

Mr Andy Watt
Mid Sussex District Council
Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

19th February 2026

Dear Mr Watt

SECTION 96A NON-MATERIAL AMENDMENT APPLICATION TO AMEND THE WORDING OF
CONDITION 4 ATTACHED TO PLANNING CONSENT **DM/21/2276 BATTERY ENERGY
STORAGE FACILITY AND ASSOCIATED INFRASTRUCTURE AT LAND EAST OF WINEHAM
LANE, WINEHAM, WEST SUSSEX, BN5 9AY**

This application is submitted by Elements Green Bolney Holding Ltd ('the Applicant') to Mid
Sussex District Council (MSDC) under Section 96a of the Town and Country Planning Act
1990 (as amended) and complies with all the relevant legal requirements.

In addition to this covering letter, the application includes:

- Application Form
- Application fee
- Site Location Plan
- Land East of Wineham Lane Naturespace Report
- Wineham Lane Impact Plan
- NatureSpace Best Practice Principles March 2021
- NatureSpace GCN Mitigation Principles November 2021

The requisite application fee of £383 (including service charge) has been paid via the
Planning Portal.

Background

Full planning permission, planning reference DM/21/2276 was granted on 5th September
2024 for a Battery Energy Storage Facility and Associated Infrastructure.

Condition 4 of the approved permission requires that works affecting great crested newts shall not commence unless either:

- a site-specific licence issued by Natural England under the Conservation of Habitats and Species Regulations 2017 has been obtained; or
- written confirmation has been provided by Natural England that no licence is required.

Since the grant of planning permission, the site has been confirmed as proceeding under Natural England's Great Crested Newt District Licensing Scheme, delivered by NatureSpace via the Council's Organisational Licence (WML-OR136). District Licensing is the recognised mechanism for securing legal compliance for great crested newts within Mid Sussex where applicable.

Purpose of the proposed amendment

The proposed replacement condition updates the wording of Condition 4 to reflect the **District Licensing route** now applicable to the site, by:

- explicitly tying development to compliance with the Council's Organisational Licence (WML-OR136);
- requiring approval of the Delivery Partner certificate prior to commencement; and
- securing adherence to the District Licence mitigation principles and approved impact plan.

The proposed amendment relates solely to the licensing route for Great Crested Newts and does not alter the scope, extent, timing or nature of works assessed under the original permission. Instead, it ensures that the permission operates correctly within the current Natural England licensing framework.

The proposed amendment to condition 4, does not impact any other conditions or drawings associated with the approved full planning permission DM/21/2276.

Consistency with Mid Sussex policy

The revised condition continues to meet the objectives of:

- Policy DP38 (Biodiversity) of the Mid Sussex District Plan, by ensuring that protected species are adequately safeguarded and compensated;
- the Natural Environment and Rural Communities Act 2006;

- the Wildlife & Countryside Act 1981 (as amended);
- S16 Crime and Disorder Act 1998; and
- the Conservation of Habitats and Species Regulations 2017 (as amended).

The revised condition also meets the objectives of the Emerging Mid Sussex District Plan 2021-2039 (Regulation 19) Policy DPN1 Biodiversity, Geodiversity and Nature Recovery.

The level of protection afforded to great crested newts is equivalent to, or greater than, that secured by the original wording. There is no change to the development parameters nor any impacts or mitigation outcomes, therefore there is no change in impact to Great Crested Newts (GCN).

Existing Condition Wording:

Condition 4: Any works which will impact the breeding / resting place of Great Crested Newt shall not in any circumstances commence unless the local planning authority has been provided with either: a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998 and to accord with Policy DP38 of the District Plan.

Proposed Condition as per Land East of Wineham Lane, NatureSpace Partnership's Report:

"4a. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR136, or a 'Further Licence') and with the proposals detailed on plan "Land East of Wineham Lane: Impact plan for great crested newt District Licensing (Version 1)", dated 5th December 2024.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR136, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

4b. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR136, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the District newt licence.

The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Reason: In order to adequately compensate for negative impacts to great crested newts, and in line with section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

4c. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence (WML-OR136, or a 'Further Licence') [and in addition in compliance with the following [any or all of the following sub-clauses may be added to condition 3, as determined by the planning condition calculator contained in Annex A4 of the District Licence]]: Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.

Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR136, or a 'Further Licence'), section 15 of the

National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.”

Informatives:

Alongside the Planning Conditions, NatureSpace have provided the following informatives for the consideration of the Planning Authority:

“It is recommended that the NatureSpace Best Practice Principles are considered and implemented where possible and appropriate.

It is recommended that the NatureSpace certificate is submitted to this planning authority at least 6 months prior to the intended commencement of any works on site.

It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority which permits the development to proceed under the District Licence (WML-OR136, or a ‘Further Licence’) are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newts are thereby committed then criminal investigation and prosecution by the police may follow.

It is essential to note that any ground investigations, site preparatory works and ground/vegetation clearance works/activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those detailed in the planning condition above which refers to the NatureSpace great crested newt mitigation principles would give rise to separate criminal liability under the District Licence, requiring authorised developers to comply with the District Licence and (in certain cases) with the GCN Mitigation Principles (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (as amended) (for which the Police would be the enforcing authority.”

In summary, it is considered that the requested changes to the wording of Condition 4 do not introduce any material changes to the approved development. Therefore we trust that the information provided would enable you to determine this application under s 96a of the Town and Country Planning Act 1990.

Should you have any queries in respect of the above and enclosed, please do not hesitate to contact me.

Yours sincerely,

Dominic Richardson

Development Planner