



The Planning Inspectorate

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By email only

Date: 22 April 2022

Dear Sir / Madam

Planning Act 2008 (as amended)

Application by Sunnica Ltd for an Order Granting Development Consent for the Sunnica Energy Farm (the DCO Application)

Response to a Request by the Applicant in Respect of the Timing of the Preliminary Meeting / Examination

I write to you following my appointment by the Secretary of State as the lead member of the Examining Authority (ExA) to carry out an examination of the above application. I am Grahame Kean and the other members of the ExA are Guy Rigby and Karin Taylor. A copy of the appointment notice can be viewed under the [Documents tab](#) on the project webpage on the National Infrastructure Planning website.

I write in response to a letter sent on behalf of the Applicant dated 19 April 2022, a copy of which can be viewed on the project webpage via this [link](#). The Applicant's letter advises of the intention to seek changes to the DCO Application and to request a delay to the start of the Examination.

The DCO Application was submitted to the Planning Inspectorate on 18 November 2021 and accepted for examination on 16 December 2021 with [advice provided](#) to the Applicant under Section 51 Planning Act 2008. The Applicant's response to the Inspectorate's Section 51 advice was submitted under cover of a letter dated 21 January 2022 (Examination Library reference [AS-001]). Subsequently, the Relevant Representation period took place between 27 January 2022 and 17 March 2022, save for those identified with updated contact details and in respect of whom the Applicant re-served with an extended notice, to submit representations until 1 April 2022.

The Applicant's [letter to the Inspectorate of 30 March 2022](#) raised the possibility of an application for a change to the DCO Application due to further discussions with National Grid over options for connecting to the existing Burwell 400kV substation. The Applicant requested a start of the Preliminary Meeting no earlier than the week commencing 6 June 2022 to provide it and National Grid with time to understand and progress matters.

The Applicant's letter of 19 April 2022 formally requested a delay to the start date of the Preliminary Meeting to no earlier than the week commencing 18 July 2022. The Applicant is aware from [National Grid's Relevant Representation](#) that Option 1 for the substation connection is no longer feasible. Due to this change in circumstances the Applicant states it will need to amend its application to remove this Option from the application. It also states it is considering any other consequential changes or opportunities provided by removal of Option 1, including a review of Option 2 and the cable type, and will need time to consider all Relevant Representations and other consequential changes following that review.

A draft timetable for the proposed change request was provided, based on the Steps in the Planning Inspectorate Advice Note 16 with a request that the Preliminary Meeting is arranged for not earlier than week commencing 18 July 2022.

Delaying the Preliminary Meeting until mid-July 2022 would mean that it would take place some seven months after the DCO Application was accepted. The DCLG 'Guidance for the examination of applications for development consent' states that '*There is not a specified timeframe for when the preliminary meeting is to be held, however, the Secretary of State's expectation is that, in most cases, it should take place within a period from six weeks to two months from receipt of the relevant representations.*' (Paragraph 40)

Furthermore, paragraph 45 of the Guidance states that '*Rarely, applicants may wish to delay the start of the examination of an accepted application. Such a delay may be appropriate, depending on the circumstances, but should be kept to the minimum period necessary. This will limit the risk that the application, including pre-application consultation and environmental information, will no longer be sufficiently current to form the basis of an examination. The Secretary of State's expectation is that Examining Authorities will not normally agree to postpone the start of the examination for longer than three months.*'

The ExA has concerns about the proposed delay to the commencement of the Examination and consequently requests the Applicant to clarify its position by responding to the following questions:

1. The Grid Connection Statement makes it clear that to accommodate the connection to the existing Burwell 400kV substation an extension to the existing substation is required. The application identifies 2 options for its location: if Option 1 is now discounted it remains unclear why Option 2 cannot be taken forward. It is also unclear and not explained exactly what alternative to Option 2 is under consideration and why. Please clarify including an explanation of how, if a substation extension might eventually be dispensed with, the Project might proceed.
2. Please provide further information about the proposed changes the Applicant wishes to make to the application with an initial indication of the implications in terms of EIA and compulsory acquisition of land. This further information should confirm that the changes proposed would not, individually or cumulatively, lead to

the Project being materially different from that which was originally applied for, and should address:

- a. the number of existing Plots likely to be affected;
 - b. the number of new Plots expected to be created and whether landowners' written consent to any additional compulsory acquisition will be provided;
 - c. whether the proposed changes will provide the necessary connection to Burwell Substation or what alternative is proposed;
 - d. the extent of other changes to the Order limits;
 - e. the need for further and/or repeated baseline surveys including ecological surveys with limited windows of opportunity in which to undertake them; and
 - f. the extent of minor updates or changes proposed to the Project.
3. Is the delay to the commencement of the Examination until mid-July justified in light of paragraphs 40 and 45 of the Guidance and if so, why?
 4. What is the likelihood of the Applicant having to revise the intended timetable and might a further delay to the Preliminary Meeting beyond mid-July be sought?
 5. What action should the ExA take if the current timetable cannot be met?
 6. Notwithstanding the Applicant's intended changes, would it be appropriate for the ExA to commence the Examination in late May 2022 based on the application as submitted?
 7. What implications would there be for the timetable if the Examination commenced in late May whilst the Applicant is progressing the proposed change request?
 8. How confident can the ExA be that the proposed engagement /consultation on amendments from the end of May to end of June 2022 would be a meaningful consultation based on full information as to the proposed changes?
 9. What other considerations might be relevant to any procedural decisions that the ExA takes in respect of a delay to accommodate material changes?

Please respond to these questions by **12:00 noon on 28 April 2022**. Following receipt of your response to this letter all Interested Parties and Affected Persons will be invited to comment on the matters raised by 9 May 2022.

Your response and any comments will be considered by the ExA in making a procedural decision setting out the next steps in the examination of this application.

Yours faithfully

Grahame Kean

Grahame Kean
Lead Panel Member for the Examining Authority

This communication does not constitute legal advice.

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