A WRITTEN REPRESENTATION FROM THE
EYE AIRFIELD PARISHES WORKING GROUP
(EAPWG)

SUBMITTED AT DEADLINE 7, 19 December 2014

and relating to
PROGRESS POWER DCO APPLICATION
(PINS Reference EN010060)

Summarising the oral contributions to
the Issue-specific Hearing on
10/11 December 2014
INTRODUCTION

Members Philip Butler and David Burn represented the Eye Airfield Parishes Working Group (the Working Group) at the Hearing on 10/11 December 2014. They were supported on the first day by Christine Fisher, the Consultant Landscape Architect who prepared the impact and mitigation report that was Annex 4 in the Working Group’s Deadline 2 submission on 4 September 2014. Other representatives from the Working Group who attended but did not speak were Cllrs Keith Pawsey and Ian Luff (Yaxley), Cllr Neil Weston (Palgrave), Mike Drew and Dr Paul Read (Thrandeston), Hilary Butler (Mellis) and Tina Schwartz (Thornham Magna).

As well as summaries of the very few oral contributions that were made on behalf of the Working Group, this representation also contains some additional comments on the application of the Precautionary Principle to the ancient coaxial field system between Yaxley and Thrandeston. Additional comments that did not form part of the oral contribution are given here in square brackets.

1. Design and Layout

1.1. [The revised Design and Access Statement was not available to discuss at the Hearing but useful work had been carried out on a review of the Design Principles document.] David Burn¹ gave his opinion on the latest revision of the document, which, he said, was now unrecognisable as being a derivative of the original. The considerable simplification made it much more readable than before and therefore more useful in its purpose.

1.2. He went on to explain that since the Applicant’s public engagement with other parties began in May 2013, this was the first time that all the relevant third parties, (except National Grid Electricity) had collaborated simultaneously in reviewing a topic. SCC/MSDC, Eye Town Council and the Working Group had all worked together to present joint responses to the Applicant during the revision of the document. [Although this is acknowledged to be a most welcome innovation, it is disappointing that it has evolved so near to the end of the interactive stage of the process.]

¹ Audio recording Part 1, at 00:30:50 approx.
2. Historic field boundaries

2.1. In response to the review of the affected field boundaries presented by David Bonner of Network Archaeological Ltd, acting for the Applicant, Philip Butler made the following statement:\footnote{2 Audio recording Part 1, at 01:20:20 approx.}
In his own critique of the academic analysis of the field system, Mr Bonner had described exactly why this location is evoking such excitement amongst others, including the archaeological community, in that so much of this system survives. This has undisputedly been referred to by six independent experts, including Professor Tom Williamson, who was the first to identify it, and the Prehistoric Society but most importantly by English Heritage and Suffolk County Council Archaeology.

2.2. There are, as one would expect, sections where ditches and hedges have been partly lost but this loss doesn’t necessarily mean loss of value or that it is acceptable that further loss can be tolerated without detriment to the system as a whole. National Policy Statement EN-1, at paragraphs 5.8.14 and 5.8.15, makes a very compelling case against destruction of heritage assets, which this undoubtedly is, and identifies the value they hold for current and future generations, stating, ‘once lost assets cannot be replaced’, whereas this project will exist for only 25 years in this landscape.

2.3. The Examining Authority asked\footnote{3 Audio recording Part 1, at 01:26:55 approx.} about the Working Group’s present position with regard to the level of significance of the field system. In his reply, David Burn said that most of the experts [including the Applicant’s former consultant on the subject] now feel there is sufficient evidence to justify regarding the field system as being of ‘potential national significance’. The Working Group endorses that assessment.

2.4. He drew attention to the sparsity of pre-Roman co-axial field systems in East Anglia compared with the rest of the country. It can be argued that because of their relative rarity, the individual systems, such as the one we have here, assume a greater significance in a national context than they otherwise might.

