DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-0984-24**	**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. Amendment to remove an area which has been set aside to deliver biodiversity net gain.		
Location:	Sutton Bridge Power Station Centenary Way Sutton Bridge		
Terminal Date:	18th December 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2024

Section 96A Town and Country Planning Act 1990 (As amended)

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is a non-material amendment application that seeks to remove an area within the overall application site which has been set aside to deliver biodiversity net gain under H18-1126-20.

The area that is to be removed will then be used as part of a new Battery Energy Storage System (BESS), a planning application will be forthcoming, the BESS which will be located within the red line boundary of the wider Sutton Bridge Solar Farm.

-The approved solar scheme confirmed that it would deliver gain in habitats of 562.01 units, the equivalent of a 195.93% BNG increase;
-Following the removal of the area for the BESS results in the solar scheme still delivering an approximate 191% BN
-This 2.94ha is the equivalent of 23.53 habitat units that will be removed from the solar consent. Though this represent a figure of 4.93%
-The area shown to be removed from the overall BNG contribution is located along the North East of an already approved access road and ditch.
The applicant is requesting the council's assessment of these matters and whether or not the

reduction from 195.93 % Net Gain to 191% Net Gain represents a material change to the already approved scheme.
This area is demonstrated on the following plan:

Figure 3: Area of Land to be taken out of Sutton Bridge Solar Farm and included in Walpole BESS. By BSG Ecology dated 05/11/2024

This plan will sit alongside the suite of Ecological documents associated with H18-1126-20, they are:
-Ecological Appraisal Report (Arcus Consultancy Service, November 2020).
-Ecological Appraisal Report Confidential Badger Annex (Arcus Consultancy Service, November 2020).
-2020 Breeding Bird Survey Report (Arcus Consultancy Service, November 2020).
-2020 Breeding Bird Survey Report Confidential Annexe (Arcus Consultancy Service, November 2020).
-Aquatic Appraisal Report (Arcus Consultancy Service, November 2020).
-Orchid Survey Report (Arcus Consultancy Service, November 2020).
-Biodiversity Metric Assessment (Arcus Consultancy Service, November 2020).
-Landscape and Biodiversity Management Plan V2 (Arcus Consultancy Service, November 2021).

Site Description

The Site is located approximately 2.0 km southeast of the village of Sutton Bridge, to the east of the River Nene and south of Sutton Bridge Power Station. The Site is located within the consented Sutton Bridge solar farm (H18-1126-20), which is nearing the end of construction.
The part of the application site that this NMA relates to is access from Centenary Way , located north east of an existing access road as well as a ditch that runs parallel to this road/track, the ditch is culverted to allow access across it.
The Site is currently mainly neutral grassland though there are areas of hard standing located within it. This area is stated to be 2.9411 ha. It is located well within the wider construction zone of Sutton Bridge Solar Farm.

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
H18-0603-24 - 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.. Approved 24/10/2024

Consultation Responses

As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.
In this instance no consultations were carried out.

Scope of Assessment for Non-material amendments

The local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

Planning Considerations

Notwithstanding the fact that there is no definition of 'Non-Material' South Holland District Council Local Planning Authority sets out guidance criteria for non-materials amendments. This is set out on the council webpages. It states:

Non-material amendment criteria

Each application will be considered on its merits. The proposed change may be a non-material amendment if:
1.There would be no change to the application site boundary and the proposal would be located within it (red line boundary)
2.The amendment would not conflict with development plan policies or other Government guidance
3.There would be no conflict with any conditions on the planning permission
4.The proposal would not make worse any concerns raised by third parties when the original planning permission was considered
5.The approved footprint/siting of the building will not be moved in any direction by more than 1 metre
6.The proposal would not result in an extension to development already approved
7.The height/volume of the building or extension would not be increased or significantly reduced
8.The amendments must not result in a fundamental change in the design of the building
9.The change does not amount to new works or elements which have not been considered by any environmental statement submitted with the original application
10.Amendments to windows/doors/openings must not have any overlooking impact on neighbouring properties
11.There would be no change to the description of development in respect of number of proposed units
These criteria are designed to prevent amendments being accepted that would have a harmful impact. If the above cannot be met:
·a Section 73 application or
·a new full application may be required.

Assessment against non-material amendment criteria:

The non material amendment criterial provides a framework for analysis to test whether or not the proposed changes are material.

1)The changes would not result in an extension of the previously approved red line boundary, shown on the site location plan.

2)The proposals would not conflict with the development plan. The site would still create 191% increase in onsite BNG. (Given these figures the small reduction is nominal representing 4.93% decrease, it is also likely that the BESS when brought forward will up this figure by achieving mandatory BNG targets, essentially representing a temporary loss)

3)The changes would not result in conflict with conditions applied, the documents would sit alongside the Arus supporting documents Biodiversity Metric Assessment (Arcus Consultancy Service, November 2020) and the Landscape and Biodiversity Management Plan V2 (Arcus Consultancy Service, November 2021). It would be clear that this are of land was excluded from the overall BNG calculation.

4)The proposal would not make worse any concerns raised by third parties during the original planning permission was considered.

5)The proposal does not involve dwellings

6)The proposal would not result in an extension to development already approved

7)N/a

8)N/a

9)The original proposal was not EIA development and an ES was not submitted

10) The changes are unlikely to lead to harmful amenity impacts.

11)There would be no change to the description of development

It is therefore considered that the changes proposed by these applications are considered not to have a material effect upon the previously approved scheme.

Conclusion

Having regard to the effect of the change, together with previous changes made under section 96A. it is considered that the proposal to reduce the BNG gain 191% (from 195.93%) is not considered to have a material effect upon planning permission H18-1126-20.

Recommendations

Non-Material

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.