



SUNNICA ENERGY FARM

EN010106

Written Summary of Sunnica Limited's Oral Submissions at the
Development Consent Order Issue Specific Hearing on 1 November
2022

APFP Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and
Procedure) Regulations 2009



11 November 2022

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Table of contents

Chapter	Pages
1. Introductory remarks	2
1.1 Introduction	2
2. Agenda Item 1 – Welcome, Introductions and arrangements	2
2.1 The Examining Authority	2
2.2 The Applicant	2
2.3 Host Authorities	3
2.4 Interested parties	3
3. Agenda Item 2 – Purpose of the Hearing	3
4. Agenda Item 3 – Articles and Schedules of the DCO	4
4.1 Overview of each part of the DCO	4
4.2 Whether each battery energy storage system would be Associated Development or an aim in itself	10
4.3 Whether imposing an upper limit on the capacity of the proposed development would be desirable or necessary	12
4.4 The extent and assessment of preliminary works	13
4.5 Article 6(3), clarification of disapplication of legislation, including enforceability of planning conditions on Worlington Quarry	14
4.6 Articles 18 et seq, scope of compulsory acquisition powers & Article 43, scope of compensation guarantees	15
4.7 Article 44, scope and proportionality of traffic regulation measures	16
5. Agenda Item 4 – Schedule 2 of the DCO: Requirements and Schedule 13: Procedure for Discharge of Requirements	16
5.1 Overview of requirements	16
5.2 Clarification of relationship to each other of all plans and documents to be secured by the DCO	17
5.3 Need for supplementary outline plans and related requirements, for example highway access, individual aspects of construction practice and light emissions	17
5.4 Approval of battery fire safety management plan	17
5.5 Proposed approaches to discharge of requirements or managing appeals or disputes	18
6. Agenda Item 5 – Article 38 and Schedule 10 of the DCO: Documents and Plans to be Certified	19
7. Agenda Item 6 – Article 40 and Schedule 12 of the DCO: Protective Provisions	19
8. Agenda Item 7 – Consents, Licences and Other Agreements	20
9. Agenda Item 8 – Statements of Common Ground relevant to the DCO	22
10. Agenda Item 9 – Review of issues and actions arising	24
11. Agenda Item 10 – Close of hearing	24
12. Appendix 1 Planning permissions	26
13. Appendix 2 Email from Bay Farm	28

1. Introductory remarks

1.1 Introduction

- 1.1.1 The Issue Specific Hearing (ISH) regarding the draft Development Consent Order (dDCO) [AS-293] was held at 10:00am on 1 November 2022 as a blended event at Heath Court Hotel, Moulton Road, Newmarket CB8 8DY and by virtual means using Microsoft Teams.
- 1.1.2 The dDCO Hearing took the form of running through the items listed in the agenda published by the Examining Authority (ExA) as Annex D to the Rule 8 letter published on 4 October 2022 (Agenda). The discussion on dDCO matters predominantly focused on:
- (a) articles and schedules of the dDCO, the extent of works, provisions and powers sought;
 - (b) Schedule 2 of the dDCO: requirements and Schedule 13: procedure for discharge of requirements;
 - (c) Article 38 and Schedule 10 of the dDCO: documents and plans to be certified;
 - (d) Article 40 and Schedule 12 of the dDCO: protective provisions;
 - (e) consents, licences and other agreements;
 - (f) Statements of Common Ground relevant to the dDCO.

2. Agenda Item 1 – Welcome, Introductions and arrangements

2.1 The Examining Authority

- 2.1.1 Grahame Kean, Guy Rigby and Karen Taylor.

2.2 The Applicant

- 2.2.1 **SPEAKING ON BEHALF OF THE APPLICANT:** Richard Turney (Barrister at Landmark Chambers) and Richard Griffiths (Solicitor at Pinsent Masons LLP).
- 2.2.2 Present from the Applicant: Luke Murray (Director at Sunnica Limited), Nigel Chalmers (Technical Director at AECOM Limited).
- 2.2.3 The Applicant's legal advisors: Nicholas Grant (Barrister at Landmark Chambers), Tom Edwards (Senior Associate at Pinsent Masons LLP), Jonathon Leary (Senior Associate at Pinsent Masons LLP) and Olivia Henshall (Associate at Pinsent Masons LLP).

2.3 Host Authorities

- 2.3.1 Suffolk County Council (SCC): Michael Bedford KC (of Cornerstone Barristers), Emyr Thomas (Partner at Sharpe Pritchard) and Isaac Nunn (Senior Planning Officer for NSIPs at SCC).
- 2.3.2 Cambridgeshire County Council (CCC): Richard Kimblin KC (of No5 Chambers), assisted by Hashi Muhammed of Counsel (No5 Chambers) and David Carford (Project Manager at CCC).
- 2.3.3 East Cambridgeshire District Council (ECDC): Richard Kimblin KC (of No5 Chambers), Andrew Phillips (Planning Team Leader at ECDC), Tim Watkins.
- 2.3.4 West Suffolk District Council (WSDC): Ruchi Parekh of Counsel (Cornerstone Chambers), Julie Barrow (Principal Planning Officer at WSDC), Claire Richards (Solicitor at WSDC).
- 2.3.5 Chippenham Parish Council (CPC): Fiona Maxwell.
- 2.3.6 Worlington Parish Council (WPC): Paula MacKenzie.

2.4 Interested parties

- 2.4.1 Say No To Sunnica Action Group (SNTS) and Newmarket Horseman's Group (NHG): Daniel Kozelko of Counsel (39 Essex Chambers, Karen Jenkins, Andrew Munroe, Nick Patton).
- 2.4.2 Newmarket Stud Farmers Association and Brookside Stud Limited: John James.
- 2.4.3 Local residents: Alan Richardson, Anthony Hagen and Edmund Fordham.

