



9th August 2026

Planning Department
Mid Sussex District Council
Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

For the Attention of the Planning Officer

OBJECTION TO APPLICATION FOR NON-MATERIAL AMENDMENT – ELEMENTS GREEN BESS DEVELOPMENT

Planning Application: DM/21/2276

We wish to object to the application by Elements Green Bolney Holding Ltd for a non-material amendment under Section 96A of the Town and Country Planning Act 1990.

We do not consider the proposed amendments to be genuinely non-material. The changes go considerably beyond a simple reduction in the quantity of equipment and amount to a significant alteration to the design, layout, infrastructure and operational arrangements of the consented Battery Energy Storage System (BESS).

1. The proposed changes are substantial in combination

Elements Green describes the proposals as a reduction in the scale of the development, principally because the number of BESS units would reduce from 184 to 92 and the number of PCS units from 46 to 23. However, this description risks understating the significance of the changes.

The application itself identifies numerous consequential amendments, including:

- a complete change in the number and arrangement of BESS and PCS units;
- a revised container arrangement and separation distances;
- the introduction of acoustic fencing;
- changes to the transformer infrastructure;
- an increase from one to **two water storage tanks**;
- removal of two large storage buildings and their replacement with three smaller container-sized buildings;
- changes to the internal access track;
- a revised emergency access route; and
- changes to the overall site layout.

These are not merely technical or administrative alterations. They change the physical configuration and appearance of the development and, importantly, alter arrangements relating to fire safety, emergency access, noise and site operation. Elements Green itself confirms these changes in its covering letter.

The fact that there may be fewer battery units does not, by itself, make the amendment non-material. The correct question is whether the **changes to the planning permission, considered individually and cumulatively, are material in planning terms.**

2. Fire safety cannot reasonably be dismissed as a non-material issue

Of particular concern is the proposed change to the fire-safety arrangements.

The application proposes increasing the number of water storage tanks from one to two and states that these form part of a fire safety strategy which has been developed in consultation with West Sussex Fire and Rescue Service. It also states that discussions concerning the overall fire safety strategy are continuing.

If the fire-safety strategy is still being discussed and the physical infrastructure required to implement it has changed, it is difficult to understand how the applicant can confidently characterise the amendment as non-material.

Furthermore, the revised battery arrangement is justified partly by reference to the 2026 National Fire Chiefs Council guidance, with new separation distances between individual units and groups.

This demonstrates that the fire-safety circumstances of the development have not simply remained unchanged. The applicant has selected different equipment and a substantially different configuration, requiring consideration of whether the existing planning conditions and approved fire-safety arrangements remain adequate.

The Council should therefore require the revised fire-safety strategy and supporting technical information to be properly assessed before determining that these changes are non-material.

3. The acoustic environment is being changed

Elements Green states that the amended proposal introduces an **acoustic fence**.

The applicant argues that because the number of BESS and PCS units is reduced, noise levels will not increase.

A change to the number and configuration of noise-generating equipment, together with the introduction of a new acoustic barrier, changes the acoustic design of the site. The question is not simply whether the applicant predicts a higher numerical noise level. The Council should establish whether the revised equipment, layout, operating characteristics and acoustic fence have been properly assessed against the noise conditions and assessment on which the original permission was granted.

The introduction of an acoustic fence itself indicates that the amended scheme requires a different mitigation approach.

4. The emergency access arrangements are being changed

The application proposes an amended internal emergency access route to provide a more direct pathway to the remaining BESS units.

Emergency access is an integral part of the safe operation of a large-scale BESS facility. The fact that the external junction with Wineham Lane remains unchanged does not mean that the internal emergency arrangements are immaterial.

The applicant's own submission acknowledges that the internal emergency access route is being altered.

The Council should therefore consider whether the revised route remains suitable for emergency vehicles, particularly in conjunction with the revised battery configuration and fire-safety arrangements.

5. The applicant is relying too heavily on a reduction in physical footprint

The Statement of Compliance repeatedly relies upon the proposition that there is less equipment and a smaller footprint.

For example, the applicant states that the reduction in infrastructure means that the Ecological Impact Assessment and Biodiversity Net Gain calculations remain valid. It similarly argues that the reduction in concrete plinths means that flood risk is not materially increased.

Those points do not, however, establish that the **planning amendment itself is non-material**.

Materiality is not determined solely by whether an amendment increases the physical footprint of a development. A change can be material because it alters the character, appearance, operation, safety arrangements, environmental effects or relationship of the development with its surroundings.

The Council therefore needs to consider the nature and consequences of the changes rather than simply treating a smaller footprint as evidence that the amendment must be non-material.

6. The equipment itself is changing

The applicant says that the amendments have arisen because a Principal Contractor has been appointed, a BESS supplier has been selected and technology has advanced since the original application.

This is important because it suggests that the development being proposed now is not simply the same approved development with fewer units.

The original permission was determined on the basis of the plans, equipment configuration and supporting technical assessments available to the Council at the time.

The applicant is now proposing a substantially different arrangement following the selection of a BESS supplier and the adoption of newer technology. The Council should therefore be satisfied that the environmental, safety and operational assumptions underpinning the original permission remain valid.

