

Our Ref: 3004-01/NMA

11 April 2025

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Dear Sir or Madam

PROPOSED NON-MATERIAL AMENDMENT TO PLANNING PERMISSION REF APP/X1925/V/23/3323321 FOR PROPOSED SOLAR ARRAY WITH ASSOCIATED BATTERY STORAGE CONTAINERS AND ANCILLARY DEVELOPMENT INCLUDING MEANS OF ACCESS AND GRID CONNECTION CABLE ON LAND AT GRAVELEY LANE AND TO THE EAST OF GREAT WYMONDLEY, HERTFORDSHIRE, IN ACCORDANCE WITH APPLICATION REF. 21/03380/FP

Introduction

We write on behalf of our client, AGR Solar 4 Limited (the Applicant), to apply for a Non-Material Amendment (NMA) under Section 96A of the Town and Country Planning Act 1990 (as amended), to planning permission APP/X1925/V/23/3323321 in respect of the above development ('the Consented Development').

The Non-material Amendment application comprises:

- This Covering Letter;
- Planning Application Form;
- A revised set of Planning Drawings:
 - Drawing No. 3004-01 003 Rev R – General Arrangement (Site Plan)
 - Drawing No. 3004-01-012 Rev K – Landscape Proposals
 - Drawing No. 3004-01-005 Rev A – Indicative Inverter-Transformer Station
 - Drawing No. 3004-01-008 Rev B – Switchgear Building
 - Drawing No. 3004-01-009 Rev A – Battery Storage Container
 - Drawing No. 3004-01-015 – Solar MV Transformer
 - Drawing No. 3004-01-016 – Welfare Building
- For information - Drawing No 3004-01-014 - BESS Inverter Layout Comparison
- Planning application fee of £298 (excluding the Planning Portal handling fee).

Proposed Non-Material Amendment

Planning permission APP/X1925/V/23/3323321 was granted by the Secretary of State for Local Government on the 11th March 2024 following a call in for decision under Section 77 of the Town and County Planning Act (TCPA) 1990.

The planning permission was granted with 28 conditions. Following this decision, the Applicant conducted a design review of the approved development, resulting in several changes to the general arrangement. These modifications aim to optimise efficiency by incorporating the latest available technology while closely reflecting the originally approved layout.

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Condition 2 of the planning permission lists the approved drawings, which the development shall be carried out in accordance with. Condition 3 of the permission provides for details, including layout, materials, colours and finishes to be approved in writing by the Local Planning Authority.

Notwithstanding that Condition 3 provides for details of the final scheme to be approved it has been agreed with North Hertfordshire Council that changes to the layout of the scheme should also be reflected in the approved drawings via a non-material amendment application.

The following summarises the proposed amendments to the layout of the approved development as shown on the General Arrangement 3004-01-003 Rev R.

BESS Stations

The approved layout included 21 no. 'BESS Stations'. Each BESS Station comprised a 40ft battery container and a 40ft inverter/transformer container.

The revised layout includes 17 'BESS Stations'. The BESS Station configuration has been amended and now contains 4 no. 20ft battery containers, 2 no. Power Systems Control Kiosks and 1 no. Transformer/Ring Main Unit.

A comparison of the approved and proposed BESS Stations is provided on drawing no. 3004-01-014. This is intended for information only and not approval.

Ancillary Buildings

The approved layout included a single switchgear building, a single storage container and a single control building. Each building had the appearance of an ISO container, as shown on the approved elevation drawings no. 3004-01-006, 3004-01-007, 3004-01-008.

The revised layout includes a single welfare building (similar to the previously named control building) drawing no. 3004-01-016, and three switchgear buildings, drawing no. 3004-01-008 Rev A and a storage container. The buildings would continue to have the appearance of ISO containers.

Solar MV Transformers

The solar technology selected requires a number of standalone transformers to be provided within the solar array. 9 No. transformers have been added to the General Arrangement. These have been located in the position of Solar PV tables to minimise the impact of the changes. Elevations of the Solar MV Transformers are provided on drawing no. 3004-01-015.

The following table summarises the amendments proposed to the BESS Stations, Ancillary Buildings and in numerical terms.

