



ID Number: 20031311

Sunnica Energy Farm – Ref. EN010106

**Issue Specific Hearing 1 (1 November 2022) –
(ISH1) on the draft Development Consent
Order – Post Hearing Submission**

West Suffolk Council Registration ID Number: 20031311

Deadline 2

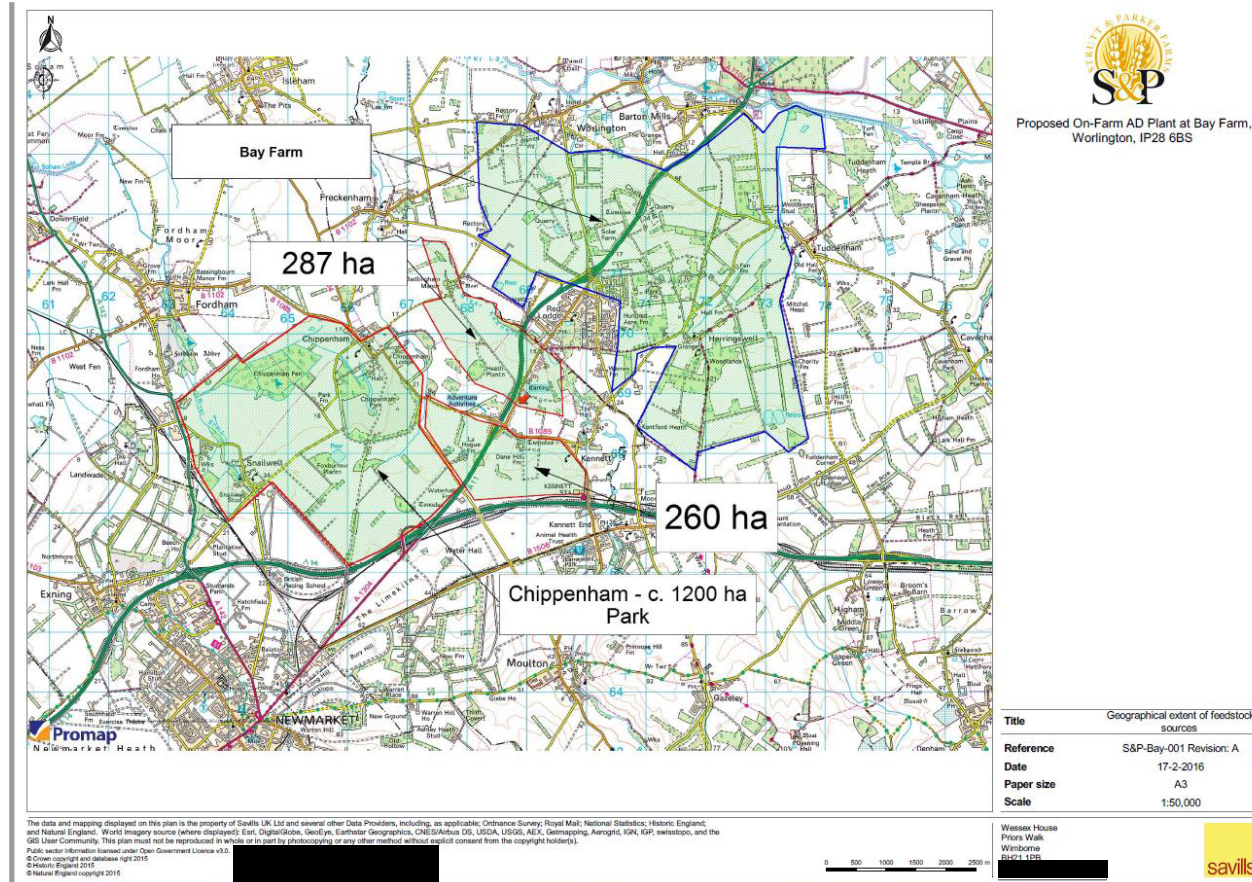
11 November 2022

Issue Specific Hearing (1 November 2022) – on Draft Development Consent Order

Post hearing submissions including written summary of West Suffolk Council’s Oral Case