2.5. David Burn expressed concern\footnote{4 Audio recording Part 2, at 01:18:40 approx.} about the possibility of the loss of hedgerows FB16 and FB17 being significantly greater than the 24 metres presently anticipated. Because of the short distance and the marked fall in level between the A140 and

\footnotesize{\textsuperscript{2} Audio recording Part 1, at 01:20:20 approx.  
\textsuperscript{3} Audio recording Part 1, at 01:26:55 approx.  
\textsuperscript{4} Audio recording Part 2, at 01:18:40 approx.}
Old Norwich Road (ONR) at the position of the proposed T-junction into the access road, the gradient of the new roadway between the two existing roads seems likely to be unacceptably steep. He asked for reassurance from the Applicant that the design for the crossing of ONR by the access road did not involve works that might extend several tens of metres along ONR, both north and south of the access road and could result in the removal of the hedgerows on either side (FB16 and FB17).

2.6. In responding\(^5\) to PPL’s assessment of the physical loss of individual field boundaries, Philip Butler made the following statement: ‘David Bonner was previously attempting to make a case that the significance of the impact from the ECC was low because it affects only a small element of a wider 20 km system, yet he then disaggregates it down into single hedges and ditch lines to illustrate the potential impact on the system.’ This completely ignores what exists at Yaxley; it is not individual hedges and ditches but a complex of field boundaries that have survived in various forms from ancient times. Thereby its importance is much more about the system as a whole. This is covered by much of the independent expert opinion already submitted to the examination; for example, the Prehistoric Society. in their submission of 3 November paragraph 7, state: ‘The removal of such significant assets could be considered substantial harm, and whilst they could be carefully excavated and archaeologically recorded, this is no substitute for leaving them intact in the landscape, standing testament to the way our prehistoric ancestors created and sustained their agriculturally based society.’ This was further reinforced at the previous Issue-specific Hearing by a member of the public who perceptually stated that you can see ancient artefacts in museums but here is one of a few locations where you can see and experience a real ancient landscape.

2.7. The Examining Authority asked\(^6\) for a final summerring up of the Working Group’s position on the issues of the scale of harm and the significance of the field system. David Burn repeated the assertion made earlier that the significance is potentially national and went on to quote from Professor Williamson’s most recent statement\(^7\): ‘The proposed development will cause substantial harm to a highly important historical landscape which all sides in the argument agree has its origins in the late prehistoric period.’

\(^5\) Audio recording Part 2, at 01:28:20 approx.
\(^6\) Audio recording Part 3, at 00:09:50 approx.
\(^7\) in Annex 1 of the EAPWG’s Deadline 5 submission on 17-Nov-14
2.8. Later,\(^8\) David Burn pointed out the area HA10 [for the purposes here loosely
defined as the rectangle bounded by Judas Lane to the west, Leys Lane to the east,
Mellis Road to the south and the Yaxley/Thrandeston parish boundary to the
north] is the most characteristic and complete example of the ancient system.
Standing within it one can gain a sense of what it might have been like in
prehistoric times by extrapolating the system over the wider area from which
many ancient boundaries have now been lost as agricultural practices have
advanced.

2.9. Responding to an enquiry from the Examining Authority about views on the
mitigation afforded by the GIS option,\(^9\) David Burn made it clear that for the
communities represented by the Working Group neither the AIS nor the GIS
options were acceptable. [For the sake of clarity, by extension this means that the
parishes object to the project as a whole. Regardless of the parishes’ position on
the power generation plant on the airfield, without a substation in Yaxley, to
which the parishes are wholly opposed, regardless of type, the project as a whole
could not function.] However, if the communities are put in the position of having
to host this development, the opinion is that the GIS option offers marginally more
mitigation.

2.10. Later,\(^10\) David Burn took the opportunity to explain why consequential damage to
the existing field boundary is unlikely to be restricted to within the red line area.
He explained that the existing land drainage in the fields will have to be diverted
around the ECC compound that will be laid out on top of them. This work will
necessarily have to run through some of the existing boundaries. Being outside the
red line, such harm has not been accounted for in the present assessment.

Application of the precautionary principle

2.11. [In the absence of its archaeological experts, during the course of the hearing the
Working Group felt ill equipped to add to the discussion on the application of the
precautionary principle to the preservation of the ancient field system.
Subsequently, however, it has been able to assemble a few thoughts and
observations and these are presented in the following paragraphs (2.12 to 2.24),
which it hopes the Examining Authority will accept into the Examination.

