

**DECISION DELEGATED TO HEAD OF PLANNING**

**Application No:** H18-0085-25                      **Applicant:** Enso Green Holdings R Ltd

**Proposal:** Installation of access track and associated development

**Location:** Land Between East Bank/Gunthorpe Road And Gunthorpe Solar Farm  
Walpole Bank

**Terminal Date:** 16th April 2025

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being

**National Guidance**

**National Planning Policy Framework December 2024**

Section 2 - Achieving sustainable development  
 Section 4 - Decision-Making  
 Section 9 - Promoting sustainable transport  
 Section 12 - Achieving well-designed places  
 Section 14 - Meeting the challenge of climate change, flooding and coastal change  
 Section 15 - Conserving and enhancing the natural environment

**Representations:**

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS	0	0	0	1

SUPPORT				
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	2	0
OTHER STATUTORY BODIES	0	0	0	3

## **CASE OFFICER ASSESSMENT**

### **Proposal**

This is a full planning application for the formulation of an access track and associated development. The purpose of the access is to provide abnormal indivisible load (AIL) access. The proposal is described in the following way:

- Approximately 560m of compacted aggregate access track with a width of 3.5m to 6m is to be installed. The typical width of the access track will be 5m.
- Three passing places are to be formulated, the road wide at this point increases to 7m.
- The application also includes the provision of deer fencing, stating at 1.8m.

As well as a suite of plans that detail the access, the applicant has also provided a supporting statement, ecology note, BNG matrix and construction management traffic plan.

### **Site Description**

This application site relates to an existing agricultural field that is located to the east of the banks of the Nene. It is wholly within the SHDC district.

The application is to serve the broader permitted solar site that straddles the administrative boundary between local authorities in two different counties, South Holland District Council (SHDC); and the Borough Council of Kings Lynn and West Norfolk (KLWN), in Norfolk.

The site benefits from an extant permission to formulate a solar farm; approved by the Planning Inspectorate in September 2023. A subsequent Section 73 application was approved which allowed the lifetime of the development to be extended to 40 years. All conditions originally attached, with the exception of the WSI, have not been addressed, as well as an application allowing for a battery energy storage system.

This application site, relating to the formulation of an access track is located wholly within the administrative boundary of South Holland. A public Right of way exists along the western side of the bank (of the River Nene) as well as TPOs. These are located outside of the proposed redline boundary. The application site is located within Flood Zone 3 in accordance with Environment Agency mapping. The South East Lincolnshire SFRA shows that the broader area is in a 'danger for most' area, however the bank, and land immediately to its west is in a less hazardous area, according to the SFRA, this presumably relates to the defence from the bank.

### **History**

H18-0741-21 - Installation of a solar farm and battery storage facility with associated infrastructure. Allowed at appeal 29th September 2023. An application was submitted to each Council (SHDC & KL & WN), on 21 January 2022 SHDC considered a report that raised no objections to the proposal.

The resolution was that decision making authority should be delegated to KLWN, as the greater proportion of the site lies in its administrative area, and we issued a notice of non-determination on 25 February 2022. This stated no further action would be taken on that application. SHDC therefore failed to determine the application. In the Statement of Case, SHDC suggest it does not wish to defend the appeal and has no objection to the proposal. This application was allowed on appeal.

H18-1034-23 - Installation of a solar farm and battery storage facility with associated infrastructure - H18-0741-21 - approved on Appeal. Modification of Condition 3 to allow the solar farm and battery storage facility to operate for a further 5 years to 40 years. Approved 27-02-24.

H18-0040-24 - Condition 9 Written Scheme of Investigation. Approved 27-02-24.

## **Consultation Responses**

### South Holland IDB

We note that the proposed access road is to be constructed using permeable surfacing material. The applicant also intends to excavate a new swale / shallow watercourse parallel to the eastern side of the new road to allow improved drainage. Should the applicant's proposal include a positive discharge from a new impermeable area to a watercourse within the Board's Internal Drainage District, consent would be required under Byelaw 3.