Topic	West Suffolk Council’s Response	References
Agenda Item 1 – Welcome, introductions and arrangements for the Issue Specific Hearing		
	Ruchi Parekh appearing on behalf of West Suffolk Council accompanied by Julie Barrow, Principal Planning Officer and Clare Riches, Solicitor.	
Agenda Item 2 – Purpose of the Hearing		
Agenda Item 3 – Articles and Schedules of the dDCO		
	<ul style="list-style-type: none"> • <u>Whether each battery energy storage system would be Associated Development or an aim in itself</u> WSC is neutral on this issue. • <u>Whether imposing an upper limit on the capacity of the proposed development would be desirable or necessary</u> WSC is neutral on this issue and welcomes the Applicant’s intention to submit further details of the Battery Energy Storage Systems at a future deadline to enable parties to consider the likely capacity of the scheme. • <u>Extent and assessment of permitted preliminary works</u> WSC endorses the comments made by Suffolk County Council and Cambridgeshire County Council on this point. WSC shares the concerns of the other councils that the current definition is too wide and would have important knock-on consequences for the definition of “commence” and hence, for the scope of the requirements. WSC 	

	<p>welcomes the suggested amendments to the dDCO proposed by the Applicant in relation to this point. However, further assurance as to the nature of the permitted preliminary works that the Applicant intends to carry out is required together with an assurance that the environmental effects of such works has been adequately assessed in the ES.</p> <ul style="list-style-type: none"> • <u>Article 6(3), clarification of disapplication of legislation, including enforceability of planning conditions on Worlington Quarry</u> <p>WSC has no comment to make on Worlington Quarry but raises the potential conflict with the operation of the <u>Bay Farm Anaerobic Digester Plant</u>. This point is raised in the LIR at 12.54.</p> <p>DC/15/2109/FUL – Planning permission for the plant.</p> <p>Condition 2 states:</p> <p>“The sugar beet and maize feedstock for the AD plant hereby permitted shall only be sourced from the areas shown in the submitted plan: Geographical extent of feedstock sources: Plan Number: S&PBay- 001 Revision A dated 17.02.16”.</p>	<p>REP1-024</p>
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This is not the only source of feedstock as Condition 3 further states:

“No feedstock shall be used in the development hereby approved other than agricultural crops or agricultural by-products/crop residues and manures. Where agricultural by-products/crop residues feedstock or manure feedstock are sourced from outside the area identified on the submitted Plan Number: S&PBay- 001 Revision A dated 17.02.16, they shall only be delivered to the anaerobic digester in accordance with the Traffic Management Plan. Records, including weights, of all feedstock brought to the site in association with the proposed development shall be

