and contractors and in accordance with Appendix B (Outline Construction Environmental Management Plan (CEMP) Aspect-Specific Management Plans (1433618-10 (V04))) and Appendix C (Ecological Impact Assessment (1433618-29 (V03))) of the Environmental and Technical Report dated 20 December 2021 and any necessary licences, the removal of existing hardstanding, and the removal of any standing surface water present;

-The carrying out of a geophysical survey to identify underground obstructions and services that may be present and may require removal in order to construct the development authorised by the planning permission. In the event that obstructions are found by the geophysical survey and these are in locations where piling or other excavation will be required to construct the development authorised by the planning permission, these will be removed and re-used or disposed of in accordance with Appendix B (Outline Construction Environmental Management Plan (CEMP)
Aspect-Specific Management Plans (1433618-10 (V04))) of the Environmental and Technical Report dated 20 December 2021; and

-Formation of an appropriate temporary construction access, for the purpose of carrying out the other permitted preliminary works.

"Commercial Use" means the date on which, following completion of the testing of the development, the development first supplies electricity on a commercial basis.

Reason: To allow understanding of key terms used in other numbered conditions and for precision.

2. The development must be begun not later than the expiration of five years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. (i) Save for the Permitted Preliminary Works, commencement of development shall not take place until a scheme for the phasing of the works
comprised in the development has been submitted to and approved in writing by the Local Planning Authority.

(ii) The development shall only proceed in accordance with the scheme approved in (i), unless otherwise agreed in writing by the Local Planning Authority.

Reason: To allow the development to be carried out in phases, and to plan suitably for transport implications of improvements to electrical performance or replacements of degraded battery cells.

4. The development hereby permitted, or each phase thereof, shall be carried out in accordance with the following submitted parameter plans:
16181-WDN-XX-XX-DR-A-0320 P02
16181-WDN-XX-XX-DR-A-1000 P02
16181-WDN-XX-XX-DR-A-1010 P02

Reason: For the avoidance of doubt and and to ensure that the development is carried out in accordance with the details as approved with regard to the policies of the adopted South East Lincolnshire Local Plan (2019).

5. The development hereby permitted, or each phase thereof, shall be carried out in accordance with the following submitted parameter plans:
16181-WDN-XX-XX-DR-A-0600 P02
16181-WDN-XX-XX-DR-A-4000 P02
16181-WDN-XX-XX-DR-A-4100 P02

Reason: For the avoidance of doubt and and to ensure that the development is carried out in accordance with the details as approved with regard to the policies of the adopted South East Lincolnshire Local Plan (2019).

6. Save for the Permitted Preliminary Works, the commencement of each phase of development shall not take place until details of the final layout of the specified phase of development has been submitted to and approved in writing by the Local Planning Authority.

Such details shall be in general conformity with the submitted indicative plan 16181-WDN-XX-XX-DR-A- 0500 P02 unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and and to ensure that the development is carried out in accordance with the details as approved with regard to the policies of the adopted South East Lincolnshire Local Plan (2019).

7. Save for the permitted preliminary works, the commencement of each phase of development shall not take place until details of the external appearance and scale of the specified phase of development has been submitted to and approved in writing by the Local Planning Authority.

Such details shall be in general conformity with the following submitted indicative drawings:
16181-WDN-XX-XX-DR-A-0600 P02
16181-WDN-XX-XX-DR-A-4000 P02
16181-WDN-XX-XX-DR-A-4100 P02
unless otherwise approved in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and and to ensure that the development is carried out in accordance with the details as approved with regard to the policies of the adopted South East Lincolnshire Local Plan (2019).

8. No construction works, save for the Permitted Preliminary Works, shall commence until a Construction Environmental Management Plan (CEMP) for the specified phase of development has been submitted to and approved in writing by the Local Planning Authority.