### Highways & SuDs

The proposal is for the installation of an access track and associated development to accommodate two number abnormal loads that cannot use the access approved under H18- 0741-21 for the Solar Farm. This will be a secondary access for abnormal loads only and they will be routed from the A17 onto East Bank alongside the River Nene. East Bank narrows down in places to a single-track road - A Section 59 Inspection under the Highways Act 1980 will be required before and after the deliveries to ensure that any damage caused to the public highway will be rectified at the applicant's expense. This shall be done with a representative of Lincolnshire County Council, and the applicant - photographic/video evidence will be taken. Highway improvements are required on the bend at the proposed access location - it will need to be widened for a distance of 60m and this will be done under a Section 278 Minor Works Agreement alongside the access construction. The traffic management will be agreed with Lincolnshire County Council Streetworks Department prior to delivery and to ensure that the proposal will not have a detrimental impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications.

This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

### Fenland DC

Thank you for your consultation in reference to the above. In response to this consultation Fenland District Council have no comments to make.

### Natural England

NO OBJECTION - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

### Fire & Rescue

Following comments based on assumption that this application for an access road is related to the Gunthorpe Road Solar Farm application Ref: H18-0448-24. This being the case, I refer you to the Lincolnshire Fire & Rescue response provided 17.7.24. This response outlined the following concerning access requirements for such projects:

ACCESS 1. Access to buildings for fire appliances and fire fighters must meet with the requirements

specified in Building Regulations 2010 Part B5. For small buildings (up to 2000m<sup>2</sup>, with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following:

- a. 15% of the perimeter.
- b. Within 45m of every point of the footprint of the building For all other buildings, provide vehicle access in accordance with Table 15.1 of Approved Document. These requirements may be satisfied with other equivalent standards relating to access for firefighting. Lincolnshire Fire and Rescue requires a minimum carrying capacity for hard standing for pumping appliances of 18 tonnes, not 12.5 tonnes as detailed in the Building Regulations 2000 part B5.

2. If it is not possible to provide access to the proposed development in accordance with the guidance details within Part B5 of Approved Document B, as compensation, Lincolnshire Fire and Rescue may accept the provision, at the developer's expense, of an automatic sprinkler system, designed, fitted and maintained in accordance with the relevant sections of BS5306/BSEN12845:2004.

Should this option be considered, our Fire Safety advisers must be provided with detailed plans of the proposed sprinkler installation. Any scheme proposed should not be of a lesser standard than any provision as may be required by the Building Regulations.

### Environmental Protection

No comments regarding land contamination

### Environment Agency

No objection. The EA have offered advice on when an Environmental Permit is likely required. This process sits outside of planning.

### Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

## **Planning Considerations**

### **Evaluation**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above .

The policies and provisions set out in the National Planning Policy Framework (updated December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The key consideration to this assessment are:

- Principle of Development
- Highways, Transport & Safety
- Flood Risk & Drainage
- Character & Landscape
- Ecology/BNG

### Principle of Development

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

Part D of SELLP Policy 1 sets out permitted development types within the open countryside. It states that *The rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside. In the Countryside development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.*

The purpose of the access is to provide abnormal indivisible load (AIL) access to a solar farm (first approved under H18-0741-21). The location of the development therefore requires a countryside location, and cannot feasibly be located elsewhere. SELLP Policy 1 allows for development *that is necessary to such a location* and therefore given there is a site specific requirement in this location for the access, to serve as an ancillary track for abnormal loads, this proposal is considered acceptable in principle.

#### Highways, Transport & Safety

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios".

SELLP Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

SELLP Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

The access which is for abnormal loads is proposed to be used during construction and decommissioning only, as per the supporting statement from Enso Energy (January 2025). Approximately 560m of compacted aggregate access track with a width of 3.5 m to 6 m is to be installed along the western side of the Nene embankment.