	<p>retained for at least two years and be available for inspection by the Local Planning Authority upon request”.</p> <p>A non-material amendment was made to this permission in relation to the built form of the plant and for a minor change to the traffic management plan.</p> <p>The approved Traffic Management Plan contained the following provision:</p> <p><i>2. If a larger feedstock source area is required on occasion, for example during the initial pump-priming stage of operations, only farms which can deliver material to the Bay Farm AD plant via the A11, and then the C610 from the A11 to Bay Farm, will be permitted.</i></p> <p>The amended version agreed by way of a non-material amendment states:</p> <p><i>2. If a larger feedstock source area is required, only sources which can deliver material to the Bay Farm AD plant via the A11, and then the C610 from the A11 to Bay Farm, will be permitted.</i></p> <p>The wording of condition 3 was varied by planning permission DC/21/1535/VAR to allow the use of by-products from industry in addition to by-products from agriculture. The condition now reads:</p> <p>“No feedstock shall be used in the development hereby approved other than agricultural crops, together with agricultural and industrial (non-waste) by-products classified by the Environment Agency as suitable for processing within the AD industry. Where agricultural and industrial (non-waste) by-products/crop residues feedstock or manure feedstock are sourced from outside the area identified on the approved plan: Plan Number S&PBay - 001 Revision: A dated 17.02.16 (as approved under DC/15/2109/FUL) they shall only be delivered to the anaerobic digester in accordance with the Traffic Management Plan. Records, including weights, of all feedstock brought to the site in association with the proposed development shall be retained for at least two years and be available for inspection by the Local Planning Authority upon request”.</p>	
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	<p>The officer report in respect of the 2021 permission states that the current EA Licenced throughput of feedstocks over the 12 months prior to the submission of the application was:</p> <p>Tonnes</p> <p>Sugar Beet 0</p> <p>Maize 24,500</p> <p>Rye 2,500</p> <p>By-products:</p> <p>Beer 7,500</p> <p>Sugar Beet Fines 12,600</p> <p>Trafford Gold 2,000</p> <p>Rice Bran 113</p> <p>Manures:</p> <p>Horse manure 2,500</p> <p>Chicken manure 10,000 (expected in next 12 months)</p> <p>This list indicates that no sugar beet is being used but a significant quantity of maize is being used and this indicates that the provisions of condition 2 are still relevant.</p> <p>There is some concern that some of the areas stated to be used for sugar beet and maize for the AD plant are within the DCO limits for Sunnica. If these fields are taken out of use this may reduce the amount of maize feedstock that the plant receives and it may need to be found elsewhere. This could result in a breach of condition 2 and have environmental impacts in the form of additional traffic movements to the plant with deliveries of maize from further afield.</p> <p>In the case of a conflict between the two developments WSC would require the DCO to state that there would be no breach of condition 2 in respect of any conflict with the DCO. This could be a provision in a similar form to article 6(3) in relation to Worlington Quarry.</p> <p>The operator of the AD plant has been asked to comment on this matter but as yet we have not had a response. Copies of the relevant planning permissions and officer report are attached to this submission.</p>	
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	<ul style="list-style-type: none"> • <u>Article 18 et seq, scope of compulsory acquisition powers</u> WSC has no comment to make on this provision. • <u>Article 43, scope of compensations guarantees</u> WSC has no comment to make on this provision. • <u>Article 44, scope and proportionality of traffic regulation measures</u> WSC has no specific comment to make on this provision but would endorse Suffolk County Council’s concerns in this regard. • <u>WSC’s submissions on other relevant DCO articles</u> <p><u>Article 2(1): definition of “maintain”</u></p> <p>WSC raises concerns as to the definition of “maintain” in Article 2(1) which is directly relevant to the scope of Article 5 i.e. the power to maintain authorised development. The scope of ‘maintain’ is extensive and widely drawn. Given that this is a large scheme made up of many small components, large parts of the scheme could be replaced within the definition of “maintain” and this could have significant effects. The definition would, in essence, allow for a wholesale replacement or reconstruction of a large part of the scheme at any given point (provided it did not result in any materially new or different environmental impacts). WSC would like clarification and assurance as to how this will work in practice, bearing in mind that the onus is on the local authorities to monitor whether there are any materially new or different impacts at each stage.</p> <p>While the possibility of a revised DCO provision was mooted at ISH1, WSC does not consider that the DCO requires amendment. Rather, the issue is a practical one and one which could be better addressed in one of the certified plans. There should be a specified threshold over which the local authorities should be notified in advance of any large-scale maintenance (which includes repair and replacement). WSC would</p>	
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	<p>welcome discussions with the Applicant on this point to agree a reasonable threshold over which notification would be required.</p> <p><u>Articles 36-37</u> WSC shares the concerns of East Cambridgeshire Council regarding the scope of Articles 36: Felling or loping of trees and removal of hedgerows and Article 37: Trees subject to tree preservation orders. The scope of these Articles is such that there is no restriction on the Applicant removing trees or hedgerows and the application documents do not detail where such removals will take place. Consequently the environmental effects of such removals have not been assessed. In addition, the provisions allow for tree and hedgerow removals for the lifetime of the development with no requirement to assess the impact of their removal and no provision for their replacement. Article 37 in particular is a significant and concerning disapplication of the regime concerned with tree preservation orders.</p>	
<p>Agenda Item 4 – Schedule 2 of the dDCO: Requirements and Schedule 13: Procedure for Discharge of Requirements</p>		
	<ul style="list-style-type: none"> • <u>Clarification of relationship to each other of all plans and documents to be secured by the DCO</u> <p>WSC note the Applicant’s intention to submit a document clarifying the relationship to each other of all plans and documents.</p> <ul style="list-style-type: none"> • <u>Need for supplementary outline plans and related requirements, for example on highway access, individual aspects of construction practice and light emissions</u> <p>The Councils have highlighted in the LIR those areas where supplementary information is required. WSC considers that this information must form part of the examination process (and should not be left to the discharge of requirements stage). It would be beneficial if the Applicant, when responding to the LIR, identifies which plans will be updated with the requested additional information and when such revised plans will be submitted.</p> <p>WSC the concerns raised by Suffolk County Council.</p>	<p>REP1-024</p>

