



Pinsent Masons

BY E-MAIL

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Your Ref:  
Our Ref: 131953486.4\661999.07003

28 April 2022

Dear Mr Kean

**APPLICATION BY SUNNICA LTD FOR AN ORDER GRANTING DEVELOPMENT  
CONSENT FOR THE SUNNICA ENERGY FARM**

Thank you for your letter dated 22<sup>nd</sup> April 2022 to our client, Sunnica Ltd (“Sunnica”). We do not define relevant terms in this letter, rather we have adopted the definitions used in the Scheme’s glossary which is available [here](#)

**1. GENERAL UPDATE**

- 1.1 The changes that Sunnica is considering making relate to the Burwell National Grid Substation Extension as a consequence of National Grid’s relevant representation. In the previous letters sent by this firm on 30 March and 19 April 2022, we referred to additional work and discussions that were being urgently sought with National Grid as a consequence of this relevant representation. Sunnica has undertaken significant extra work since the date of that relevant representation and has held a helpful meeting with National Grid on 26 April 2022. We set out in this letter the current position with regards to the proposed grid connection from Sunnica Energy Farm to the grid in the context of that additional work.
- 1.2 Sunnica included in its Application two options for an extension to the Burwell National Grid Substation. These two options are described in section 3.3 of the [Grid Connection Statement](#). It is important to note that this extension comprises a new substation required by Sunnica for its Scheme – it would be retained by the owner of the Sunnica Energy Farm and it would not be owned or operated by National Grid. The substation would include transformers to connect the 132kV cables connecting to the solar farm with the 400 kV transmission network. In other words, the “extension” would not form part of National Grid’s assets or undertaking. Of the two options, Option 1 is located on National Grid owned land and Option 2 is located on third party land in respect of which Sunnica does not hold any relevant interest. Sunnica has the benefit of a modified

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connection agreement with National Grid, which was in place at the point it made its Application. Furthermore, Sunnica had undertaken detailed discussions during the pre-submission period over many months with National Grid in connection with its proposals on the Option 1 land and as such had confidence in Option 1.

- 1.3 Sunnica was advised for the first time by National Grid that Option 1 land was no longer available in a telephone call on the 10 March 2022, several months after submission. That was confirmed by National Grid in its relevant representation where it said: “*Option 1 connection is not technically feasible given the amount of land now required by the Promoter, the planned extension of the substation and NGET’s license obligations.*” National Grid does not explain in its letter the technical feasibility issues and they are only understood in part by Sunnica.
- 1.4 Therefore, whilst the Application was accepted for Examination in December 2021, the circumstances that give rise to the proposed changes are very recent and post submission and acceptance, arising only during, and after, the relevant representation period. Sunnica acknowledges the contents of the DCLG guidance: *Planning Act 2008: examination of applications for development consent* and in particular the guidance at paragraphs 40-45. Its comments on this are set out below in response to your questions but the reasons for the proposed changes application and when the timing of when they arose are important in the context of the guidance.
- 1.5 As a result of National Grid’s changed position and relevant representation, Sunnica has looked afresh at the technical solutions to connecting Sunnica Energy Farm into the National Grid to minimise compulsory acquisition and environmental effects. It was appropriate for Sunnica to revisit technical solutions at this stage, especially as Option 2 would require compulsory acquisition of third party land. Following receipt of further advice, one option that is being considered is for the substation that is required to convert the power from the Scheme to 400kV (suitable for export to the National Grid) to be located on Sunnica West Site A and to cable the power from the Sunnica Energy Farm by 400kV cable from the substation in that location to the existing Burwell National Grid Substation, rather than the substation being located at or adjacent to the Burwell National Grid Substation. We will refer to this as “**Option 3**”. Sunnica held an initial meeting with National Grid on 26 April 2022 to discuss Option 3 and to ascertain whether it is technically feasible and viable. Clearly, if a connection of this type was not acceptable to National Grid, then Sunnica would not progress it further. The early indications are that it could be technically feasible and viable but further work needs to be undertaken by Sunnica and National Grid. Both Sunnica and National Grid are working at a pace on this work but require the time period set out in our letter dated 19 April 2022 to determine what changes could be made. The consideration of Option 3 has only arisen as a result of the preferred option, Option 1, being now discounted by National Grid, despite the extensive pre-submission discussions Sunnica has had with National Grid.
- 1.6 Option 3 was considered prior to the Application being submitted but it was previously determined that it was preferential to have two 132kV circuits rather than a single 400kV circuit to mitigate the effect of failure in a single 400kV circuit. Sunnica now considers that the risk profile of failure of a single 400 kV circuit is acceptable and therefore is willing to proceed with the connection type.