\(^8\) Audio recording Part 3, at 00:12:20 approx.
\(^9\) Audio recording Part 3, at 00:26:40 approx.
\(^10\) Audio recording Part 3, at 00:38:0 approx.
2.12. During the last Issue-specific Hearing considerable time was spent exploring issues around the historic field system including the application of the precautionary principle. We understand that the Applicant has been afforded the opportunity to make further comments and summarise its view on the evidence presented by all parties and how in its view these fit into the wider policy context. In the same way the Working Group would appreciate being allowed to provide the following observations on the appropriateness of the application of the precautionary principle.

2.13. During the Hearing Michael Humphries QC, representing the Applicant, provided a view on the precautionary principle that we feel must be questioned. In his evidence he considered that the historic field system, being undesignated, falls short of being capable of being designated because of insufficient documented evidence of its importance and because the principle is not enshrined in planning policy or law.

2.14. The Working Group’s view is that not being part of policy does not necessarily mean it is not an appropriate approach to be applied; and the other reason cited by Mr Humphries against its application – the paucity of documented evidence – is exactly why the principle is appropriate under the current circumstances.

2.15. National Policy EN-1 addresses the situation when a heritage asset is designated or is of a similar status; but it is silent on the situation where insufficient information is available to make that judgement. In such situations where there is a strong indication that that judgement hurdle could be cleared, then we would suggest there should be a presumption in favour of preservation of the status quo.

2.16. Indeed Lord Justice Pill in the Court of Appeal in respect to R (Anne-Marie Loader) v Secretary of State [2013] Env LR 13 stated:

*The decision maker must have regard to the precautionary principle and to the degree of uncertainty, as to environmental impact, at the date of the decision. Depending on the information available, the decision maker may or may not be able to make a judgment as to the likelihood of significant effects on the environment. There may be cases where the uncertainties are such that a negative decision cannot be taken. Subject to that, proposals for ameliorative or remedial measures may be taken into account by the decision maker.*

2.17. This clearly establishes that the precautionary principle is a necessary approach to be applied within environmental impact assessments when there is uncertainty. Similarly English Heritage within its guidance document *Strategic Environmental*
Assessment, Sustainability Appraisal and The Historic Environment talks about adoption of the precautionary principle while evaluating potential significant effects and states that it has been applied in circumstances of heritage uncertainty. For example, English Heritage employ risk assessment methodologies which are founded on precautionary principles within their Heritage at Risk and COSMIC projects. The Royal Borough of Kensington and Chelsea also applies the principle when assessing some of their historic building stock.

2.18. The precautionary principle or approach is one frequently adopted by decision makers in cases when the factual information is lacking but there is a possibility of harm being caused. The principle implies there is a responsibility to protect and that those taking the action must clearly demonstrate that their actions will not be harmful. The principle is relaxed only if further findings emerge that provide sound evidence that no harm will result.

2.19. Undoubtedly the modern landscape around Yaxley is also an historic landscape, in which each generation has chosen to retain and to use the area it has inherited. Much of the landscape’s historic value lies in its complexity, regional diversity and local distinctiveness. The site is in part distinctively dateable through its features in this multi-period landscape which has been identified through research and observation.

2.20. Such a site provides evidence, sometimes the only evidence, of thousands of years of farming activity and settlement. Likewise the natural features form part of the wider setting of this area, the area of historic landscape within which they functioned, and can help us to understand and appreciate them. Retaining the presence of features such as the Yaxley field boundaries therefore adds meaning to our natural environment and must be safeguarded.

2.21. The Yaxley field boundaries have now been identified by seven independent expert witnesses as being of significant value. English Heritage going one step further and stating (emphasis added) that ‘they are unusual survivals of considerable significance’. The actual level of value has yet to be fully ascertained, but certainly regional and more likely of national significance as Dr Adrian Chadwick, previously representing the Applicant, expressed: Overall, the field system at Eye-Yaxley represents a rare example of upstanding, extant field boundaries that nonetheless reflect much earlier periods of land allotment and land-use, and as such it must be regarded as having High Significance and potentially national importance.
2.22. Within National Policy EN-1 there is a clear preference to protect and preserve heritage assets, even if undesignated. Although the Yaxley field system cannot be designated at present, it would have been afforded protection via the local planning system. But if the DCO can override local policy there remains a considerable possibility that these field boundaries will be harmed before their full value as an historic feature can be expertly assessed and defined.