The CEMP shall be in accordance with:
Appendix B (Outline Construction Environmental Management Plan (CEMP) Aspect-Specific Management Plans (1433618- 10 (V04))) of the Environmental and Technical Report dated 20 December 2021, including the working hours in section 2.2;
Appendix C (Ecological Impact Assessment (1433618-29 (V03))) of the Environmental and Technical Report dated 20 December 2021, ecological management feature and measures in section 5.3;
Appendix E (Flood Risk Assessment (1433618-28 (V03)) of the Environmental and Technical Report dated 20 December 2021, including the surface water drainage strategy in section 6; and,
Appendix H (Transport Statement (1433618- 14 (V04))) of the Environmental and Technical Report dated 20 December 2021, including the framework Construction Management Plan (CTMP) in Appendix H-3.

The CEMP shall include details of how airborne pollutants, smoke, noise, vibration, and odour from construction work associated with the specified phase of development will be controlled and mitigated, how surface water run off will be managed during construction (including protection for any sustainable drainage features and connection for drainage systems to an outfall during construction), how vehicles will be parked, how materials will be stored, and how any ecological features present are to be surveyed, excluded, conserved, or relocated.

For each phase of development, works shall only take place in accordance with the approved CEMP.

Reason: In order to minimise any adverse impacts arising from the construction of the development upon the local environment, and ensure that it is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the authorised development during construction, in accordance with the policies of the adopted South East Lincolnshire Local Plan (2019).

9. Construction HGV movements (excluding abnormal indivisible loads where authorised by National Highways or the Local Highways Authority, or which are associated with an emergency) shall only take place on Monday to Friday inclusive between 07:00 and 19:00 hours, or on Saturdays between 08:00 and 16:00 hours, and not on Sundays or Bank Holidays, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interest of protecting amenity and in accordance with policies of the adopted South East Lincolnshire Local Plan (2019).

10. No construction works, save for the Permitted Preliminary Works, shall commence until the following details have been submitted to and approved in writing by the Local Planning Authority:

1) a preliminary risk assessment which has identified:
- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site
- recommendations as to a site investigation

2) if recommended in (1), a programme for a site investigation compliant with the assessment produced in (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) the results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of any remediation measures required and how they are to be undertaken.

4) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The site investigation in (2), the remediation strategy in (3), and the verification plan in (4) must be fully implemented in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy 30 of the adopted South East Lincolnshire Local Plan (2019).

11. In the event that contamination that was not previously identified is found at any time when carrying out the development hereby permitted, work on that part of the Site shall cease immediately and the contamination shall be reported in writing to the local planning authority. A risk assessment and investigation must be undertaken and, where remediation is necessary, a remediation scheme must be prepared and submitted to and approved in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, and submitted to and
approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy 30 of the adopted South East Lincolnshire Local Plan (2019).

12. Piling or any other foundation designs using penetrative methods shall not be used other than with the prior written approval of the local planning authority, which shall be given on the submission of a suitable Foundation Works Risk Assessment or on demonstration that there is no resultant unacceptable risk to groundwater for development on those parts of the Site.

Each phase of development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy 30 of the adopted South East Lincolnshire Local Plan (2019).

13. Save for the Permitted Preliminary Works, the commencement of each phase of development shall not take place until a surface water drainage scheme for the specified phase of development has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall:
-be in conformity with the principles in Appendix E (Flood Risk Assessment (1433618- 28 (V03)) of the Environmental and Technical Report dated 20 December 2021, including the surface water drainage strategy in section 6;
-be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
-provide flood exceedance routing for storm event greater than 1 in 100 year;
-provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
-provide attenuation details that achieve a greenfield run-off rate;
-provide details of the timetable for and any phasing of implementation; and
-provide details of arrangements for management and maintenance of the surface water drainage system over the lifetime of the authorised development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements reasonably required to maintain and manage the surface water drainage system;

The surface water drainage scheme shall be constructed and completed in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the authorised development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, or upstream of, the authorised development, in accordance with Policy 4 of the adopted South East Lincolnshire Local Plan (2019) and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

14. Save for the Permitted Preliminary Works, the commencement of each phase of development shall not take place until a scheme of landscaping and habitat provision for the specified phase of development has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall be in general accordance with the principles in Appendix F (Indicative Landscaping Plan (1433618-8 (V03))) of the Environmental and Technical Report dated 20 December 2021, and include consideration of the use of native species, including planting / seeding mixtures and provenance with known value to wildlife.