## 2. **HOW IS IT PROPOSED TO PROCEED AT THIS STAGE WITH THE 3 OPTIONS?**

- 2.1 It is understood that the position reached in National Grid’s relevant representation is as a result of a customer application to National Grid seeking connection at Burwell. In order to connect that customer to the National Grid, a substation extension by National



Grid is required at Burwell and the only land that this can be accommodated on is the Option 1 land.

- 2.2 Sunnica's connection agreement with National Grid involves Sunnica utilising a spare "bay" inside the existing Burwell Substation. However, in order to connect this new customer, Sunnica understands that National Grid needs to extend its own asset (which it does not need to do for Sunnica). Accordingly, as far as Sunnica understands, National Grid is proposing to extend its own asset, which would be owned and operated by National Grid. National Grid is a regulated entity and must use land under its existing ownership before it can acquire additional land. It is as a consequence of this recent chain of events that the Option 1 land is understood to be no longer available for Sunnica as it is now required by National Grid itself for its own extension to accommodate this new customer.
- 2.3 Option 3 is subject to additional feasibility work by Sunnica and National Grid. Sunnica considers that it can finalise this work by the end of May 2022 provided National Grid works with Sunnica. There is every indication that it will do this. The proposal is that the application to change the Application which is to be made in mid July 2022 would seek the addition of Option 3 to the Application.
- 2.4 Option 3 is likely to require a further modification application to the existing Connection Agreement that Sunnica has with National Grid. Until such time as Sunnica has obtained an amended agreement then it would need to retain Option 2 in its Application to ensure that it retains the ability to deliver a substation on the Option 2 land should Option 3 prove unviable or undeliverable in the event that National Grid does not agree to the modification request. However, Sunnica would not wait for this modification agreement to submit the change and delay the start of the Examination beyond July, rather it would submit the change application to include Option 3 and, subject to receiving the confirmation in writing from National Grid as to why Option 1 is no longer available, remove Option 1 from the Application in the same change application. Once the modification request is agreed (which has a time period and would be within the Examination period) Sunnica would then remove Option 2 from the Application post commencement of the Examination.

### 3. THE QUESTIONS POSED BY THE EX A.

- 3.1 The numbering below corresponds with the questions in the Ex A's letter:

#### Question 1

- 3.2 If Option 1 is discounted, Option 2 can be taken forward. However, Sunnica is aware, from attempted negotiations with the landowner, that no voluntary agreement is likely to be reached with this landowner. Compulsorily acquisition of the Option 2 land can only occur if Sunnica can demonstrate that there are no reasonable alternatives. In light of further technical work carried out following notification of National Grid's position, Sunnica considers that there may now be a reasonable alternative, Option 3, and it is for this reason that it has asked for the delay of the Preliminary Meeting to allow this option to be explored and assessed. Option 3 was not considered a reasonable option at the time of submission for the reason set out at paragraph 1.6
- 3.3 Option 3 could go forward as the selected option, but that would be subject to the contingent steps discussed in the section *How is it proposed to proceed at this stage with the 3 options* above. Sunnica would not be dispensing with a substation; rather the proposal in Option 3 would be for the substation that converts the power from 132kV to 400kV to be within the Sunnica Energy Farm itself in a substation that is already applied



for rather than adjacent to the Burwell Substation. This would result in the Scheme dispensing with a substation at the Burwell Substation location.

## Question 2

- 3.4 The primary change that is proposed to be made is adding Option 3 into the Application. This is explained above. Further details on the changes which would be consequential to including Option 3 in the Application are enclosed in the attached table.
- 3.5 There are likely to be some additional amendments to the Order limits which Sunnica is in the process of identifying now. These relate to the reductions in the requirement for land for access purposes which have been identified since the Application was accepted for Examination. To be clear, it is expected that these changes will see a reduction in land within the Order limits.
- 3.6 No other changes are proposed.
- 3.7 A key part of the decision-making process as to whether any changes to the Application should be made is that there are not unacceptable impacts on the local community and environment. We do not expect there to be any adverse effects on the environment beyond those identified in the Application already. This is subject to confirmation and it is proposed that would be confirmed in an Environmental Confirmatory Statement which would accompany any changes application.
- 3.8 We do not consider that any additional land would need to be added to the Order limits – to the contrary, it should be possible to reduce the extent of powers of compulsory acquisition. We respond to the specific questions below:
- 3.9 *Number of existing plots to be affected:* This information is included in the attached table.
- 3.10 *Number of new plots to be created:* None are currently expected to be identified.
- 3.11 *Whether the proposed changes will provide the necessary connection to Burwell:* Yes, please see further above.
- 3.12 *The extent of other changes:* The changes are limited to those described in the attached table as well as the additional minor changes referred to above.
- 3.13 *The need for additional baseline surveys:* None.
- 3.14 *The extent of minor updates or changes proposed to the Project:* These are described in the attached table.

