

Deadline 8 Submission from Mollett's Partnership (trading as Mollett's Farm)

Summary of this document's contents:

This document contains our Deadline 8 submission to the Examining Authority, relating to the Sizewell C development application.

In it we provide further comment on those aspects of the Applicant's revised draft DCO that still concern us, along with matters arising from direct interaction with the Applicant's representatives.

Regretfully, we must still maintain our stance that the Applicant's DCO should <u>not</u> be approved in its current form.

Contents

Abbrev	viations	3
1.	Introduction	4
2.	The 'Mistake', Consequent Failures in Thinking and Fatal Flaws in Design	6
3.	Land Take	9
4.	PRoW Network	. 11
5.	Process	. 14
6.	Conclusion	. 15
7.	Reservation	. 16
Appen	dix A – Annotated Aerial Views of Mollett's Farm and Surroundings	. 17
Appen	Appendix B – Acoustical Control's Follow-up Letter No. 2	
Appen	dix C – Charity Fund-Raising Event Poster	. 20

Abbreviations

For convenience the following abbreviations are used throughout this document:

CPO Compulsory Purchase order

DCO EDF's proposed Development Consent Order

DMRB Design Manual for Roads and Bridges

ESC East Suffolk Council

EDF NNB Generation Company (SZC) Limited

ExA the Examining Authority

FERN Farnham Environment Residents & Neighbours association

FP a public footpath

LPA local planning authority

Mollett's the trading partnership of Richard and Sasha Ayres

PMA Private Means of Access

PRoW public right of way

SRO Side Roads Order

SCC Suffolk County Council

TVB Two Villages Bypass (for Stratford St Andrew and Farnham)

USP unique selling point

1. Introduction

We hope that by now we have amply demonstrated to the ExA that we are not an "isolated farmstead" (as originally identified by EDF) but rather a thriving tourism business in a variety of forms, as well as having three residential units here at Mollett's Farm.

We know what we will be facing by having a construction site 'next door', because we have already lived through the construction of an agricultural lagoon some 750 metres away. EDF's 'red line' development boundary runs directly along the eastern edge of our land-holding, adjacent to their Two Village Bypass (TVB) construction compound, and then the swath containing the TVB itself is merely 15 metres from the nearest point of our land. A close personal friend is experiencing construction of part of the Bishops Stortford bypass; we have seen first-hand the reality of what this entails. Our business simply cannot be run in its current form through the construction period. EDF's suggestion of housing Sizewell workers, at the rates suggested, would not even cover costs. There is anyway no guarantee of this as the best offer to date is that we could be on a 'preferred supplier list' along with every other provider in the area. We may pick up some income from people wanting higher quality housing (e.g. management) but that is also uncertain. What worries us most of all is that our business as we know it faces extinguishment. We very much doubt that EDF have recognised the reputational harm that can sink a tourism business; in the digital age, once negative reviews are out there, they last a long time. The reality will be that, as a tourism business, we will suffer a drastic loss of income during construction and quite probably business loss thereafter, since our offering to the holiday market will be fundamentally changed with the TVB there and in use for Sizewell construction for at least 10 years; indeed, quite probably more, if there are overruns (which EDF will know all about from experience elsewhere).

EDF made a fundamental mistake in classing us as an "isolated farmstead". This has been compounded by the use of out-of-date aerial images and wireframe outlines that omit half our home as well as all of our business interests and a pond of significant importance. EDF is now, at our request, using a more up-to-date 2018 aerial image and will no doubt supply that to the ExA. We attach two annotated aerial photographs which show the general context of Mollett's Farm (see **Appendix A** below) and more closely our residential dwellings, holiday accommodation and caravan site, but the ExA is requested to note that we are able to offer also camping and overflow for mobile homes and touring caravans. In our eastern paddock we recently held a charity event (with food and music and craft sales) to raise over £1,000 for the RNLI and the East Anglian Air Ambulance service (see **Appendix C** below). People do not come here to 'hunker down' in built accommodation or in a mobile home, caravan or tent; it is the totality of our land-holding which is the draw in the offering as well as the current peace and tranquillity and access to the countryside as well as easy access on foot for shopping and eating. This is especially important for those guests who are endeavouring to be 'green' and visit us by train but, even for those with vehicles, having this option is, of course, desirable and is marketed by us as a USP for an out-of-town business.