- Approval of battery fire safety management plan

WSC is content that the relevant county authorities should approve the battery fire safety management plan (Requirement 7), with consultation with the district authorities.

WSC seeks confirmation as to whether Hazardous Substances Consent (HSC) is required. If consent is required this should be included in the DCO and streamlined as part of the application process rather than a separate application being required following the grant of a DCO. The DCO process is deliberately designed to provide a streamlined process such that any necessary relevant consents can be obtained at the same time. In accordance with this ethos, WSC considers that HSC should be applied for (if required) at this stage.

- Schedule 13: Procedure for Discharge of Requirements

WSC endorse the concerns raised by Suffolk County Council.

Further, and importantly, WSC objects to the approach in Schedule 13, paragraph 2(3) in relation to the deemed consent provision. The default approach in the draft DCO is that there would be deemed consent if the relevant authority does not determine an application within the time limits set out at paragraph 2(1). It is understood that the rationale for this provision is that projects should not be held up by the discharge of requirements. However, the discharge of certain requirements are concerned with important areas of land use and planning and will therefore have significant implications if not dealt with thoroughly and properly. Moreover, the Councils have finite and (often limited) resources required to process the applications and the amount of information that will need to be assessed by technical officers, especially where a number of applications are being assessed at the same time. It would be contrary to the interests of proper planning to allow deemed consent – without *any* conditions or qualifications – in situations where there has been a delay due to, for example, the availability of technical officers and other constraints faced by local authorities. There is no suggestion that local

	<p>authorities would intentionally hold up the process. While extensions of time are technically possible, the discharging authority would be entirely reliant upon the Applicant agreeing extensions of time where necessary and there is no guarantee that such agreement would be forthcoming. As such, while there is a balance to be struck between the competing interests, the public and planning interest is best served by the absence of a deemed consent provision.</p> <p>In terms of precedents, the Cleve Hill DCO (Part 3, para 24) does not contain a deemed consent provision, instead it provides for an appeal route for non-determination. A similar provision can be found in the Little Crow DCO. Advice Note 15 also provides for this. [I THINK WE MAY NEED TO PROVIDE THESE? OR ARE THESE PART OF THE LIBRARY ALREADY? PLEASE DOUBLE CHECK]</p> <ul style="list-style-type: none"> • <u>Other matters</u> <p>In general WSC concurs with the County Councils that there should be reciprocal arrangements for all Requirements to ensure that where the County Councils are the discharging authority, they consult the District Councils and vice versa.</p> <p>WSC also seeks clarity from the Applicant as to whether the principle of the payment of a fee for each discharge of requirement is agreed. WSC would welcome further dialogue with the Applicant on this point, including a draft schedule of appropriate fees.</p>	
Agenda Item 5 – Article 38 and Schedule 10 of the dDCO: Documents and Plans to be Certified		
	WSC have no specific comments at this time.	
Agenda Item 6 – Article 40 and Schedule 12 of the dDCO: Protective Provisions		
	WSC have no specific comments at this time.	
Agenda Item 7 – Consents, Licences and Other Agreements		
	WSC endorse comments made by Suffolk County Council in relation for the need for any residual matters to be addressed through a planning obligation or agreement.	

Agenda Item 8 – Statements of Common Ground relevant to the DCO		
	WSC are currently engaging with the Applicant in relation to an initial SoCG.	
Agenda Item 9 – Review of issues and actions arising		
	N/A	