## Question 3

- 3.15 Sunnica considers that the delay is justified in the context of the guidance. Our comments on this are as follows:
- 3.15.1 There is no statutory deadline for when the Preliminary Meeting must take place. Paragraph 40 of the guidance says that the expectation is that the Preliminary Meeting will in most cases take place within 6 weeks to two months from receipt of relevant representations.



- 3.15.2 Paragraph 45 of the guidance says that applicants may wish to delay the start of the Examination and such a delay may be appropriate. The Secretary of State's expectation is that examining authorities will not normally agree to postpone the start of an Examination for longer than 3 months. The qualification 'not normally' is noted.
- 3.15.3 If a delay to the Preliminary Meeting was accepted until week commencing 18 July 2022 this would represent approximately 14 weeks from when the relevant representations were published on 6 April 2022. This is approximately 2 weeks longer than the period referred to in paragraph 45. It should be noted that Sunnica did not see National Grid's relevant representation until the Inspectorate published them on 6 April 2022.
- 3.15.4 It is considered that the Ex A could exercise its discretion to a short extension to this three month period as contemplated in the wording of paragraph of 45, especially as it would assist in the efficiency of the Examination as it would likely involve the removal of Option 1 in its entirety and enable both Sunnica and National Grid to confirm the likelihood of Option 2 being able to be removed once the modification agreement had been completed.
- 3.15.5 The position that Sunnica finds itself in, has occurred as a result of a change of position since Application submission and acceptance and is through no fault or design of its own. It is as a result of the position expounded by National Grid in its relevant representation.
- 3.15.6 We would also note that the Net Zero Teesside Project was accepted for Examination on 16 August 2021, with the relevant representations published on 22 December 2021. However, the Preliminary Meeting is not being held until 10 May 2022, some 20 weeks (5 months) after the relevant representations were published. This delay was also due to a changes application. Given the reason why Sunnica is now pursuing a changes application as explained in this letter and the fact that the proposed date for the Preliminary Meeting is just over two months from when the relevant representations were published, Sunnica considers that it has, and is, acting as quickly as possible to facilitate the Preliminary Meeting.

#### **Question 4**

- 3.16 Sunnica, in conjunction with National Grid, is examining Option 3 as quickly as possible. At this stage there is no reason to consider that an extension beyond week commencing 18 July 2022 would be necessary. We consider the timetable set out in our letter dated 19 April 2022 to be achievable, although Sunnica is dependent to some extent on National Grid's continuing timely cooperation.
- 3.17 Whilst we are hopeful that Option 2 can be removed from the Application, we are not seeking a delay to the Preliminary Meeting to when the modification agreement is completed and that position is confirmed; rather the Applicant is requesting the delay to:
  - 3.17.1 enable National Grid to confirm in writing the reasons why Option 1 is no longer available to Sunnica. This would then enable Sunnica to remove Option 1 from the Application and make all consequential changes;
  - 3.17.2 enable it and National Grid to confirm the technical feasibility and deliverability of Option 3. Assuming this to be the case, Sunnica would then be able to



prepare all materials to introduce Option 3 into the Application and undertake consultation as well as confirm the likelihood that Option 2 would eventually fall away during the Examination (once the modification agreement was completed).

#### **Question 5**

- 3.18 That is a matter for the Ex A, but unless any further extension can be fully justified then the Ex A should schedule the Preliminary Meeting and commence the Examination in accordance with the timeline set out in our letter of 19 April 2022.

#### **Question 6**

- 3.19 Sunnica considers this would not be an appropriate course of action. In light of the nature of the change in question, Sunnica's view is that it would be better for the Examination to proceed from the outset with this matter settled. This would be better for all stakeholders. This would only be the case after the changes application has been submitted to the Ex A. This changes application would make clear that the Application is modified as follows (subject to the contents of this letter):

3.19.1 Option 1 removed;

3.19.2 Option 3 introduced; and

3.19.3 A statement confirming that it is likely that Option 2 would be removed once the modification agreement is completed.