Quite how EDF managed to make this mistake is unclear. We have made submissions at every point in the process (Deadline 2 Written Representation [REP5-244], Deadline 5 Written Representation [REP5-244], Deadline 6 Written Representation [REP6-066] and Deadline 7 Written Representation [REP7-210]) and EDF officials have visited and been shown around on many occasions – including alongside the ExA during the 10th June Accompanied Site Inspection (ASI). Building a new road inevitably alters the environment. Was it asking too much to expect that a careful study would be made of who might be affected? Certainly, detrimentally so in our case.

We appreciate that nuclear power is a key component of the UK's energy needs, as set out in Government policy. We have <u>not</u> opposed the building of a new nuclear facility. We recognise that, in reality, EDF needs to build a TVB because of the major problem of the sharp bend in Farnham. We have supported an alternative alignment, as suggested by our Parish Council and for which FERN (of which we are part) has made powerful arguments.

We see little point, at this very late stage in the DCO proceedings, in rehearsing the arguments on alignment but, again at this very late stage, we still do not have adequate mitigation of the effects of the TVB alignment as regards our business and residential units. Somebody in the EDF organisation or their consultants may well have got the sack for the elementary mistake of classing us as an "isolated farmstead". The fact is that we have been meeting EDF people for many years, with many promises that "things will be alright". They are most certainly not!

That said, we want to place on record to the ExA that we had a repeat meeting with EDF representatives this last Wednesday 22nd September which was much more constructive than that of 2nd September. The landscape representative in particular (Alister Kratt) went to considerable effort to demonstrate what EDF had sought to do to improve visual mitigation measures but these are still not adequate and suffer from a fatal flaw in design, which we will come on to. Discussions were aided also by the inclusion of a representative from Gateley Hamer. To be fair to EDF, they have taken away issues to re-consider and to consult with SCC on but we have to point out that we are at a very late stage in the DCO process and really need rapid progress now.

Also for the record, we must state that matters relating to drainage and irrigation have yet to be resolved and we look forward to receiving EDF's proposals on these points.

2. The 'Mistake', Consequent Failures in Thinking and Fatal Flaws in Design

We are not road designers or builders but it seems to us just a matter of common sense that, if one is to put a new road into the countryside, one looks at what benefits that would bring but also what harm it would do. Presumably the Government and EDF want to avoid unnecessary delay to a new nuclear facility. One might have reasonably expected therefore that EDF would have done everything in their power to avoid potential delay. If the ExA concludes that the DCO, in its present form, simply cannot be recommended, then searching questions would be asked of EDF why it had not protected against such delay by ensuring that its design and land take was adequate.

The mistake of us being identified initially as an "isolated farmstead" has led, in our view, either to blinkered thinking or simply lack of thought. The only other explanation might be that EDF thought the impact on us and our tourist visitors simply didn't matter. To be fair, they do now recognise us as a thriving tourism business and, as of 22nd September, were evincing a positive desire to work with us to try to achieve a satisfactory result but we recognise that there is another interested party; SCC will take over this new road.

Unfortunately, that original mistake does seem to us to have also led to blinkered thinking, especially as regards deals with other landowners and which has resulted in insufficient land-take to deliver effective mitigation for us. The advantage of a DCO process, for a promoter, is that mistakes can be rectified before the ExA is forced to conclude that a scheme is unacceptable. Even with all the experience on DCOs since the Planning Act 2008, the Stonehenge Tunnel court decision shows how consideration and decision making can be so flawed as to prove fatal.

We respect the fact that, particularly on the landscape side, EDF have tried to improve on what they had in mind but the latest proposals suffer from fatal flaws, as follows:

- a) First, the process has not been acoustically driven. Instead of asking an acoustics expert to say what is required for attenuation to a set parameter, it appears that landscape changes have been devised and only then acoustic opinion sought as to what difference they make. It should have been the other way round. Noise is our primary concern: it is what will extinguish our business. The visual element is important but secondary.
- b) Whilst better than we had seen before, the revised landscape proposals are still woefully inadequate and do not properly reflect our now acknowledged status as a business with over 1,000 guests per year. Notably they also leave two major 'holes' in the limited noise protection they are suggesting. One is at the northern approach ramp to the FP 3 / FP 4 over-bridge. We

shall expand on this later but, if it is SCC which is insisting on this remaining as in the DCO, this is at odds with their professed concern about noise impact in the Farnham Hall area and certainly detrimental to us, for no good reason that we can see. Secondly, the slightly raised bund now proposed stops short of FP 29. No permanent protection at all is being offered on the length from FP 29 to the Friday Street roundabout. Why not? Even with the restricted land take that EDF has currently, there should be enough for noise fencing, which should be designed so as to overlap with a bund at the footpath diversion across the TVB (if retained). Yes, a maintenance cost for SCC for a fence but they are already taking commuted sums from EDF for other reasons.

c) We understand the construction compound is to be returned to the landowner and the temporary bunds removed. The current plan might be for a return to agricultural use, as a matter of obligation for EDF, but it must surely be open to the landowner to agree to take it back in surfaced condition and make whatever more economic use he can for that land, in a surfaced state, and as a farmer, with agricultural permitted development rights. What we need for Mollett's Farm is permanent noise protection along the road and around the side of the roundabout (in other words, directly next to the noise generation). Even for temporary use of the construction compound, the proposed bund will be effective only for a noise generation right next to it. Anything at a distance in the compound will produce sound that simply washes over the bund. The bunds proposed may have some marginal effect but we have not had it demonstrated that there has been acoustic input on this by EDF, as opposed to landscape visual screening.

Whilst EDF has presented to us a revised draft for discussion on landscape proposals, there are noise issues still outstanding which are highly material to our position and relevant also to residents in the Farnham Hall area, which we have been told by SCC is a matter of particular concern to them. We raise these now so that the ExA is aware that clarity is still required from EDF and both principal Councils and, with respect, for the ExA's own consideration and subsequent report to the Secretary of State.

We do not want the ExA to think that EDF is not trying to mitigate, because now, even at what feels like an 11th hour, their representative come across as genuinely appreciative of the problems we will face but to date there has not been enough meaningful progress to enable us to accept that the TVB should be allowed to proceed as it is. As already stated, we cannot see any circumstances, given the current position, that would enable us to operate during construction and we have major concerns that we would not be able to continue with our current business after the opening of the TVB. This is simply because the current noise mitigation proposals are insufficient. If this is because it is simply not possible to achieve what is required within the current land-take, then the land-take as set out by the current 'red line' development boundary is simply not enough for what is really needed.

We have had to retain our own acoustic consultant to advise us, at considerable expense. He has demonstrated that the EIA is simply wrong as regards Mollett's Farm and that the requirements of the DMRB have not been complied with properly. These errors have not been refuted by EDF or SCC and therefore we say, with respect to the ExA, that our submitted evidence must be preferred as a base for assessing the acceptability of whatever EDF finally produces. EDF did not have their own noise expert at our recent meeting even though we highlighted this as our primary concern, and, again to be fair to EDF, their representatives readily agreed that our expert's questions should be put to their expert. The questions are set out in slightly modified form in the attached letter from our expert (see **Appendix B** below) but, again to be fair to EDF and to avoid wasting the time of the ExA, we ask the ExA to note that EDF remain committed to continuing discussions with us on noise, landscape and other matters. We are not at a final position with EDF but we would be remiss at this stage if we did not highlight that the very short time remaining in the DCO process is of great concern to us. Even as we write this submission we have still not yet had all the information we requested and therefore have still not had the opportunity to send it to our experts to analyse and establish what our current and future position might be.

3. Land Take

We appreciate that the Sizewell C project has been long in gestation and that it would have been reasonable for EDF to engage with landowners and indeed expected of them before resorting to compulsory purchase powers. However, it seems to us that a key objective of the DCO process is to ensure proper examination of the proposals so as to enable the ExA to come to an objective view of the planning balance. We do not see that it can be right, or lawful, for it to be said that the ExA is precluded from assessing the planning balance properly by the fact that EDF may have struck certain land deals with others. It must be right that the ExA balances the effect of the scheme on those landowners (e.g. further loss of land, as against the worth of the reason for taking more) but, if the view is taken that the land-take within the 'red line' is somehow so fixed as to preclude alteration to accord with what is objectively required (taking account of submitted representations and evidence), then that would mean in effect that EDF as applicant is saying that its judgement as to what is required is paramount and that the ExA is constrained as to what it can decide and recommend in its report to the Secretary of State. Being blunt about it, if it is clear to the ExA that EDF has simply got it wrong in terms of land-take, EDF will have to go back to those landowners and say that they did get it wrong and that more land is required than originally envisaged.