The scheme shall be accompanied by a detailed Biodiversity Metric output demonstrating a net gain of up to and around 5%.

Reason: To secure appropriate landscaping of the site in the interests of visual amenity and in order to ensure that the interests of ecology and biodiversity or protected species are addressed in accordance with the policies of the adopted South East Lincolnshire Local Plan (2019).

15. The commissioning of each phase of development shall not take place until a lighting scheme for the specified phase of development has been submitted to, and approved in writing by the Local Planning Authority.

The details of the lighting scheme shall be in accordance the Planning Statement (14278A) which includes:
(i) there will be no permanent or regular lighting, and only emergency / intermittent lighting is proposed;
(ii) the operational (intermittent) lighting columns will be motion sensitive (for example, controlled by an infrared motion sensor system), and will switch on only when movement within the BESS site is detected or when essential operational maintenance is required;
(iii) the emergency / intermittent lighting will be highly directional (for example, controlled by cowling) to avoid excessive light spillage beyond the boundary fencing; The associated lighting design will be undertaken with reference to the relevant guidance such as the 'Guidance Note 01/21 for the Reduction of Obtrusive Light'. Furthermore, whilst they are noted to be up to approximately 4 m in height, the operational (intermittent) lighting columns will be of the minimum height possible to provide the required lighting. The lighting design will be in compliance with 16181- WDN-XX-XX-DR-A-1000 P02 (parameter plan) and 16181-WDN-XX-XX-DR-A-1010 P02 (parameter elevations), committing to a minimum sized landscaping zone of 10m; and,
(iv) the lighting design will be limited to no greater than 0.5 lux into the proposed landscaping zone or beyond the site boundary.

The lighting scheme shall be constructed and completed in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a safe operational environment and mitigate the potential impact on bat habitats and feeding areas in accordance with the policies of the adopted South East Lincolnshire Local Plan (2019).

16. The development shall be carried out in accordance with Appendix E (Flood Risk Assessment (1433618-28 (V03)), including:
(i) The finished floor levels for the BESS Zone, Electrical Banking Station Zone, and Welfare Compound Zone shall be set no lower than 6.7 metres above Ordnance Datum (AOD); and
(ii)The flood resistance and resilience measures in section 5.2.

These measures shall be fully implemented prior to occupation in accordance with the phasing of development. The measures shall be retained and maintained throughout the lifetime of the development hereby permitted.

Reason: To reduce the risk of flooding to the proposed development and future occupants. This Condition is imposed in accordance with Policy 4 of the adopted South East Lincolnshire Local Plan (2019) and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

17. Prior to the first commercial use, a Flood Warning and Evacuation Plan (FWEP) shall be submitted to and approved in writing by the Local Planning Authority.

FWEP shall be in accordance with Appendix E (Flood Risk Assessment (1433618-28 (V03))) including the framework Flood Warning and Evacuation Plan in Appendix E -3.

The approved FWEP shall be implemented, and made available for inspection by all users of the site, and be displayed in a visible location at all times thereafter.

Reason: To ensure that adequate flood warning and evacuation measures are available for all users of the development in accordance with the policies of the adopted South East Lincolnshire Local Plan (2019).

18. Within 6 months of the development ceasing to be used for the purposes of electricity storage, a scheme for the demolition and removal of redundant BESS buildings and structures from the Site and the restoration of the Site shall be submitted to the Local Planning Authority, for approval in writing. The scheme shall include a written explanation of which buildings and structures, if any, are not redundant, making reference to their potential for reuse.

The scheme shall be implemented in full within 12 months of approval, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the Site is not allowed to become derelict after the cessation of electricity storage in accordance with the policies of the adopted South East Lincolnshire Local Plan (2019).

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A Plan A