- 3.20 All of the above would require new versions of the Land Plans, Works Plans and Access and Rights of Way Plans, the DCO, the Explanatory Memorandum, the Statement of Reasons, the Book of Reference and other consequential amendments to documents. For the sake of a short delay to the week commencing 18 July 2022, it would be far more efficient and easier for the local community if the Examination commenced with these new versions of these documents, all of which are key to the Examination.

- 3.21 Proceeding in the first two months of the Examination with the Application as submitted whilst new versions of key documents and plans are about to be submitted would be sub-optimal and potentially confuse the local community and result in questions and representations that otherwise do not need to be asked or made.

#### **Question 7**

- 3.22 It is likely that the changes application would be made two months into the Examination. We consider this to be sub-optimal as explained above and, given when Sunnica was informed by National Grid, procedurally unfair.

#### **Question 8**

- 3.23 It is in Sunnica's interest that the consultation is meaningful otherwise the Ex A could seek additional consultation to be undertaken. Provided time permits, Sunnica would like to discuss the consultation requirements with the Ex A before carrying out the consultation.

#### **Question 9**

- 3.24 There are no other considerations that Sunnica is currently aware of.



Yours faithfully

**PINSENT MASONS LLP**

This letter is sent electronically and so is unsigned

Enclosure: Description of changes table

Enclosure to letter dated 28.04.22

Table: Description of proposed changes to Application for Sunnica Energy Farm

Work No.	Plots	Change
<p><b>Burwell National Grid Substation Extension (Work No. 5A and 5B)</b></p>	<p>The following plots could be removed from the powers of compulsory acquisition of land: Plot numbers: 20-16, 20-17, 20-18, 20-19, 20-20</p> <p>Note that the areas will continue to be required for the grid connection routes A and B (Work No. 4 and 5 and jointing bays Work No. 4) and so would be required, or partly required, for the compulsory acquisition of rights.</p> <p>Plot 20-11 would remain in the Application for the time being.</p>	<p>National Grid has submitted in its relevant representation that Option 1 is not technically feasible. Subject to written confirmation of the reasons for this, Sunnica does not intend to pursue Option 1.</p> <p>The land subject to Option 2 would remain in the Application until such time as Sunnica enters into modified connection agreement with National Grid confirming that Option 3 can be accommodated.</p> <p>Option 3 would reduce the envelope dimensions and therefore the land requirement around the National Grid Substation Extension.</p> <p>The potential environmental effects will be considered but it is anticipated that any effects will be reduced from those assessed as there will be less impacts related to the National Grid Substation Extension at Burwell such as those relating to transport movements, road widening and local ecology. These need further sensitivity testing to confirm.</p>
<p><b>Onsite Substation (Work No. 3C) Sunnica West Site A</b></p>	<p>Plot numbers: 12-02 &amp; 11-08</p>	<p>The technical design of the scheme will change to accommodate a single 400kV circuit (one set of 3 cables) for grid connection route B to connect</p>

		<p>between the point of connection at the Burwell National Grid Substation and the Onsite Substation at Sunnica West Site A. There are a number of different technical configuration options that need to be explored before confirming the final technical design. Two potential options under consideration include: (i) Installing a 650MVAs 132 (or 150)/400kV transformer and two 170MVAs 132 (or 150)/33kV transformers or (ii) Changing the currently applied for two 132(or 150)/33kV transformers by two 400/33kV transformers.</p> <p>The envelope dimensions will remain the same: Sunnica West Site A: 85m by 130m footprint, 10m in height.</p> <p>The EIA impacts will be considered but they are not expected to be negatively altered at Sunnica West Site A.</p> <p>The sizes of the plots would remain the same – no new land would be required.</p>
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<p><b>Onsite Substation (Work No. 3B)</b> <b>Sunnica East Site B</b></p>	<p>Plot numbers, 7-03, 7-04, 7-05,</p>	<p>The technical design could change to incorporate the possibility of designing and building the substation with a higher voltage than 132kV (150 and 400kV) with the objective to reduce the number and size of the cables needed.</p> <p>The envelope dimensions will remain the same: Sunnica East Site B: 85m by 130m footprint, 10m in height.</p> <p>The EIA impacts will be considered but they are not expected to be negatively altered at Sunnica East Site B</p> <p>The sizes of the plots would remain the same - no new land would be required.</p>
<p><b>Onsite Substation (Work No. 3A)</b> <b>Sunnica East Site A</b></p>	<p>Plot number 1-01</p>	<p>The technical design could change to incorporate the possibility of design and build the substation with a higher voltage than 132kV (150 and 400kV) with the objective to reduce the number and size of the cables needed.</p> <p>The envelope dimensions will remain the same: Sunnica East Site A: 85m by 55m footprint, 10m in height.</p> <p>The EIA impacts will be considered but they are not expected to be negatively altered at Sunnica East Site A.</p> <p>The sizes of the plots would remain the same - no new land would be required.</p>