It is not clear to us whether in fact EDF is in legally binding contracts with any landowners from whom land is required for the TVB or is simply at 'Heads of Terms'. We would find it exceedingly odd if EDF had fettered itself, so as not to allow for the ExA to take a proper view on what the land take ought to be, and question whether this would indeed be lawful in the DCO process. EDF can no doubt advise the ExA whether it is, as a matter of law, so fettered or whether the ExA is in fact entitled to come to a view as to what land is objectively required to meet proper requirements (e.g. for satisfactory mitigation within Section 246 of the Highways Act 1980) and even if that means moving the 'red line'.

We appreciate also that the quantum of compensation is not a matter for this Examination but our case has been that compensation alone would not be an appropriate remedy anyway. What we need is works – for satisfactory mitigation of noise, for effective screening by landscaping, for a better PRoW network and for an acceptable replacement PMA. EDF has gone some way towards this but not far enough, especially on mitigation for noise.

We contend that the issue of the impact of the TVB scheme on land value is, however, something the ExA can also take into account. We are not suggesting that EDF be required to disclose prices to be paid or the details of 'accommodation works' (using that term in a technical sense, as of works in lieu of compensation rather than scheme works e.g. for a new PMA). We respect that there will be commercial confidentiality.

We cannot see anything which is providing Friday Street Farm (Mr Blyth) with a new PMA to his severed field on the western side of the TVB, immediately to our east, other than his ability to go on foot across the TVB via the FP 29 replacement. That field was once within the Mollett's Farm holding. We have supplied previously OS plans showing that access to Mollett's Farm was originally from the east, from the A1094, via an access road, the line of which both we and Mr Blyth have continued to use for PMA purposes. Severance by the TVB renders the remainder of that field on the western side virtually useless. It is up to Mr Blyth whether he accepts that compensation will be sufficient but, with due respect to the ExA, it has to come to a view on the need (or not) for a replacement PMA, both for his and for us. Leaving that aside, has he actually been asked whether he would accept further land take, e.g. for a higher and wider bund and a landscaping belt? No doubt that would be at a price but, if EDF has agreed terms which represent a substantial reduction in value because of severance, additional land-take would be at very modest cost and in respect of land which is very small in area and virtually impossible to put to economic farming use.

The same point applies to the next field down, owned by Mr Latham, as far down as the Farnham Hall access road which is being severed by the TVB, with only a replacement footpath crossing and no new PMA. It will be a larger area but we have farmland too and know that that area to be returned to Mr Latham, as well as that not taken from him, will be too small to farm economically. That will be reflected in the compensation due to Mr Latham for severance. Taking extra land from him for a higher and wider bund and additional landscaping ought to be at significantly reduced cost as compared to present agricultural value. Has he actually been asked?

We come back to the point that, again with respect, the ExA needs to be in a position where is can judge, objectively and for proper planning reasons for a new road in the countryside, whether the mitigation and land-take therefor is actually acceptable, taking into account the impact of the road on other properties and including consideration of the heritage issues for the Farnham Hall area and ourselves as well.

All this is in light of having been wrongly identified in the first instance; we are not an "isolated farmstead" – rather we are a thriving business. Is it fair or proper to us to refuse to provide the necessary mitigation because of deals that have been struck with others that make it 'too difficult' to give our business the required protection? That initial mistake may have created a problem for EDF but of its own making and it is not too late to correct.

4. PRoW Network

We have asked pertinent questions of the SCC Rights of Way and Access Manager but for reasons we are at a loss to understand he has not replied in substantive form but only that "matters are under review". Given the obligations on all interested parties (see **DCLG Circular 2013**), he may have to pursue that by other means. Suffice it to say that, as regards FP 29, we consider that it is only reasonable that we and the ExA are enabled to understand:

- a) What is SCC's policy as regards at-grade crossings of 60 mph roads for pedestrians?
- b) What surveys or consultations were undertaken by SCC before it proposed to EDF an at-grade crossing, or if not so proposed, on what survey or consultative basis has it accepted an at-grade crossing?
- c) Why has SCC accepted a diversion across the TVB to the south, rather than the north where the TVB would be in shallower cutting and speeds would be less?
- d) What difference has it made to SCC's view now that it knows of the use made of FP 29 by our visitors to get to and from the Friday Street Farm shops on foot rather than by car?

