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TOWN AND COUNTRY PLANNING ACT 1990

SECTION 73A CONTINUATION

Reference: H18-0603-24 **Date of Decision:** 24th October 2024

Applicant: EDF Renewables
Alexander House
1 Mandarin Road
Rainton Bridge Business Park
Houghton Le Spring
DH4 5RA

Location: Sutton Bridge Solar Farm Land To The South Of Centenary Way Sutton Bridge Spalding

Description: Change of use from agricultural land to solar farm and construction and operation of a solar photovoltaic (PV) development with capacity of up to 49.9mw with associated infrastructure and landscaping - approved under H18-1126-20. Modification of Condition 10 relating to the Flood Risk Assessment.

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

1 The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

H18-0603-24

3630-REP-042
3630-DR-LAN-100
M0002308_94 Rev A
Letter by Envams dated 08/07/2024
Flood Risk Statement by Raincloud dated July 2024
Application Form

H18-1126-20

3630-DR-LAN-101 Rev D
3630-DR-PLAN_201 Rev 1
3630-DR-PLAN_202 Rev 1
3630-DR-PLAN_203 Rev 1
3630-DR-PLAN_204 Rev 1
3630-DR-PLAN_205 Rev 1
3630-REP-043
3630-REP-006
3630-REP-007
3630-REP-008
3630-REP-009
3630-REP-010
3630-REP-011
3630-REP-012
Ecological Appraisal Report (dated November 2020, prepared by Arcus Consultancy Services)
Ecological Appraisal Report Confidential Badger Annex (dated November 2020, prepared by Arcus Consultancy Services)
2020 Breeding Bird Report (dated November 2020, prepared by Arcus Consultancy Services)
2020 Breeding Bird Report Confidential Annex (dated November 2020, prepared by Arcus Consultancy Services)
Aquatic Appraisal Report (dated November 2020, prepared by Arcus Consultancy Services)
Orchid Survey Report (dated November 2020, prepared by Arcus Consultancy Services)
Biodiversity Metric Assessment (dated November 2020, prepared by Arcus Consultancy Services)
Landscape and Biodiversity Management Plan V2 (dated February 2021, prepared by Arcus Consultancy Services)
Arboricultural Report (dated November 2020, prepared by Arcus Consultancy Services)
Planning, Design and Access Statement (dated November 2020, prepared by Arcus Consultancy Services)
Heritage Impact Assessment (dated November 2020, prepared by Arcus Consultancy Services)
Solar Photovoltaic Glint and Glare Study (dated November 2020, prepared by Pager Power Limited)
Sequential Test Analysis (dated November 2020, prepared by Arcus Consultancy Services)
Landscape and Visual Appraisal and supporting viewpoint figures (dated November 2020, prepared by Arcus Consultancy Services)
Transport Statement (dated November 2020, prepared by Arcus Consultancy Services)
Agricultural Land Classification (dated 3rd April 2020, prepared by Soil Environment Services Ltd)

H18-1040-21

Construction Traffic Management Plan (prepared by Arcus Consultancy Services, dated September 2021)

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H18-0050-22

Letter and supporting documents from South West Geotechnical Ltd regarding Stage 2 Environmental Investigation (dated 17th January 2022)

Reason: For the avoidance of doubt and in the interests of proper planning.

2 The planning permission is for a period not exceeding 40 years from the date that the development is first connected to electricity grid. The date of first connection to the grid shall be notified in writing to the Local Planning Authority within 28 days of this event occurring.

Reason: To limit the long term effects of the development and in recognition of the temporary lifespan of the structures.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

3 On cessation of the use of the land (or any part of the land) as a solar farm for electricity production through use of solar panels as approved by this permission all buildings, structures, fences, gates, posts, solar panels and fixings shall be removed from the site (or the relevant part of the solar farm that has ceased operation) within 9 months of the cessation of use and the land shall revert back to agriculture.

Reason: The site is located in an area of countryside where development other than agriculture is permitted only by exception and when the site ceases to be used as a solar farm then it will be required to revert back to agriculture.
This Condition is imposed in accordance with Policy 1 of the South East Lincolnshire Local Plan, 2019.

