DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-0603-24**	**Applicant:**	**EDF Renewables**
Proposal:	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.		
Location:	Sutton Bridge Solar Farm Land To The South Of Centenary Way Sutton Bridge		
Terminal Date:	29th October 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk

National Guidance

National Planning Policy Framework 2023

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

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 SUPPORT	0	0	0	1
KINGS LYNN INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a section 73 planning application for the variation of Condition 10 relating to the Flood Risk Assessment approved under H18-1126-20.

The approval is for the 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.
The applicant proposes the updated condition to read:

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 property is first occupied: - 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).

The proposed change is necessitated following discussions with the Environment Agency. The works relate to revised specification of the bund which protects the substation. Previously it was considered that a height of 2.61m AOD was sufficient. However following further discussion it is considered that this bund needs to be at a height of 4.18m AOB

Site Description

The site comprises of 118.3ha greenfield arable agricultural land. It is located approximately 1.25km south and east of the village of Sutton Bridge, on the eastern side of the River Nene and south of Sutton Bridge Power Station. The site has a flat topography and is largely open, but being divided by drains, agricultural access tracks and lines of mature trees and hedges which provide screening along parts of the northern and eastern boundaries.

The northern boundary abuts Sutton Bridge Power Station and Centenary Way, from which there is an existing field access. The western boundary is close to East Bank on the eastern side of the River Nene. The southern and eastern boundaries are defined by existing drains.

Although the predominant character of the area is rural, there are some residential properties to the east on King John Bank as well as some individual properties/farmsteads off East Bank to the west, Chalk Lane to the north and Gunthorpe Road to the south.

The Grange Wind Farm lies approximately 600m west of the site on the other side of the River Nene.

History

H18-1126-20 - 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 12-03-21
H18-1040-21 - Details of construction management & precautions for the prevention of mud deposit on public highway (Conditions 5 & 6 of H18-1126-20). Approved 04-11-21
H18-0050-22 - Details of land contamination (Condition 7 (i) of H18-1126-20). Approved 07-03-22

Consultation Responses

Kings Lynn IDB

I note that the applicant intends to carry out install fencing and new tracks within 9 metres of the aforementioned Board Maintained watercourse (Figure 2 - Site Layout Plan, drawing no. 3630-DR LAN-100, Arcus Consultancy Services, 20/06/20). To enable this proposal, consent would be required under Byelaw 10, and I recommend that the applicant contacts this office to make an application for this consent at their earliest convenience. To avoid conflict between the planning process and the Board's regulatory regime, we recommend that the required consent is sought prior to the determination of this planning application.

Environment Agency

We have reviewed the supporting information and we have no objection to the proposal subject to the imposition of the planning condition, to replace Condition 10 of the original permission, as set out in the Applicant's supporting letter dated 08 July 2024

Highways & SuDs Support

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.

Planning Considerations

This application is for a section 73A, it seeks to amend the working of condition 10 of H18-0603-24. The condition linked the development to the details of the submitted flood risk assessment. The variation seeks to change the height of the bund, already approved and is therefore a technical flood risk issue, rather than a principle one. Given the increase height of the bund, an assessment on character is also appropriate.

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.

The following issues are therefore relevant to this consideration:

-Flood Risk & Drainage
-Character and Landscape
-Reattachment of previous conditions
-Other Matters

Flood Risk & Drainage

Section 14 of the NPPF sets out the national policy basis for making assessments in relation to flood risk.
SELLP Policy 4 sets out South Hollands approach to Flood Risk. The site is predominantly located within Environment Agency Flood Zone 3a, with small parts of the site lying within Flood Zone 2. The development type is considered to be a 'less vulnerable' form of development in flood risk terms

and, in accordance with National Planning Practice Guidance, is compatible with Flood Zone 3a. The Environment Agency has no objection to the amended wording of condition 10.

There applicant has provided a site layout plan and a cross section of the bund. The bund is clay core, 0.6m in height and surrounds the substation. There are steps shown to traverse a southern element of the bund.
The applicant has provided an updated FRA by 'raincloud consulting'. This document shows the data collate and why the bund needs to be at the height and design that is put forward.

It is therefore considered that given the EA are in agreement with the aforementioned FRA and subsequent bund design then the wording of condition 10 will be amended as requested.
On this basis the proposal would accord with SELLP Policy 4.

Character & Design

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 'Ã??¢?¦ 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 "Ã??¢?¦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 substation is located central to the side and will be circled by solar arrays once in operation. The bund will not have a wider visible effect. The localised impacts will be experienced only by those working within the site on operations. It is considered that on this basis limited character harm would follow.

The proposal would therefore accord with SELLP Policies 2 & 3.

Reattachment of previous conditions

All conditions will be reattached except for those discharged under H18-1040-21 & H18-0050-22, these relate to conditions 5, 6 and 7(i) of the original permission.

Other Matters

This application is a S73A and therefore variation of an existing permission, this application is therefore exempt from BNG.

Comments have also been made by Kings Lynn IDB. The comments however are relevant to the wider scheme rather than the bund, which is the only development that makes up this application. The comments are valid in respect of the wider scheme and this consenting process sits outside of the scope of planning. It does not represent reason to not issue a permission.

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 represents appropriate development within the compound of an already approved scheme. The development hereby proposed does not materially harm the character or appearance of the locality or give rise to flood risk issues. The proposed development is in accordance with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.
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.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with policies 2, 3, & 4 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPFF) (December 2023). The 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.

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.