

Delegated report

Planning Ref: 23/00414/NMA

Applicant: NextPower Bosworth Limited

Ward: Cadeby Carlton M Bosworth & Shackerstone

**Site: Photovoltaic Installation, Hall Farm, Main Street, Newbold
Verdon, Leicester, LE9 9NL**



Hinckley & Bosworth
Borough Council

**Proposal: Non-material amendment to planning application 18/01243/CONDIT.
Amendment to include CCTV, access tracks, fence and gate, table racking system and
string inverters.**

Recommendations

- 1.1. **Grant Planning Permission** subject to:
- Previously imposed conditions on planning permission 18/01243/CONDIT

Planning application description

- 2.1. The application seeks a non-material amendment to planning permission 18/01243/CONDIT. The proposed amendment is for CCTV, access tracks, fence and gate, table racking system and string inverters. The solar farm has been constructed in two discrete phases. This application (and the associated S73 application) relates to Phase II only (northern field, and eastern fields either side of the PROW). Phase I is located on the field in the south-west of the overall area of development.

- 2.2. The original application reference 14/00660/FUL permitted the following on site:

“Erection of a 10 MW solar farm and associated infrastructure”

The application was later varied through a Section 73 application (18/01243/CONDIT) for the following approved 12th March 2019:

“Variation of conditions 1 and 5 of planning permission 18/00492/CONDIT to enable the development to be implemented in accordance with amended details including: amended Site Layout Plan (removal of surface water drainage swales) and amended tree planting scheme.”

The following has been submitted as part as part of this NMA application:

- CCTV Layout submitted 27th April 2023 (ref: HLF-CS-02_Rev.1).
 - Site Layout submitted 27th April 2023 (ref: HLF-GL-01_Rev.3).
 - Container submitted 27th April 2023 (ref: HLF-ME-02_Rev.1).
 - Phasing Plan submitted 27th April 2023
 - Racking Detail submitted 27th April 2023
- 2.3. The purpose of this NMA application is to make a number of minor changes to the approved layout that need regularisation.
- 2.4. The extant planning consent for the operational solar farm is detailed under planning reference, 18/01243/CONDIT. As such, the approved module layout for

the solar farm is detailed under plan reference JT04/PA002P (dated 12/12/18). This plan shows the position of the solar PV tables and panels, perimeter fence line, internal access tracks and the position of the various transformer units and inverter units and substation building.

2.5. The proposed amendments are:

- CCTV Cameras and poles. It is apparent that the actual number of timber CCTV poles has reduced from 26 to 11. The height of each pole is 2.5m however, and the actual number of cameras on each pole ranges between 3 to 4 per pole. The actual locations of the poles appear also to differ from the consented plan under 18/01243/CONDIT. Please refer to Security System Layout, HLF-CS-02 (Revision 1, dated 13/09/19) and CCTV Pole (Revision A1, dated 05/04/2023).
- Internal access tracks. The internal access tracks constructed to provide access to the individual solar park areas vary from the approved layout as detailed under 18/01243/CONDIT. Please refer to General Layout, HLF-GL-01 (Revision 3 dated 15/04/20) which provides further detail as to the setting out of the access roads within the solar park. The new tracks have been constructed within the central area of the park and provide improved access to the areas within the eastern half of the solar farm.
- Fences and gates. The installed 2.1m high deer fence is in line with the approved perimeter fence (plan reference JT04/P008). The double entrance access gates are also broadly consistent with this plan. The timber slatted fence feature either side of the entrance gates is slightly different from this approved plan, however this is considered de minimis. Should the LPA require an up to date drawing for completeness, this can be provided upon request.
- PV table racking system. The installed metal tables that accommodate the solar panels (four in landscape format) are broadly consistent with the approved racking system as detailed under plan JT04/PA004A. However, there are minor changes in the actual height of the table at the front and rear of each table. The approved height at the front of the table is detailed at 800mm whereas it has been built at minimum height of 720mm. The rear of the table is approved at 1800mm but on site it has been built at maximum height of 1900mm. Please refer to Racking Detail (Revision A1, dated 13/04/2023) to show the change in height.
- String Inverters. These small box-like structures have been installed underneath the PV panels (attached to the racking system) at the rear of every third row. Owing to their relatively small size they are not overtly visible but they do form part of the wider installation of the solar farm. Plan reference Combiner Box Mounting Detail, HLF-ME-02 (Revision 1, dated 13/09/19) confirms the position and location on these units on the racking system.

Description of the site and surrounding area

2.6. The solar farm application site measures approximately 17 hectares and is comprised of two adjacent fields in the countryside to the south west of Newbold Verdon. The largest field is to the south and the small field to the north.

- 2.7. The largest field runs alongside the southern edge of a small wood known as Botany Bay Spinney and is enclosed by hedging to the west then hedging with trees and Botany Bay Spinney to the north. Its eastern edge follows a streamside with some hedging and trees, but with some open sections. The edge of the approved solar installation stops some way short of this end of the field. All solar arrays have now been implemented along with a site servicing compound located in the smaller field to the north comprising a sub-station, communications cabinet and other cabinets finished in dark green. There are also two existing ancillary structures finished in grey located at the north side of solar panels.
- 2.8. Access to the site is via a loose surfaced track leading from Bosworth Road which lies to the west.

