

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

Dear Mr. Watt,

Application for Non-Material Amendment under Section 96A of the TCPA 1990

1. Introduction

Elements Green Bolney Holding Ltd ('The Applicant') has submitted an application for a non-material amendment to Mid Sussex District Council (MSDC) ('the Council'), in relation to existing consent DM/21/2276. The Application seeks to make a non-material amendment (NMA) pursuant to Section 96A of the Town and Country Planning Act 1990 (as amended). The proposed NMA relates to a development comprising the Construction of Battery Energy Storage System (BESS) and associated infrastructure on land east of Wineham Lane (LPA ref. DM/21/2276) ('The Development'). Planning permission was granted on 5th September 2024 for the following:

Battery energy storage facility and associated infrastructure.

The NMA Application comprises the following documents:

- Non-material amendment application form;
- This covering letter;
- The following revised drawing set out in Table 1 below.

Table 1 Revised drawing submitted to accompany this NMA application

Drawing Title	Approved Drawing	Proposed Drawing
Site Plan	BOL-ADI-00-00-DR-A-003 P05	UK028-BS-D-ENG-4401 Rev00

2. Background

Since the granting of planning permission in 2024, there have been two main drivers for the minor changes to the layout; 1) Appointment of a Principal Contractor and selection of a BESS supplier, who have optimised the layout post consent; 2) Significant technological advancements which mean that BESS equipment is now more efficient, allowing the same energy storage and output to be achieved within a smaller footprint.

The Government Guidance on *Flexible Options for Planning Permissions* recognises that non-material amendment applications are the appropriate consenting route when new matters arise

following the granting of planning permission which necessitate modification to the approved proposals when those modifications are not substantial.

3. The Proposed Amendments

The application seeks to amend the list of approved site plans under Condition 29 (Appendix 1). Approval is sought for the following non-material amendments, which comprise a reduction of the quantity and footprint of the equipment associated with the Development and consequential minor amendments to an internal access track.

BESS and Power Conversion Systems (PCS) and Associated Infrastructure

- Significant reduction in the number of BESS and PCS units required, reflecting technological advancements since the original submission
- Reduction from 184 BESS units to 92 BESS units
- Reduction from 46 PCSs to 23 PCSs
- Overall reduction in the quantum of electrical equipment on site
- Increased set-back from the closest receptors
- Container arrangement revised: units are no longer arranged in groups of four back-to-back; the amended layout provides a minimum separation of 0.92m between individual units and 3.5m between each BESS group, in accordance with the National Fire Chiefs Council's Grid Scale Energy Storage System Planning – Guidance for Fire and Rescue Services (2026).
- Changes to the perimeter fence to an acoustic fence

132kV Transformer

- Footprint required for transformer infrastructure reduced and consolidated alongside the BESS equipment, resulting in a more efficient site layout

Other Equipment and Infrastructure

- Increase to two water storage tanks (from one) proposed as part of the site's fire safety strategy, developed in consultation with West Sussex Fire and Rescue Service (WSFRS); design drawings shared with WSFRS, with ongoing discussions regarding the overall fire safety strategy for the site
- Removal of the two previously proposed large storage buildings; replaced with three smaller container-sized units for spare parts storage and welfare facilities

Internal Access Track

- Reduced hardstanding area including access roads, resulting from the reduction in BESS equipment
- Amended internal emergency access route to provide a more direct pathway to the remaining BESS units

4. Environmental Implications

Section 96A of the TCPA 1990¹ states that:

(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission or permission in principle as originally granted.

(3) The power conferred by subsection (1) includes power to make a change to a planning permission –

(a) to impose new conditions;

(b) to remove or alter existing conditions.

The NMA application is supported by a Statement of Compliance within Appendix 2.

The Compliance Statement has fully assessed the environmental implication of the proposed changes and confirms that the proposed changes will not result in any material change from that originally assessed.

This reinforces the position that the changes are non-material in nature and are not considered to, individually or cumulatively represent a material alteration to the overall scheme.

5. Summary and Conclusion

This cover letter has been prepared to explain the proposed non-material amendments to the application (LPA ref. DM/21/2276). The application relates to changes to the site layout as summarised above.

It provides an explanation and justification of the proposed NMA. It considers the changes in terms of whether they can be reasonably considered to be immaterial to the permitted development. It sets out the reasons as to why we consider the changes can be satisfactorily dealt with in this NMA.

National Planning Practice Guidance (Ref: 17a-003-20140306) confirms that there is no statutory definition of 'non-material'. This is because it is so dependent on the context of the overall scheme – what may be considered non-material in one context may be material in another. An important factor is, therefore, the context of the scheme for which the planning permission relates.

In this context, the proposed amendments are considered to be non-material. In coming to this conclusion, appropriate regard has been had to the Statement of Compliance (Appendix 2), which considers the consequence of each of the changes against the supporting environmental information that was submitted in support of the planning application (including the appeal documentation), which itself concludes that the proposed revisions would lead to no material changes to the conclusions to those reported in the decision notice.

The proposed NMA does not seek to alter the principal development, but instead seeks to address matters that have arisen since planning permission was granted.

¹ [Town and Country Planning Act 1990](#)

The enclosed submission has been informed by careful analysis of the site and its context, the applicant has only requested adjustments where this is necessary to maintain the quality and deliverability of the scheme.

This NMA Submission should be read alongside the documents and drawings approved by the planning permission (LPA ref. DM/21/2276). The existing planning permission still stands, and that the conditions imposed upon it continue to fully apply and no changes are required, other than that the plans listed below are substituted for the originally approved plans.