Highways have been consulted and have stated that *This will be a secondary access for abnormal loads only and they will be routed from the A17 onto East Bank alongside the River Nene. East Bank narrows down in places to a single-track road - A Section 59 Inspection under the Highways Act 1980 will be required before and after the deliveries to ensure that any damage caused to the public highway will be rectified at the applicants expense.*

*Highway improvements are required on the bend at the proposed access location - it will need to be widened for a distance of 60m and this will be done under a Section 278 Minor Works Agreement alongside the access construction. The traffic management will be agreed with Lincolnshire County Council Streetworks Department prior to delivery and to ensure that the proposal will not have a detrimental impact on the public highway.*

On the basis of these requirements, LCC Highways have proposed conditions that would secure these events occurring. A further condition will be attached that will ensure the track will be used as per the supporting statement from Enso Energy (January 2025), namely during construction and decommissioning only.

It is therefore considered that the proposal would meet with SELLP Policies 2, & 3.

### Flood Risk & Drainage

SELLP Policy 4 sets out the districts approach to flood risk. It states that *Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted, where: It can be demonstrated that essential infrastructure in FZ3a & FZ3b, highly vulnerable development in FZ2 and more vulnerable development in FZ3 provide wider sustainability benefits to the community that outweigh flood risk*

Whilst the field, which is currently classed as agricultural land is considered to be 'less vulnerable' and this proposal giving it is ancillary to 'essential infrastructure' would mean that the vulnerability classification would increase, weight need to be given to the extant permission to develop a solar farm.

SELLP Policy 4 allows for essential infrastructure where *It can be demonstrated that essential infrastructure in FZ3a & FZ3b, highly vulnerable development in FZ2 and more vulnerable development in FZ3 provide wider sustainability benefits to the community that outweigh flood risk.* Given that the planning inspector when approving the solar farm (H18-0741-21) gave weight to the community benefits over flood risk, then this scenario, where the access tract is ancillary to that permission must be treated in the same accord.

In terms of drainage, the road is permeable, this has been demonstrated through cross-section and therefore

On this basis the proposal is considered to be contrary to SELLP Policy 4 of the Local Plan as well as NPPF Paragraph 172

### Character & Landscape

Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed places' and details that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Policy 2 of the SELLP states that 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. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to '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'.

Policy 3 sets out the 'Design of new development' in part it states that "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"

NPPF Paragraph 187b states *Planning policies and decisions should contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and*

*other benefits of the best and most versatile agricultural land, and of trees and woodland;*

The proposed access track is located along the western side of the Nene Embankment, it would not be highly visible from any location, the impacts in character terms are localised. Furthermore given the nature of the proposal (only engineering operations, and noting of scale above the ground) these impacts are considered acceptable.

The proposal is therefore contrary to SELLP Policies 2 and 3 as well as NPPF paragraph 187b.

### Ecology/BNG

SELLP Policy 28 is concerned with the Natural Environment and part 3 is specifically concerned with biodiversity and geodiversity. It states that:

- a. by ensuring that all development proposals shall 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, and if the development is within a Nature Improvement Area (NIA), contributing to the aims and objectives of the NIA.*

*NPPF Paragraph 187 is concerned with Conserving and enhancing the natural environment Part D is relevant, it states that Planning policies and decisions should contribute to and enhance the natural and local environment by - minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs*

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

The applicant has provided a baseline metric and shown that a gain greater than 10% (11.27%) can be achieved on land located within the ownership of the applicant. This is within the redline boundary associated with the approved solar development. On this basis it is considered that the BNG Plan condition and HMMP would be sufficient mechanisms to capture this gain.

On this basis the proposal would accord with SELLP Policy 28 and NPPF Paragraph 187d.

## **Planning Balance**

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal is considered as ancillary development to the wider solar permission and would only be used during construction and decommissioning. The proposal would give rise to limited character impacts and is considered acceptable in all other regards.

In this instance then, there are no material considerations that weigh against the proposal and as such, the planning balance is in support of the development.

## **Conclusion**

Taking into consideration these factors, the proposal is considered to accord with Policies 1, 2, 3, 4, 28, 30 and 31, of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). On this basis the proposal is recommended for refusal.

## **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.