We currently support on-foot shopping via FP 29 to the Friday Street complex, with the added bonus there of a very nice café / restaurant. We even have Friday Street branded shopping bags and menus in our residential units. If by some chance we manage to have any form of viable tourism business after the TVB opens, we cannot contemplate advising our visitors to use the at-grade crossing. Some visitors are elderly or ambulant disabled; some are used to going with children or dogs. We simply could not accept liability for advising them to use a dangerous crossing of a 60 mph road and might well vitiate our insurance if we did so. The risk of catastrophic injury would be too great. Literally, they would have to decide to take their lives in their hands.

EDF have very fairly responded to our concerns by proposing a linear footpath within existing land-take between FP 4 and FP 29, with a gate in the fence to enable access from the south-eastern corner of our paddock. We very much appreciate that. It matters not to us that it would not be a formal PRoW, to be added to the Definitive Map. What matters is what is available to the walking public. This would be a valuable enhancement to walking opportunities on the western side of the TVB and we applied EDF and SCC for it.

We fail to understand, however, why it has not been possible to agree with SCC a linear pedestrian route up to the Friday Street roundabout. Using the FP 29 route up to the A12, crossing what would admittedly then be a lower traffic level road to the only footway (which is on the northern side of the A12 carriageway), then

along that footway to the new roundabout to get across at the Saxmundham bound arm and then onto the north side of the A1094, and then crossing the A1094 to get into the Friday Street complex will involve pedestrians in crossing 3 roads and 8 lanes of traffic. That just seems nonsensical to us. A linear route on the western side of the TVB would mean pedestrians having a shorter distance and being able to cross just 1 road, with opposing traffic lanes separately via a splitter island with a suitable pedestrian refuge and then alongside the A1094 (where a new footway is already proposed) to their destination.

The Ramblers Association made powerful and, we hope, persuasive arguments to the ExA in their original submission (Ramblers Association – Deadline 2 Submission [REP2-471]). We completely endorse their concerns. What is proposed in the DCO is not a safe or acceptable alternative to the stopped up part of FP 29 and we urge the ExA to explore this issue further with EDF and SCC. We said (Deadline 7 Written Representation [REP7-210]) that we would accept such a linear route as an acceptable alternative to our current PMA. It will not be the same shopping or recreational experience as now but the TVB will fundamentally alter the landscape character anyway. We would much rather our visitors could get to the Friday Street complex in greater safety than trying to cross a busy and dangerous road, with traffic accelerating southwards from the roundabout.

Turning to the south, we are in the unfortunate position also of simply not understanding what SCC's position actually is. As stated above, we are being told that the PRoW issues are being re-examined but we are simply not clear whom SCC have as a noise expert and whether SCC is in fact sharing an expert noise adviser with ESC. Given the concern expressed to us about noise affecting properties in the Farnham Hall area by SCC, we would have expected SCC to focus on how it can achieve both a better solution on a noise barrier as well as meeting its PRoW objectives.

As far as we can tell, for example, nobody is suggesting that FP 3 and FP 4 should not be carried over the TVB by a footbridge. We remain surprised that SCC seems to think it a good idea that a walker coming from FP 4 in the north and wanting to go to the Church and the villages should have to walk up the northern approach ramp to get to the bridge and then walk down the southern approach ramp to get back down to at-grade so as to get to the walled garden of Farnham Manor and then walk along the access road carrying FP 3 to the minor road which leads to the Church and the villages. We have many visitors who uses the PRoW network and, having lived here since 2005 and, having several footpaths across our own land, we, as local residents for some considerable time, have a pretty good idea of what local people and ramblers actually do. The reality is that putting the TVB in on the DCO alignment will materially alter the walking experience to the east of the villages.