In accordance with good practice we have submitted this application electronically via the Planning Portal (**PP-15052855**). Hard copies of the application and supporting material can be provided upon request. A payment of £400 to cover the cost of the non-material amendment application has also been made via Planning Portal.

Kind regards,

Elena Sarieva
Head of Planning



Appendix 1 Proposed changes to planning conditions

Condition 29:

The development hereby permitted shall be carried out in accordance with the plans listed below under the heading 'Plans Referred to in Consideration of this Applications'.

Plan Type	Reference	Version	Submitted Date
Other	EMI-CRM.347.007.PL. R.010	P04	23.06.2023
Proposed Elevations	BOL-ADI-00-00- DR-A-111		17.06.2023
Proposed Elevations	BOL-ADI-00-00- DR-A-112		17.06.2023
Site Plan	BOL-ADI-00-00- DR-A-003	P05	22.06.2023
Sections	BOL-ADI-00-00- DR-A-110	P02	21.02.2023
Proposed Elevations	BOL-ADI-00-00- DR-A-100	P01	17.06.2022
Location Plan	CRM.347.006.PL. D.001		17.06.2022
Site Plan	CRM.347.006.PL. D.002		27.06.2022
Landscaping	CRM.347.007.LA. D.006	P07	02.10.2023
Site Plan	CRM.347.007.PL. D.003		17.06.2022
Proposed Floor and Elevations Plan	BOL-ADI-01- GFDR-A-040		17.06.2022
Proposed Floor and Elevations Plan	BOL-ADI-01- GFDR-A-030	P01	21.02.2023
Proposed Floor and Elevations Plan	BOL-ADI-01- GFDR-A-020		17.06.2023
Drainage Details	CRM.347.007 - 101	P04	21.02.2023
Access Details	1099-004	B	22.06.2023
Access Details	1099-005	A	22.06.2023

Appendix 2 Statement of Compliance

1. Approach to the Further Information Review

The amendments were considered in the context of the submitted documents for the application (LPA ref. DM/21/2276). This review ascertained whether any new or materially different environmental effects are expected as a result of amendments and whether any further environmental information needs to be provided in respect of the amendments.

The review involved the following:

- Review of baseline conditions, legislation, policy and guidance since the submission of the development;
- Review of the amendments to the Development;
- Assessment of whether the environmental effects described in the reports which accompanied the planning application remain valid for decision making in light of the amendments; and
- Review of committed developments considered within the cumulative assessment.

The reports which accompanied the submitted application and appeal documents have been considered. It is assumed that all mitigation measures which the submitted reports relied upon are carried through and implemented accordingly.

2. Baseline, Legislation, Policy and Guidance Review

A review of relevant legislation, policy and guidance across the topics was undertaken and it is considered that there are no significant changes to legislation or policy that would change the findings of the approved scheme.

3. The Consented Scheme

The description of development as defined for the consented scheme is as follows:

Battery energy storage facility and associated infrastructure.

4. Proposed Amendments

Full details of amendments are set out in this cover letter. In summary, the amendments comprise the following:

Reduction of the equipment associated with the battery energy storage system and electrical infrastructure, and minor adjustments to the internal access tracks.

5. Review of Development Assessment Findings and Planning Conditions

Document	Assessment of Findings
Agricultural Land Classification	The NMA would reduce the extent of agricultural land used when compared with the approved scheme. It would not increase agricultural land take or introduce new agricultural land impacts, and therefore the original ALC survey remains valid.
Condition 23: Water Neutrality Management Plan	The NMA does not propose any changes to how water will be stored or collected, nor does it envision an increase in water demand. It is therefore concluded that the Water Neutrality Management Plan remains valid.
Flood Risk Assessment	The amendment seeks to reduce the number of BESS and PCS concrete plinths. The amendments will not materially increase the impermeable surface area of the site. As such there will be no changes to the risk of tidal/fluvial or surface water flooding at the Site.
Phase I Preliminary Risk Assessment	No changes are required to the Preliminary Risk Assessment as the materials used remain the same.
Historic Environment Assessment	The amendment seeks to reduce the number of BESS and PCS concrete plinths. The amendments will therefore not encroach or affect on any assets not already assessed.
Noise Impact Assessment	The amendment seeks to reduce the number of BESS and PCS equipment. The amendments would therefore not increase noise levels.
Arboricultural Impact Assessment	No changes to the existing trees are proposed. The amendments proposed as part of this NMA will not give rise to new or materially different arboricultural effects. The assessment of effects previously assessed are therefore considered to remain valid and the mitigation set out is considered to be effective for the revised proposals.
Condition 13: Ecological Impact Assessment & BNG Calculations	The proposal would reduce the amount of infrastructure and, therefore, the footprint of the site. Therefore, the EcIA and BNG calculations remain valid.
Landscape and Visual Impact Assessment	The position of all infrastructure remains the same. . The proposal now includes acoustic fence which will further screen the infrastructure. Therefore, the proposed amendments will not result in new or materially different conclusions to the Landscape and Visual Impact Assessment.
Condition 27: Outline Fire Strategy and Battery Safety Management Plan	As the proposal amounts to a reduction in the scale of the development it is considered that the proposed amendment does not contradict the measures recommended through Condition 27.
Condition 20: Existing Access Visibility Splays	The proposed amendments do not alter the consented site vehicular access onto Wineham Lane or the required visibility splays.
Condition 21: Emergency Access Visibility Splays	The minor adjustments to the internal emergency access track do not alter the emergency access at its junction with Wineham Lane or the required visibility splays.

6. Conclusions

This review has confirmed that there are no new or materially different significant environmental effects expected as a result of the amendments and no further environmental information needs to be provided in respect of the amendments. We consider that the reports prepared for the consented scheme are valid for decision making and the provided information is sufficient.