4 Construction shall be carried out in accordance with the details submitted to and agreed with the Local Planning Authority under application reference H18-1040-21.

Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5 Development shall be carried out in accordance with the Geotechnical Ltd Stage 2 Environmental Investigation (dated 17th January 2022), that was submitted and approved under application H18-0050-22.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

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6 Noise from fixed plant and machinery shall not exceed a level of 5 dB(A) above the background noise level when measured as a L(A)eq15min at any residential boundary not within the applicant's ownership.

Reason: To ensure that there is no noise nuisance to nearby residents.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

7 Details of the external illumination of all buildings and areas of the site including details of luminance and fields of illumination shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of those buildings and areas and there shall be no external illumination other than that so approved.

Reason: To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

8 The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment (prepared by Raincloud Consulting, dated July 2024), unless otherwise agreed in writing by the Local Planning Authority, in particular the following measures shall be fully implemented before the first use of the development hereby permitted:

- Non-flood sensitive infrastructure (i.e. PV arrays, cabling, inverters and transformer sets) shall be located 300mm above the potential flood depths for the 0.5% (1 in 200 year) overtopping event including for climate change. Stilts are to be utilised where applicable to provide flood protection for the transformer and inverter units.

- The electricity sensitive infrastructure (i.e. the substation compound) shall be located above the 0.5% (1 in 200 year) breach event including climate change.

- A continuous flood protection bund shall encircle the substation compound with a finished crest level no lower than 4.18 metres above Ordnance Datum (AOD).

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.

This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2019.

9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no buildings, structures, fences, gates, posts, solar panels, hardstandings, footings, platforms, pavements, bunding, berms, earthworks or other engineering operations shall be constructed, installed or carried out on site other than in accordance with the approved details of this planning permission.

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Reason: To protect the character of the countryside and the visual amenities of the locality and also to retain the value of the land for agriculture and wildlife, as the site is located in an area of open countryside where development other than agriculture is only permitted by exception.
This Condition is imposed in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019.

10 Within 28 days from the receipt of a written request from the Local Planning Authority following a complaint to it concerning glint/glare, the solar farm operator shall submit details of proposed mitigation measures and timescale for their implementation. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority. The proposed mitigation measures shall be carried out in accordance with the approved details.

Reason: To safeguard the amenity of nearby residents.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

11 The development hereby permitted shall be carried out in accordance with the recommendations set out in the following submitted documents:

Ecological Appraisal Report (dated November 2020, prepared by Arcus Consultancy Services)
Ecological Appraisal Report Confidential Badger Annex (dated November 2020, prepared by Arcus Consultancy Services)
2020 Breeding Bird Report (dated November 2020, prepared by Arcus Consultancy Services)
2020 Breeding Bird Report Confidential Annex (dated November 2020, prepared by Arcus Consultancy Services)
Aquatic Appraisal Report (dated November 2020, prepared by Arcus Consultancy Services)
Orchid Survey Report (dated November 2020, prepared by Arcus Consultancy Services)
Landscape and Biodiversity Management Plan V2 (dated February 2021, prepared by Arcus Consultancy Services)
Arboricultural Report (dated November 2020, prepared by Arcus Consultancy Services)

Reason: In the interest of the natural environment.
This Condition is imposed in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2019.

12 All cabling shall be installed underground.

Reason: To limit the effects of the development in the interests of the amenities of the locality.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

Should unexpected contamination be discovered on the site at any time, the applicant is advised to contact the District Council's Environmental Protection department immediately.

Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

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.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at
https://www.gov.uk/guidance/biodiversity-net-gain.

Based on the information available and submitted in support of this application, the Local Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

Variation of existing permission

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

(a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and

(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

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

RIGHTS OF APPEAL

Appeals to the Secretary of State

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

Timescales for appealing

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

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

https://www.gov.uk/appeal-householder-planning-decision

https://www.gov.uk/appeal-planning-decision

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

Enforcement Notices

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

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

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

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

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

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

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

Compensation

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

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