The applicant cannot simply rely upon the conclusion that the new equipment is more efficient without demonstrating that the characteristics relevant to planning – including noise, fire behaviour, emergency response, visual appearance and operational impacts – remain materially unchanged.

7. The proposed changes should be considered cumulatively

Perhaps most importantly, the application itself acknowledges that Section 96A requires the Council to have regard to the effect of the proposed change **together with previous changes made under Section 96A** on the planning permission as originally granted.

The applicant nevertheless concludes that the amendments, individually or cumulatively, are non-material.

That conclusion should not simply be accepted.

The Council should assess the cumulative effect of:

- halving the number of BESS units;
- halving the number of PCS units;
- changing the equipment configuration;
- changing separation distances;
- introducing an acoustic fence;
- altering transformer infrastructure;
- increasing water storage from one tank to two;
- replacing the previously approved storage buildings with different buildings;
- altering internal access arrangements; and
- changing the internal emergency access route.

Taken together, these are a considerable number of changes to the approved scheme.

8. A non-material amendment procedure should not be used to circumvent proper assessment

The applicant states that the proposed NMA does not alter the “principal development”.

However, describing the proposal as the same principal development does not make every consequential alteration non-material.

The purpose of the Section 96A procedure is to deal with changes that are genuinely non-material in the context of the permission as a whole. Where changes have the potential to affect matters such as fire safety, noise, emergency access, visual impact, site operation and the relationship with nearby receptors, the Council should exercise particular caution.

The fact that the applicant has produced a new site plan and seeks to substitute it for the approved site plan is itself evidence that the approved physical layout is being materially altered.

9. Request to the Council

For these reasons, I respectfully request that Mid Sussex District Council **does not determine these changes as a non-material amendment under Section 96A.**

At the very least, the Council should require full and independently scrutinised information addressing:

1. the precise specification and characteristics of the replacement BESS and PCS equipment;
2. the revised fire-safety strategy, including the reason for increasing water storage from one tank to two;
3. confirmation from West Sussex Fire and Rescue Service regarding the revised arrangements;
4. the revised emergency access arrangements and their suitability for fire and rescue vehicles;
5. a properly updated noise assessment reflecting the new equipment and acoustic fencing;
6. the implications of the revised layout for landscape and visual impact;
7. the operational and environmental consequences of the different equipment configuration; and

8. the cumulative effect of all amendments to the original permission.

If these matters cannot be satisfactorily demonstrated to be genuinely non-material, the proposed changes should instead be dealt with through an appropriate planning application where the Council, statutory consultees and local residents have the opportunity to consider the revised scheme fully.

Conclusion

The proposed amendment should not be characterised simply as “less equipment and a smaller footprint”.

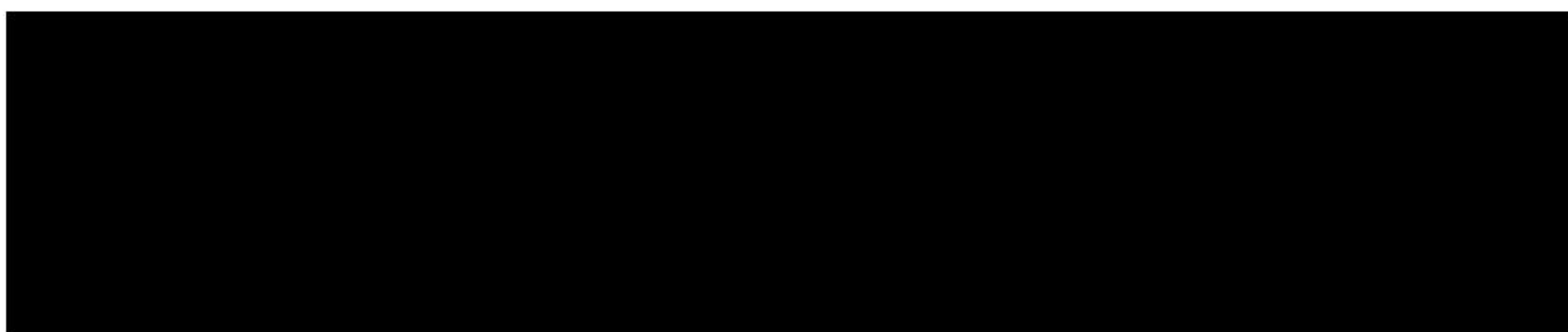
It represents a substantial reconfiguration of a consented large-scale BESS facility, involving different equipment, a substantially different arrangement of that equipment, revised fire-safety infrastructure, new acoustic mitigation, altered emergency access arrangements and changes to associated buildings and infrastructure.

Elements Green’s own documentation demonstrates the extent of these changes.

In our view, the cumulative effect of these changes means that they cannot reasonably be dismissed as merely technical or administrative amendments. They have the potential to affect matters which were material considerations in granting the original permission, particularly fire safety, emergency response, noise, visual impact and the operation of the facility.

We therefore ask Mid Sussex District Council to **reject the application for a non-material amendment** and require any materially different scheme to be submitted through the appropriate planning process.

Yours faithfully

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