Component	Rev F (Approved)	Rev R (Proposed)
Inverter/Transformer Units	21 units = 624.2 m ²	17 units = 425 m ²
Battery Storage Containers	21 units = 624.2 m ²	68 units = 1,006.4 m ²
Welfare Building / Control Building	1 unit = 14.8 m ²	1 unit = 14.8 m ² (renamed from Control Building)

Component	Rev F (Approved)	Rev R (Proposed)
Storage Building	1 unit = 30 m ²	1 unit = 30 m ²
Switchgear Building	1 unit = 52.3 m ²	3 units = 156.9 m ²
Solar MV Transformers	Not included	9 units = 133 m ²
Solar Tables removed for MW Transformers	-	9 tables = -775 m ²
Total Development Footprint	1,345.5 m²	991.1 m²

It can be seen the amendments would result in a reduction in the development footprint by 384.9m², a 26% reduction, compared to the approved layout.

In addition to the above 23 additional Solar Tables have been removed following a review of the layout, further reducing the footprint of built structures by another 1,980.5 m².

The broad location of the BESS stations remains the same as the original application, with three of the BESS stations removed from the Rev F layout. The key difference at each of the BESS stations relates to the configuration of the transformer / inverter units and provision of additional battery units (now in 20 foot containers rather than 40 foot containers), as shown on drawing 3004-01-14.

Turning Heads and Passing Bays

The internal access track layout remains ostensibly the same in the revised General Arrangement. However, turning heads and passing bays have been positioned throughout the site in order facilitate the movement of a large fire tender (FT) vehicle in accordance with the Fire Risk Management Plan required to discharge Condition 10. It is proposed that the turning heads and passing bays would be constructed of Grasscrete or similar product.

Water Hydrant & CCTV

The location of the CCTV columns and the fire water hydrants are also now shown on the General Arrangement drawing.

Archaeological No Dig Areas

As a result of the detailed archaeological investigations undertaken pursuant to Condition 13 the no-dig areas have been refined in consultation with Mr Instone of Hertfordshire County Council. The no-dig areas are now controlled by virtue of limb ii) of Condition 13 and as such have been removed from the GA to avoid potentially conflicting information within the approved documents.

Approved Drawings

The amendments described above result in a number of changes to the approved drawings listed under Condition 2. The following table sets out the drawings which are proposed to be amended.

Drawing Number	Title	Approved Revision	Amended Revision
3004-01-003	General arrangement (site plan)	Rev F	Rev R
3004-01-012	Landscape proposals	Rev F	Rev K
3004-01-005	Indicative inverter-transformer station	-	Rev A
3004-01-006	Storage building	-	-
3004-01-007	Control building	-	Removed
3004-01-008	Switchgear building	-	Rev B
3004-01-009	Battery storage container	-	Rev A
3004-01-015	Solar MV Transformer	NA	-
3004-01-016	Welfare Building	NA	-

On this basis we propose that Condition 2 is re-worded as follows.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
 - i) Drawing No. 3004-01-001 Rev B – location plan
 - ii) Drawing No. 3004-01-002 Rev B – statutory plan (location plan)
 - iii) Drawing No. 3004-01 003 Rev R – general arrangement (site plan)
 - iv) Drawing No. 3004-01-012 Rev K – landscape proposals
 - v) Drawing No. 3004-01-004 – illustrative PV frame and panels
 - vi) Drawing No. 3004-01-005 Rev A – indicative inverter-transformer station
 - vii) Drawing No. 3004-01-006 – storage building
 - viii) Drawing No. 3004-01-008 Rev B – switchgear building
 - ix) Drawing No. 3004-01-009 Rev A – battery storage container
 - x) Drawing No. 3004-01-010 Rev A - indicative deer/stock fencing, access track and CCTV
 - ix) Drawing No. 3004-01-011 – typical cable trench
 - x) Drawing No. 3004-01-015 – solar MV transformer
 - xi) Drawing No. 3004-01-016 – welfare building
 - xii) Drawing No. 3004-01-D04 – proposed passing place and junction visibility splays
 - xiii) Drawing No. 3004-01-D05- forward visibility splays
 - xiv) Drawing No. 3004-01-ATR03 - swept path assessment – northern access

- xv) Drawing No. 3004-01-ATR01Rev D - swept path assessment construction phase.