3.0 Relevant planning history

- 14/00660/FUL. Erection of a 10MW solar farm and associated infrastructure. Granted 03.06.2015
- 15/01077/NOMAT. Non-material amendment to planning permission 14/00660/FUL to adjust the inverter locations, adjust the solar panel arrangement, reduce the size of the substation and make an adjustment to the line of the fence. Granted 25.11./2015
- 16/00095/NOMAT. Non material amendment to planning permission 14/00660/FUL to replace the transformers from holly green to pure white. Granted 08.03.2016
- 16/00432/NOMAT. NMA to 14/00660/FUL to add 4No bunded oil tanks to each inverter. Granted 08.07.2016
- 17/01008/NOMAT. NMA to 14/00660/FUL to encase an 11kv transformer within housing. Granted 06.11.2017
- 18/00492/CONDIT. Variation of Condition No4 (14/00660/FUL) to extend operational solar farm to 45yrs. Granted 15.08.2018
- 18/00966/NOMAT. NMA to planning consent 14/00660/FUL to amend fence layout including new gate and 11kv transformer. Granted 25.10.2018.
- 18/00980/FUL. Installation of 8.0m comms tower and associated infrastructure and 13No CCTV cameras. Granted 26.11.2018. It is noted that this is a 'stand alone' full permission which sits in parallel to the string of consents which starts with 14/00660/FUL.
- 18/01243/CONDIT. S73 application of planning consent 18/00492/CONDIT to seek approval for amendments to module layout including perimeter fencing, gates and transformers. Granted 13.03.2019.

4.0 Publicity

- 4.1 The application is a non-material amendment and as such no site notice or public consultation has been undertaken.
- 4.2 No public comments have been received.

5.0 Consultation

- 5.1 No consultation is required for a non-material amendment.

6.0 Policy

- 6.1 Greater Flexibility for Planning Permissions Guidance (non-material amendments) states that the local planning authority must have regard to the effect of the change, together with any previous changes made under this section.
- 6.2 Since the original planning permission was issued there have been no significant changes to the policies within the development plan that would be material to the outcome of the assessment of the application in this case.

7.0 Appraisal

7.1 Key Issues

- Assessment against strategic planning policies
- Conditions

Assessment

- 7.2 Section 96A of the Town and Country Planning Act 1990 allows a non-material amendment to be made to an existing planning permission. There is no statutory definition of 'non-material'; this is because it is so dependent on the context of the overall scheme. That which may be non-material in one context may be material in another. It is for the Local Planning Authority to be satisfied that the amendment sought is non-material in order to grant an application under S96A.

The submitted plans are:

- CCTV Layout submitted 27th April 2023 (ref: HLF-CS-02_Rev.1).
- Site Layout submitted 27th April 2023 (ref: HLF-GL-01_Rev.3).
- Container submitted 27th April 2023 (ref: HLF-ME-02_Rev.1).
- Phasing Plan submitted 27th April 2023
- Racking Detail submitted 27th April 2023

These plans are discussed in turn below, in terms of the nature of the change from the permitted scheme (18/00492/CONDIT), compliance with the S106 and whether the changes proposed are considered to be material changes to the development.

These submitted plans above are proposed to replace plans:

Site Layout Plan Dwg No. JT04/PA002P received 12th December 2018

The proposed changes as detailed above are relatively inconspicuous and modest in scale and nature. It is considered that these variations and amendments to the approved layout can be considered under the s96 application. The proposed changes are not visually intrusive and do impact on the wider setting of the rural landscape in this area. It is considered that the changes are necessary to help in the efficient running and operation of the solar farm. The proposed changes will not harm existing levels of ecology, flood risk or heritage. Furthermore, the proposed changes will not impact on the adjacent road network serving the solar farm.

The proposed amendments are not considered to be material changes to the scheme.

The amended plans are considered to comply with the street types and character areas they are located within. The changes are overall considered to be non-material.

Conditions and compliance with S106

Under Section 96A of the Town and Country Planning Act 1990 any decision issued should only relate to the non-material amendments sought and is not a re-issue of the original planning permission, which still stands. Under section 96A(3) the LPA may impose new conditions or remove or alter existing conditions.

The decision notice for 20/00224/FUL & subsequently 20/01278/CONDIT was subject to 31 conditions, and no additional conditions are necessary to impose in light of the amendments as this application cannot grant further planning permission.

Equality implications

- 7.3 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.4 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 7.5 There are no known equality implications arising directly from this NMA of the development.
- 7.6 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

8.0 Conclusion

- 8.1 The proposed amendments would not result in any material impacts on the approved development and would respect the character and appearance of the wider site and surrounding area. The amended scheme would remain in accordance with Core Strategy Policies 12 and Policies DM1, DM2, DM4, DM6, DM7, DM10, DM11, DM12, DM17 and DM18 of the SADMP, and the overarching intentions of the NPPF and is therefore recommended for approval. No new conditions are necessary.

9.0 Recommendation

- 9.1 **Grant Non-Material Amendment** subject to:
- Previously imposed conditions on planning permission 18/01243/CONDIT
 - The amendments as elaborated on above

9.2 Conditions and Reasons

1. This non-material development is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:

- Application Form (submitted: 27/04/2023)
- CCTV Layout submitted 27th April 2023 (ref: HLF-CS-02_Rev.1).
- Site Layout submitted 27th April 2023 (ref: HLF-GL-01_Rev.3).
- Container submitted 27th April 2023 (ref: HLF-ME-02_Rev.1).
- Phasing Plan submitted 27th April 2023
- Racking Detail submitted 27th April 2023

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).