<p><b>Grid Connection Routes A and B connecting Sites to Burwell National Grid Substation Extension and from Burwell National Grid Substation Extension to the existing substation. (Work No. 4 and 5)</b></p>	<p>Plot numbers: (A): 1-01, 4-01, 4-03, 4-05, 5-01, 5-02, 5-03, 5-04, 5-05, 5-06, 5-07, 5-08, 7-01, 7-02, 7-03, 7-04, 7-06, 7-08, 8-01, 8-02, 8-03, 8-04, 8-05, 8-06, 9-01, 9-02, 9-04, 9-06, 11-01, 11-02, 11-03</p> <p>(B): 11-05, 11-07 11-08, 12-02, 13-02, 14-01, 14-02, 14-03, 14-07, 14-08, 14-09, 15-01, 15-02, 15-03, 15-04, 15,05, 15-11,15-12, 16-01, 16-02, 16-03, 16- 04, 16-07, 16-08, 16-09, 16-10, 16-11, 16-14, 16-15, 16-16, 16-17, 16-18, 16-19, 17-01,17-03, 18-01, 18-02, 18-03, 18-04, 18-07, 18-08, 18-09, 18-10, 18- 11, 18-12, 18-13, 18-14, 18-15, 18-16, 18-17, 18-18, 18-19, 19-01, 19-02, 19-03, 19-04, 19-05, 19-06, 19-07, 19-08, 19-09, 19-10, 19-11, 19-12, 19-13, 19-15, 20- 01, 20-02, 20-03, 20-04, 20-08, 20-09, 20-10</p>	<p>The existing 33kV cables to export and import electricity produced at the Sites to the onsite substations will be unchanged. However, the technical design will change to accommodate a single 400kV circuit (one set of 3 cables) for grid connection route Band for grid connection route A to use either 400kV or 132kV/ 150kV cables to export and import all of the electricity produced by the Scheme to the point of connection at the existing substation at Burwell.</p> <p>Trenches will house one circuit whether 400kV or 132kV / 150kV.</p> <p>Maximum width of cable corridor (per trench): 1.5m base trench width in 400kV and 150kV option and 3.5m trench width in 132kV option. Except from where it meets the joining bays or where a horizontal direction drill is required, where it will be up to the maximum dimensions of the joining bays or the width required by the horizontal directional drill.</p> <p>Associated works: Works associated with cable laying including jointing bays, fibre bays, cable ducts, cable protection, joint protection, manholes, kiosks, markerposts, underground cablemarker, tiles and tape, send and receive pits for horizontal directional drilling, trenching, lighting, and a pit or container to capture fluids associated with drilling. All these works will be undertaken within the maximum parameters</p>
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		<p>described above.</p> <p>Horizontal direction drills: Where the cable is rated at 400 kV each duct will need to be housed within a separate bore hole and be a maximum of 3m-5m separation distance (measured from the centre of the bore hole) from the adjacent bore hole. This separation distance may need to be wider up to 10m separation distance (measured from the centre of the bore hole) where the ducts cross under the tracks at Network Rail. Note that the separation distances between the bore holes can be measured both laterally and vertically. Each horizontal directional drill bore hole will require a send and receive pit with dimensions 3m length, 2.5m width and 1.2m depth and the launch site for the horizontal direction drills will require a working area with dimensions 30m * 30m and the reception site for the horizontal directional drill will require a reception site of 25m * 25m.</p> <p>For 132kV and 150kV options the design of directional drills does not change.</p> <p>It is expected that the number and dimensions of the jointing bays will also be capable of being reduced.</p> <p>The final easement width required will also be able to be reduced.</p>
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		The sizes of the plots would remain the same - no new land would be required.
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