

Mr Dominic Richardson
Elements Green Bolney Holding Ltd
1 Half Moon Street
Mayfair
London
W1J 7AY

TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 96A)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE
ENGLAND) ORDER 2015

REFERENCE: DM/26/0449

DESCRIPTION: NON MATERIAL AMENDMENT TO PLANNING APPLICATION
DM/21/2276 - TO CHANGE THE WORDING OF CONDITION NO 4.

LOCATION: LAND EAST OF WINEHAM LANE, WINEHAM, WEST SUSSEX,
BN5 9AY

DECISION DATE: 18 MAR 2026

CASE OFFICER: ANDREW WATT - ANDY.WATT@MIDSUSSEX.GOV.UK

In pursuance of its powers under the aforementioned Act, the Council hereby notify you that they **APPROVE** the Non-Material Amendment for the above development in accordance with the plans and particulars submitted with your application received on 19 February 2026 for the following reason(s):

1. This application seeks consent as a non-material amendment to amend the wording of a condition from a planning permission for a Battery Energy Storage Facility and associated infrastructure.

Condition 4 of planning permission DM/21/2276 states:

'Any works which will impact the breeding / resting place of Great Crested Newt shall not in 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.'

The agent has explained that:

'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.'

The agent has further set out that the purpose of the proposed amendment:

'... updates the wording of Condition 4 to reflect the District Licensing route now applicable to the site, by:

- o explicitly tying development to compliance with the Council's Organisational Licence (WML-OR136);*
- o requiring approval of the Delivery Partner certificate prior to commencement; and*
- o 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.'

Consequently the agent has requested that condition 4 be re-worded as follows:

'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.'

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

Informatives:

'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.'

Section 96A powers were introduced with the intention of building flexibility into the planning system. This section allows the Local Planning Authority to make changes to a planning permission "if they are satisfied that the changes are non-material".

The National Planning Policy Guidance (NPPG) advises that:

"There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme - an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990."

It is therefore considered that the variation of the wording of the original condition (plus informatives) to the original planning permission, reflecting the updated delivery mechanism, can be treated as a non-material revision to planning permission DM/21/2276.

Human Rights Implications

The planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

Please note that the existing planning permission still stands, and that the conditions imposed upon it continue to apply, except that the plans listed below can be substituted for the originally approved plans.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Location Plan	CRM.347.006.		19.02.2026
General	PL.D.002 Impact Plan for GCN District Licensing	Version 1	19.02.2026



Ann Biggs
Assistant Director Planning and Sustainable Economy

PENONMZ