EDF already have a temporary diversion route for FP 4 running southwards at grade to meet FP 3. Our point is that, instead of making walkers from the north go 'uphill and downhill' to get to the access road serving the Farnham Hall area, it would be a lot simpler, and better, if that temporary access footpath became permanent and the northern approach ramp was deleted from the scheme. Walkers could then come at grade from the north and make a choice when they reach the at-grade point of the southern approach ramp and decide whether they want to go 'uphill' to get over the TVB on the new footbridge or continue to the walled garden and along the access road to get to the Church and the villages. The same would apply for reverse directions (in other words, a better choice and more of an at-grade route).

With all due respect to SCC and EDF, they are not offering a sensible solution here. The reason it matters to us is that we look directly 'down the pipe' to the TVB where the footbridge will be and beyond. For us at Mollett's, and properties in that Farnham Hall area, effective noise attenuation is a real concern and supposedly shared by SCC. EDF is trying to create a replacement network of PRoWs whilst also under great pressure (and rightly so) to achieve better noise attenuation. We hope the ExA will ask pertinent questions of SCC as to why they think it sensible not to have a continuous noise bund from at least the footpath overbridge on the TVB (northwards on the western side), rather than creating a major 'hole' in effective noise attenuation by insisting on a northern approach ramp being brought down to at-grade to meet FP 4. Similarly, if it is SCC refusing to have approach ramps being taken at an angle on a noise bund, then we suggest the ExA ask SCC what is the engineering explanation for why this cannot be achieved. An alternative, of course, might be, for a southern approach ramp alone, to have it on the road side of the TVB, with a continuous bund to the west and going north.

It just does not seem possible to us for EDF to achieve better noise attenuation for both the properties in the Farnham Hall area and us at Mollett's Farm without EDF and SCC reviewing PRoW matters and the ExA discovering what is the real blockage here to a better solution.

5. Process

We have been handicapped by not getting the right information early enough. For example, there was no point in us seeking to be present for the ISH on noise. We are still in the position where EDF have not done what they should have done and issues remain unanswered, with the necessary information still not provided. See in particular our noise expert's commentary as to where we are, as identified earlier and attached (see **Appendix B** below).

Similarly so for the ISH on PRoWs. We did not have what we needed in order to participate with any substantive input to help the ExA and now understand that discussions need to be continued with SCC, who are simply not answering questions we have put substantively.

It is simply not possible for us to attend an 8 hour ISH only to stand up and say that we are waiting for more information. That would have been a waste of the ExA's time, as well as ours.

We appreciate that the Sizewell project is huge but every component matters and, as the Stonehenge decision demonstrates, failing to deal with individual issues can be fatal.

The PINS website says:

"The Planning Act 2008 process was introduced to streamline the decision-making process for major infrastructure projects, making it fairer and faster for communities and applicants alike."

Given the slow delivery of information by EDF, we feel that our interests have been severely prejudiced and that, in fact, this DCO process is proving to be monstrously unjust on us. EDF have simply engaged too late. We appreciate that detailed design discussions with the Councils and us will continue but we really need certainty within a very short space of time.