Reason - To provide certainty.

Amendment to the description of development

It is also proposed to amend the description of development. The operative part of the permission which describes the development permitted by it is stated in paragraph 42 of the decision letter as follows:

A solar array with associated battery storage containers and ancillary development including means of access and grid connection cable, in accordance with application Ref. 21/03380/FP

Two changes are proposed.

The first change relates to the reference to the development being *in accordance with application Ref. 21/03380/FP*. The proposed non-material changes to the layout set out in the proceeding section of the letter differ from the drawings submitted and approved under application Ref. 21/03380/FP. As such the development would no longer be in accordance with the original application. In order to avoid any ambiguity, the reference to *'in accordance with application Ref. 21/03380/FP'* should be removed. The development would be adequately controlled via the planning conditions.

The second change relates to an amendment to confirm the relationship between the solar array with the battery storage containers. We propose to substitute the term 'associated' with 'collocated' on the basis that the battery storage component of the development is core component of the development.

The proposed amended wording of the development description is:

A solar array with collocated battery storage containers and ancillary development including means of access and grid connection cable.

Consideration of Materiality

Section 96A of the Town and Country Planning Act 1990 (brought into force in England via the Planning Act 2008) states that:

"(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material;

(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 as originally granted..."¹

On-line Planning Practice Guidance provided by the Department for Communities and Local Government states 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.

¹ Town and Country Planning Act 1990. (s96a). London: HMSO.

The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application...”²

The judgement on ‘materiality’ in any particular case is one of fact and degree, considered against the development as a whole, not just part of it. The benchmark for forming the judgement is the original planning permission, and the extent to which the proposed amendments could give rise to materially different planning judgements.

In Axis’ experience the following questions are frequently used to interrogate the materiality of a proposed change.

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.) in relation to the original approved development?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity in the context of the development as a whole?
3. Would the proposed change result in other impacts which would be materially different to the original approved development such that they could alter the planning judgments made by the decision maker?
4. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.) in relation to the original approved development?

As set out above the number and footprint of the proposed battery units has increased but overall the footprint of development would decrease by 41.32%.

In relation to height, the BESS units would remain as approved i.e. just over 3m in height, but the inverter/transformer stations would reduce from 3m to 2.3m. The solar PV panels would be 3m in height above ground.

The changes relating to the turning heads, passing bays, CCTV columns and the water hydrants are very minor in scale when considered in the context of the remainder of the development.

The proposed changes to the wording of the description of development to not introduce any new development and are proposed to avoid any ambiguity when interpreting the planning permission.

2. Would the proposed change result in a detrimental impact either visually or in terms of amenity in the context of the development as a whole?

The change would be barely noticeable from publicly accessible viewpoints as the majority of the BESS stations / Solar MV Transformers are located within the solar PV array areas. The solar PV panels are 3m in height, i.e. the same as the battery units and taller than the inverter/transformer units, and would therefore screen the majority of the BESS stations / Solar MV Transformers. This is evident from the photomontages provided with the application, see figure 9, 11, 12 and 15. As such it is unlikely that someone looking into the site would perceive a change in the context of the view and the additional units would not alter the magnitude of visual change compared to the approved layout. As noted above

² Department for Communities and Local Government, 2014. Planning Practice Guidance. Flexible Options for Planning Permissions. Paragraph 002 Reference ID 17a-002-20140306 [online] <https://www.gov.uk/guidance/flexible-options-for-planning-permissions#Making-a-non-material-amendment>

there is a reduced number of BESS stations located around the site. Furthermore, once the proposed boundary vegetation has matured the BESS stations / Solar MV Transformers would not be visible from the vast majority of locations.

It is therefore considered that there would be no material change in the visual impact of the proposed development on nearby receptors and no material change in landscape character or visual amenity.

