

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H18-0448-24 **Applicant:** Enso Green Holdings R Limited

Proposal: Installation of a solar farm and battery storage facility with associated infrastructure - approved under H18-1034-23. Modification of Condition 2 to allow amendments to previously approved plans

Location: Gunthorpe Road Solar Farm Land South Of Gunthorpe Road Walpole Marsh

Terminal Date: 15th August 2024

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
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed & beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

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

CASE OFFICER ASSESSMENT

Reason for Panel

This item was approved originally at appeal. The scale and nature of the application warrants discussion by the panel.

Proposal

Installation of a solar farm and battery storage facility with associated infrastructure - approved under H18-1034-23. Modification of Condition 2 to allow amendments to previously approved plans to allow for the following:

- Minor amendments to the Solar Farm array layout previously approved. Access road, inverter/transformer stations, storage containers, CCTV and Solar Farm fence line and gate positions are adjusted within the Site boundary without changes to the approved elevations
- Amendments to proposed Battery Energy Storage System (BESS) layout, arrangement and design to reflect technology advances since the application was originally submitted in July 2021. A total of 24 battery containers had previously been approved which is proposed to be amended to form 20 'grouped' battery units with increased spacing between groups and external containerised BESS inverters/transformer units on a larger BESS compound. Overall increase in number of total battery units
- Changes to layout and design of the on-site Substation are required following final technical confirmation of the connection to the National Grid Walpole Substation previously approved to form the necessary arrangement for a 132 kV connection, together with the removal of the previously approved Auxiliary Transformer

No other Conditions are proposed to be varied.

Site Description

The application site 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.

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.

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

The responses received from consultees during the initial consultation exercises can be summarised as follows:

Parish Council

At a meeting on 28th May 2024 Sutton Bridge Parish Council resolved to comment that the battery facility should be sited so that it does not cause any issues or affect neighbouring properties.

Highways & Suds

No Objections

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

The proposal is for the modification of Condition 2 to allow amendments to previously approved plans - The proposal is for minor amendments to 2 that already has approval under 1034-23. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

IDB

Thank you for the below consultation email, however I can confirm that the Board has no comments on this application.

Environmental Protection

No comments.

Fenland

The Local Planning Authority have considered the details submitted and raise No Objection.

Representations

This application has been advertised in accordance with the Development Procedure Order. An objection has been received which expresses concerns in relation to a number of issues, some of which are not material to the planning assessment such as house prices. The main material point raised is the character impacts of the solar farm upon the open countryside landscape.

Officer Response This application is for ancillary infrastructure for the creation of a battery energy storage system. The solar farm is already approved.

Planning Considerations

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development
- Highway Safety
- Environmental Issues/Amenity
- Character and Landscape Impacts
- Flood Risk
- Conditions
- Planning Balance

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 (December 2023) 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.

Principle of Development

SELLP Policy 31 sets out the approach to climate change and renewable and low carbon energy. Part B is relevant, it states that:

With the exception of Wind Energy the development of renewable energy facilities, associated infrastructure and the integration of decentralised technologies on existing or proposed structures will be permitted provided, individually, or cumulatively, there would be no significant harm to:

- 1. visual amenity, landscape character or quality, or skyline considerations;*
- 2. residential amenity in respect of: noise, fumes, odour, vibration, shadow flicker, sunlight reflection, broadcast interference, traffic;*
- 3. highway safety (including public rights of way);*
- 4. agricultural land take;*
- 5. aviation and radar safety;*
- 6. heritage assets including their setting; and*
- 7. the natural environment.*

NPPF Paragraph 163 states that *When determining planning applications for renewable and low carbon development, local planning authorities should:*

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;*
- b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and*
- c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable.*

In addition to the above policy context is the legislative context, this is pertinent given the overall site output following the BESS would produce over 50MW. The Infrastructure Planning (Electricity Storage Facilities) Order 2020 removed the trigger of 50MW thresholds if the proposed

development was co-located or a storage element associated with a solar project.

The proposal therefore which is ancillary to the already approved scheme, is considered acceptable in planning principle subject to meeting with the points raised by SELLP Policy 21 (which are assessed in the remaining report). The overall output (beyond 50MW) is therefore also acceptable in terms of decision making level (Local Authority).

On this basis (and subject to further assessment against points raised within SELLP Policy 31) the proposal is considered acceptable in principle terms.

Highway Safety

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.

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 proposed BESS is located to the south of the application site. There are no changes to the main access and limited effect would be had upon the existing highway network due to that. The applicant has a number of undischarged conditions relating to H18-0741-21 such as a construction traffic management plan, and these will be reattached to any permission achieved here. It is then likely that the CTMP will need to include reference to how impact from the BESS are mitigated through construction.

Highways have been consulted and have stated that *The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.*

Environmental Issues/Amenity

SELLP Policy 2 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

SELLP Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important considerations when considering proposals for planning.

NPPF Paragraph 135f states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The impacts in relation to the physical impact of the BESS are limited. Firstly, the BESS facility is proposed to be located to the south of the site, away from the dwellings and secondly given its height (the battery containers stand at approximately 2.6m and the generation transformer at circa 6.5m (this is the highest structure) would have a limited impact by way of any overshadowing/bearing externalities.

In terms of operational use, the activity is likely to not give rise to unacceptable noise impacts; Environmental Protection have no concerns.

On this basis the proposal is considered to align with SELLP Policies 2 and 30 as well as NPPF paragraph 135f.

Character Impacts and Landscape

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 proposals 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".

The BESS and associated infrastructure is low in scale and located within the previously approved solar arrays, to the south of the site. The proposal given its modest scale and amount of visible physical infrastructure would not have unacceptable wider landscape and character impact upon the open countryside over what has already been approved.

On this basis the proposal is considered to align with SELLP Policies 2 and 3. Landscaping will also be controlled through conditions.

Flood Risk

SELLP Policy 4 sets out the districts approach to flood risk. It states under point two that:
(Development 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.

The application site has already been approved by the Inspectorate and considered to have broad sustainability benefits. This proposal is ancillary to the wider permission, functioning as energy storage. The LLFA have made comment that given the modest increase in additional infrastructure that there would be limited additional considerations as regards surface water drainage, whilst the IDB have no objections.

On this basis it is considered that the proposal would accord with SELLP Policy 4.

Conditions

All conditions attached to H18-1034-23 will be reattached to any permission achieved.

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 proposed development represents ancillary development in relation to a previously approved solar farm. The development proposal meets with the requirements set out under SELLP Policy 31b for renewable energy development.

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

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a

duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 28, 30, and 31 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2023). There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

The recommendation is that the application be approved.