2.23. As Professor Williamson identifies in his evidence of the 17 November:

   The Precautionary Principle should, I suggest, be applied here: if even the report submitted by the developers suggests that the clear majority of boundaries in the area could be elements of a very ancient landscape, then we should proceed with considerable caution.

   This is further supported by Dr Chadwick within his own evidence statement dated 25 November:

   ...the fact that many elements of the Eye-Yaxley field system are probably prehistoric in origin should mean that the precautionary principle applies, and that the significance of the field system should be regarded as High until proven otherwise.

2.24. Therefore to apply an approach based on the Precautionary Principle could be fully justified to safeguard against harm until such time field boundaries’ historic value is fully evidenced. Currently the Applicant has not demonstrably shown that no harm will occur to this ‘rare survival of a long-lived overprinted landscape’ (The Prehistoric Society submission dated 3 November.)

3. Setting and significance of heritage assets

3.1. This topic is one in which the Working Group has not been involved beyond endorsing the submissions of the Suffolk Preservation Society (SPS), to which body it is indebted for the effort put into safeguarding our communities’ cultural heritage. Half-way through the final session of the day, however, the Examining Authority asked David Burn to comment on an aspect that, although it was indeed connected with the subject of harm to heritage assets, had not been specifically itemized on the agenda. This was the need for the Applicant to have considered alternative sites.

3.2. David Burn pointed out that this was a legal subject for which he had not prepared himself. Nonetheless he explained that where it is established that a

11 Audio recording Part 4, at 00:40:05 approx.
development would cause harm to heritage assets and that the harm is significant, the Applicant has a [statutory] duty to demonstrate that the harm is unavoidable. The case for locating a development on the site where the harm is caused can only be made if it can be demonstrated that alternative sites have been considered but at none of them would the harm have been less. Such a sequential test in justification of locating the proposed development in Eye and Yaxley would seem not to have been carried out and therefore it has not been demonstrated that the harm is unavoidable.

3.3. David Burn offered to prepare a more detailed contribution that evening if the Examining Authority wished to re-visit the subject on the following day. Fortunately, the Chairman of the SPS, Andrew Fane, came to the rescue, and pointed out that in its submission the Society had covered this subject in some detail.

3.4. The Examining Authority acknowledged that alternative sites had been mentioned in only very general terms in the Environmental Statement and requested the Applicant to supply more detail.

3.5. Later, David Burn pointed out to Mr Humphries that consideration of two alternative sites for the substation a few hundred metres apart is not what is being talked about here. Nor is it adequate merely to say that having considered other sites, this one was regarded as being ‘suitable’. The sequential test demands more of an applicant than that. Furthermore the electrical connection arrangement and the power generation plant are inseparable in this context. When we talk of alternative sites we mean for the whole package.

3.6. He recalled the exhibition in Eye in May 2013 at which the members of the public were given a Q&A sheet, at the top of which was a claim that 600 sites had been considered and of all these Eye came out on top. What we need to know is why Eye came out on top and that can be demonstrated only if an adequate assessment of the alternatives had been made. Later in the session, David Burn quoted paragraphs 4.4.1 and 4.4.2 of EN-1. [This is a subject the Working Group may wish to return to before the close of the Examination.]

---

12 Audio recording Part 4, at 00:55:20 approx.
13 Audio recording Part 4, at 01:07:05 approx.
4. The Development Consent Order

4.1. Philip Butler drew attention to the fact that although he had raised this subject at the previous Hearing in October, the drafting of Article 13.2, which deals with restrictions on use of streets, still doesn’t deal with recreational use. As drafted at the moment it only covers people moving to and from premises abutting the street. He made the point that the wording should allow for recreational use such as horse riding. Despite the obvious common sense of this observation, the Applicant’s representative seemed most unwilling to make any change unless the Secretary of State made such a recommendation. He claimed it was adequately dealt with in the Construction Environment Management Plan.

4.2. The Examining Authority said this was a matter that had been of concern to residents for a long time. Access to the fishing lake and the allotments on Old Norwich Road were other examples.

4.3. Philip Butler expressed surprise that such a simple amendment was giving rise to such lengthy debate. In the end it seemed that common sense did win the day and the Applicant said that the matter would be addressed.

---

14 Audio recording Part 5, at 00:34:10 approx.