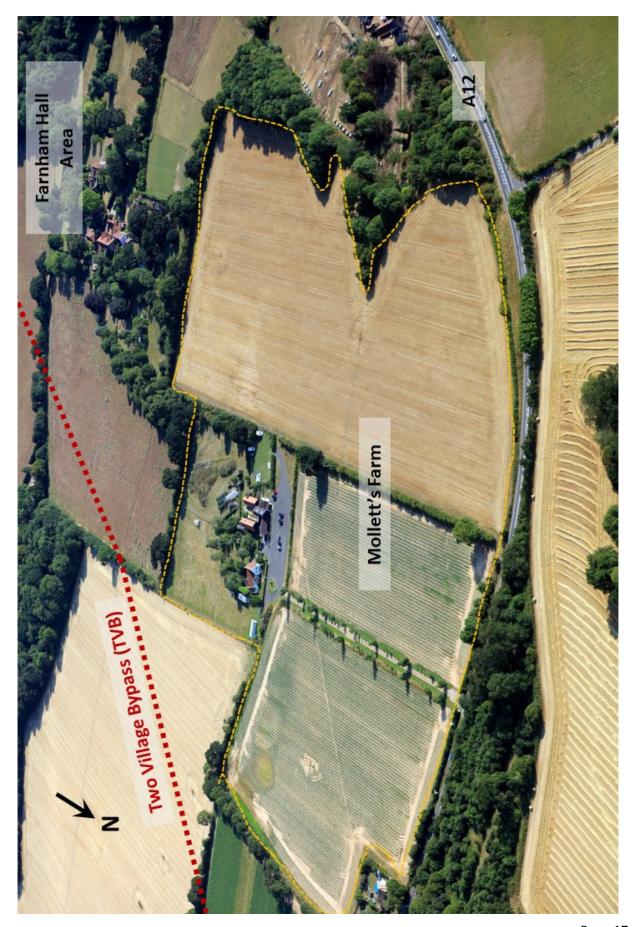
6. Conclusion

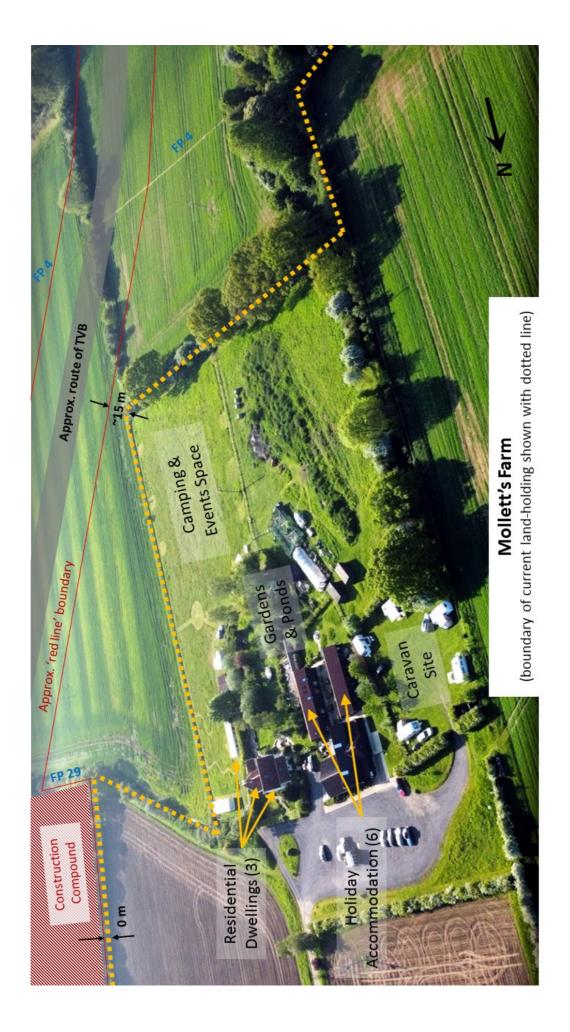
Whilst acknowledging EDF's latest efforts and the commitment to continuing discussions, we are sadly left in the position where we have to maintain our opposition to the DCO being made in its current form. On the basis of no land-take, compensation under S10 Compulsory Purchase Act 1965 and/or Part 1 Land Compensation 1973 do not provide an appropriate remedy. We recognise that we have to mitigate loss but radical changes to our business requires capital we do not have. We are getting less consideration now than was afforded to what was truly an "isolated farmstead" in the 1990s trunk road scheme (see our Deadline 7 Written Representation [REP7-210] for details). A holiday business is crucially dependent on maintaining a reputation. We are definitely going to suffer during construction and may simply be unable to offer a tourist holiday experience and, without proper mitigation for the longer term, will not survive. The harm that will be caused to us by the noise nuisance is a material planning consideration and we believe considerable weight must be given to this in the decision-making process, if a mitigation scheme which tackles the harm effectively and sufficiently cannot be found.

7. Reservation

We reserve the right to make further representations on the DCO process and how EDF have managed us, including the correspondence trail. We hope that with the new spirit evidenced this last Wednesday we might yet hear more of substance, although time is now desperately short before the next Deadline.

Appendix A – Annotated Aerial Views of Mollett's Farm and Surroundings





Appendix B – Acoustical Control's Follow-up Letter No. 2



This embedded document has also been provided separately and is entitled "Acoustical Control - Acoustic Follow-up Letter B5393 L2 (2021-09-23).pdf"

Appendix C – Charity Fund-Raising Event Poster

The photograph used in this poster shows our East Paddock – where the fund-raising event was held and camping normally takes place – looking south-east, in the direction of the proposed Two Village Bypass.



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