



# The Planning Inspectorate

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To: Sunnica Ltd

Your Ref:

Our Ref: EN010106

By email only

Date: 26 May 2022

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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)**

#### **Notice by the Applicant of Intention to Submit a Request to Make Changes to the Application**

I refer to the [letter dated 19 April 2022](#) from Pinsent Masons, sent on your behalf, in which notice was given of the intention of Sunnica Limited (the Applicant) to submit a request to make changes (change request) to the Sunnica Energy Farm project DCO Application. The letter outlined further work proposed on the options included within the DCO Application relating to locations for the grid connection to Burwell substation together with the connections corridors and other proposed changes to the Order limits, and consequential changes.

A further [letter of 28 April 2022](#) provided a general update and outlined the technical solutions being investigated to connect the proposed Sunnica Energy Farm into the National Grid to minimise compulsory acquisition and environmental effects. The letter appended a table detailing the proposed changes to the DCO Application.

Together the above documents outline the proposed changes to the DCO Application and provide further detail regarding the changes proposed to the original application. The ExA notes that the Applicant intends to carry out non-statutory consultation prior to making the formal change request and has provided, under cover of [email dated 20 May 2022, a method statement](#) setting out a proposed approach to consultation on the proposed

changes to the DCO Application, subsequently updated by an email of 24 May 2022 confirming a change to the proposed dates for consultation.

The Applicant proposes that non-statutory consultation on the changes and updated environmental information would commence on 6 June 2022, and last for a total of 30 days, closing on 6 July 2022. It is the Applicant's intention to have due regard to all relevant responses to the consultation which concern the proposed amendments and submit a Consultation and Publicity Statement together with its formal change request to the Examining Authority (ExA). In the indicative timetable contained in your letter of 19 April 2022 you propose that the change request would be made by mid-July 2022.

The Applicant's notification of proposed changes contained in the above-mentioned documents satisfies Step 1 of the recommended procedure in the Planning Inspectorate's '[Advice Note 16: How to request a change that might be material](#)' (AN16). The advice which the Applicant is requesting from the ExA, in line with Step 2 of AN16, includes the procedural implications of the proposed changes and guidance on the need, scope and nature of the consultation that the Applicant proposes to undertake.

### **Materiality of the Proposed Changes and Information Required**

As noted, the changes relate primarily to the optionality included in the DCO Application for connection to the Burwell substation, the connection corridors for the Project, and a reduction in land take (or a reduction in the powers sought over land), together with other changes or updates to the Project.

In accordance with paragraphs 109 to 115 of the Government's Guidance '[Planning Act 2008: examination of applications for development consent](#)' (the Guidance) and AN16, it is ultimately for the ExA to decide whether a proposed change is material. The ExA notes that the Applicant considers the proposed changes to be non-material. However, the ExA does not, at this stage, have sufficient information to reach a conclusive view as to materiality partly because it has not been possible at this stage to determine whether the proposed changes will generate new or materially different environmental effects.

We note that the Applicant intends to submit an "environmental confirmatory statement" with the change request, the title of which may suggest that it will proceed from an assumption that there would be no materially different environmental effects. We consider that such a statement needs to explain the changes to the Project description and the justification for conclusions on whether there would or would not be new or different environmental effects because of the changes, for each of the relevant chapters in the Environmental Statement. Consideration should also be given to whether other documents may need to be amended, e.g. the Habitats Regulations Assessment - Report to Inform an Appropriate Assessment

The ExA agrees with the Applicant's view that making any amendments to the application in advance of the Examination is preferable, as it will avoid having consultation running in parallel in the incipient weeks of the Examination, which could cause confusion amongst consultees and Interested Parties, and risk duplication of work.

The Applicant should have regard to Figures 1 and 3 of AN16, which set out how to make a request to make a material change to an accepted application and the information to include in a request to make a material change to an application after it has been accepted for examination.

## Consultation

The ExA is aware of the Applicant's stated intention to carry out non-statutory consultation on all proposed changes with all those consulted pursuant to Section 56 of the Planning Act 2008 along with members of the local community likely to be directly affected by the change, specifically in proximity to the Burwell substation. As identified, this should include any changes to the Section 56 notification list as certified in the [certificate of compliance dated 30 March 2022](#) . A minimum of 28 days should be given for responses to this consultation, and newspaper and site notices should be posted. The ExA suggests that the Applicant also considers consulting any persons likely to be affected by the proposed new substation site, notwithstanding the likelihood that this will be within the Order limits. We note further the Applicant's intention to provide briefings to relevant stakeholders, however given the concerns raised in relation to the opportunity for engagement during the pandemic, we suggest the Applicant should consider holding a public meeting as part of the consultation on the proposed changes.

The ExA has no other comments to make on the indicative programme set out in your letter of 19 April 2022 and the proposed method statement on consultation dated 20 May 2022 (It should however be noted that reference to the Government's Guidance 'Planning Act 2008: changes to Development Consent Orders' is not appropriate in this case as that relates to changes to a made Development Consent Order).

When submitting the change request, it is recommended that you submit a statement encompassing a non-statutory consultation report setting out the detail and methodology of the undertaken consultation. Subject to the comments we have made, the scope of consultation activities set out in the method statement appears to be a suitable basis for the non-statutory consultation. Please ensure that consultation responses are sent directly to the Applicant and **not** to the Planning Inspectorate.

The ExA would also advise that updated documents submitted with the formal change request in accordance with AN16 should include both clean and tracked changes versions, and also include a full Schedule of Changes (as indicated in Figure 3 of AN16) and an updated Guide to the Application. If the ExA decides to accept the proposed changes into the Examination (irrespective of whether or not they are material) all Interested Parties will have an opportunity to make representations on the changed application, in writing or orally at hearings, when the Examination commences.

## Next steps

The ExA requests the Applicant to ensure that the change request that is intended to be submitted by mid-July 2022 responds fully to the points made above, taking account of the Guidance and AN16.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours faithfully

*Grahame Kean*

**Grahame Kean**  
**Lead Panel Member for the Examining Authority**

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