In relation to harm to the greenbelt, primarily for the reasons set out above, the proposed amendment would not materially alter the judgement made by the Secretary of State. The decision concluded that the *“proposal would have an adverse impact insofar as the spatial aspect of openness is concerned (IR12.3), and would result in a significant loss of openness, both spatially and visually, in the Green Belt (IR12.4).”* The principal impact on openness stems from the presence of the solar PV array. The BESS stations / Solar MV Transformers, which are contained within the array, have little additional impact on openness. As such the change in impact on openness from the additional BESS units when considered in the context of the entire development is very minor and is not considered material to the conclusions reached by the SoS.

The proposed changes to the wording of the description of development to not introduce any new development and are proposed to avoid any ambiguity when interpreting the planning permission.

3. Would the proposed change result in other impacts which would be materially different to the original approved development such that they could alter the planning judgments made by the decision maker?

We have provided a brief review in the following table of the other key environmental topics addressed in the original application.

Topic	Impact of the change to the BESS stations
Heritage	The BESS stations / Solar MV Transformers are not located within the archaeologically sensitive locations which are demarked by the ‘no dig’ areas shown on the originally approved General Arrangement plan (3004-01-003). Furthermore, an archaeological site investigation has been conducted (pursuant to Condition 13) which included trenches in the location of the BESS stations / Solar MV Transformers. These did not identify any sensitive or significant buried archaeology. As such it is considered the amendment would not have any material impact on buried archaeology.
Flood Risk and Drainage	The revised configuration has been considered within the detailed drainage design which has been prepared pursuant to Condition 17. The drainage design has ensured that sufficient attenuation has been provided to account for the BESS stations, and the turning heads and passing bays would be permeable.
Ecology	The revised configuration has been accounted for within the detailed landscaping design, the associated Landscape and Ecological Management Plan and the related BNG calculation pursuant to Condition 9. The BNG delivered from the proposed development remains significantly in excess of the 10% requirement, with hedgerow BNG at 202% and habitat units at 102% BNG. As such the proposed amendment would not have any material ecological impact.
Noise	Condition 16 requires that details must be provided prior to installation of plant that demonstrate compliance with the source noise levels detailed in Section 6.2.3 of the Noise Impact Assessment reference R21.0906/DRK dated 7 October 2021. The

Topic	Impact of the change to the BESS stations
	primary source of noise from BESS units is associated with inverters / transformers. The number of these units has not changed and so there is unlikely to be a material change in noise levels from the installed plant. Irrespective, the controls in place by virtue of Condition 16 means there would be no material impact on nearby noise sensitive receptors.
Traffic and Transport	The amendment would not impact the construction traffic management proposals. Whilst there would be additional deliveries required for the battery units these would occur outside the main peak HGV periods, when the aggregates and PV panels would be delivered to site. In the context of over 1,000 HGV one-way deliveries associated with the whole development, the additional deliveries associated with the battery units would not be material.

4. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

On the basis that the amendment would not have a material impact on any of the environmental issues considered in the original determination of the application, and the fact that that amendments relates solely to land within the ownership and control of the applicant, we do not consider that the interest of any third party or body would be disadvantaged.

On the basis of the above we consider that the amendments proposed do not have a material impact on the planning judgements made when the original application was determined. As such it is considered that the amendments are non-material in nature and thus can be subject to an application under Section 96A of the Town and Country Planning Act 1990.

We trust the contents of this letter are self-explanatory and look forward to receiving your decision on the non-material amendment application.

If you have any queries regarding the proposed amendments or wish to discuss this application in further detail, then please do not hesitate to contact the undersigned.

Yours faithfully

Andrew Russell

Andrew Russell
Director on behalf of Axis

Encl:

Drawing No. 3004-01-14 - Approved and Proposed BESS/Inverter Layout Configuration Comparison
Drawing No. 3004-01 003 Rev R – general arrangement (site plan)
Drawing No. 3004-01-012 Rev K – landscape proposals
Drawing No. 3004-01-005 Rev A – indicative inverter-transformer station
Drawing No. 3004-01-008 Rev B – switchgear building

Drawing No. 3004-01-009 Rev A – battery storage container
Drawing No. 3004-01-015 – solar MV transformer
Drawing No. 3004-01-016 – welfare building