3. Agenda Item 2 – Purpose of the Hearing

- 3.1 The ExA explained the purpose of the hearing, being to examine the articles and schedules of the dDCO, in particular the powers sought by the Applicant, the way the dDCO is drafted and the reasoning behind the powers sought.
- 3.2 Michael Bedford KC on behalf of SCC raised a point of clarification regarding timetabling for the examination should a further hearing on the dDCO be required due to changes made as a result of the issues raised in the Local Impact Report (LIR).
- 3.3 The ExA acknowledged Mr Bedford's point as relevant but noted that the Applicant's response to the LIR is not due until Deadline 3 and that examination is primarily a written process. While it may be desirable to examine some matters orally, there will be a series of written questions that will assist the process.
- 3.4 Richard Turney on behalf of the Applicant highlighted the distinction to be drawn between Mr Bedford's references to potential changes to the application and

changes to the dDCO, as changes to the application itself would require a formal change application to be submitted to the ExA.

- 3.5 Mr Turney noted that the Applicant's responses to the ExA's First Written Questions (FWQs) are due at Deadline 2, and responses to the LIR and Written Representations are due at Deadline 3. The Applicant's position on any changes to the dDCO proposed in the LIR will therefore be known at Deadline 3, which can then be addressed in writing by SCC and other local authorities. If there is a need to examine the Applicant's position orally, this can be scheduled.
- 3.6 The ExA noted that the LIR has raised some issues that require careful consideration and encouraged the Applicant and local authorities to engage further on their Statements of Common Ground (SoCGs).

4. Agenda Item 3 – Articles and Schedules of the DCO

4.1 Overview of each part of the DCO

- 4.1.1 The ExA noted the comments in the LIR on the dDCO and requested the local authorities briefly summarise the main issues raised in the LIR that are directly relevant to the dDCO.
- 4.1.2 The respective Counsels for SCC, CCC, ECDC and WSDC raised various observations with the drafting of the dDCO, focusing in particular on the definition of "permitted preliminary works" under Article 2(1), the definition of "maintain" under Article 2(1), the disapplication of certain existing planning permissions under Article 6(3), the proposed street provisions in Part 3 of the dDCO, the scope of Article 44 (traffic regulation measures) and Articles 36 and 37 relating to trees.
- 4.1.3 The ExA invited the Applicant to provide a summary of each part of the DCO.
- 4.1.4 Richard Turney on behalf of the Applicant responded to the matters raised by the local authorities. He noted that the Applicant would look at the definition of permitted preliminary works to try and resolve some of the observations raised. Mr Turney stated the Applicant's position that the provisions relating to streets and traffic measures are essentially model provisions and the high-level approach adopted is consistent with the weight of precedent. The remainder of the issues raised by the local authorities would be addressed as appropriate during the hearing.
- 4.1.5 Richard Griffiths on behalf of the Applicant then explained that the dDCO has been drafted having regard to PINS' guidance, best practice and precedents established in other recently made DCOs, in particular solar DCOs and other energy DCOs. The dDCO is comprised of six parts and 14 schedules. In this summary, Mr Griffiths referred to the dDCO as "the Order":
- 4.1.6 **Part 1 (Preliminary): Article 1** sets out what the Order may be cited as (the Sunnica Energy Farm Order) and when it comes into force. **Article 2** sets out the meaning of the defined terms used in the Order.

- 4.1.7 **Part 2 (Principal Powers): Articles 3 to 5** provide development consent for the Scheme, and allow it to be constructed, operated and maintained by the undertaker. **Articles 6 and 7** relate to the application and modification of certain legislative provisions and defence to proceedings in respect of statutory nuisance respectively (limited to just noise).
- 4.1.8 **Part 3 (Streets): Articles 8 to 13** provide the undertaker with a suite of powers in relation to streets, which on the whole are model provisions. The powers include the ability for the undertaker to be able to carry out works to and place and retain apparatus within streets; to alter the layout of streets, both permanently and temporarily; to construct or alter means of access; to temporarily stop up or divert public rights of way and to enter into agreements with street authorities. This Part also sets out the process by which the duty to maintain altered streets will be managed in relation to the temporary and permanent alterations of streets. The powers in this Part are required to ensure that the Applicant's electrical apparatus can be installed and retained under streets, to form new accesses and make alterations to streets to facilitate access to the site and to temporarily close public rights of way to ensure that the cable crossing works can be carried out safely. There are no permanent stopping up of public rights of way. As set out in the outline Construction Traffic Management Plan (CTMP), the likely average time period for a public right of way to be temporarily stopped up is three weeks, which is why no diversions are not proposed as they would not be proportionate.
- 4.1.9 **Part 4 (Supplemental Powers): Articles 14 to 17** set out four supplemental powers relating to the discharge of water; the removal of human remains; undertaking protective works to buildings and the authority to survey and investigate land.
- 4.1.10 **Part 5 (Powers of Acquisition): Articles 18 to 31** provide for the undertaker to be able to compulsorily acquire the Order Land and rights over and within it, and to be able to temporarily use parts of the Order Land for the construction or maintenance of the Scheme. **Article 19** sets out a time limit for the exercise of the compulsory acquisition powers and **Article 21** provides for the undertaker to suspend or extinguish certain private rights. The provisions provide for compensation to be payable to affected persons in respect of these powers, where that is not already secured elsewhere. **Articles 27 and 28** also provide for the temporary use of land for constructing and maintaining the Scheme. **Article 29** also provides for powers in relation to the land and apparatus of statutory undertakers.
- 4.1.11 **Part 6 (Miscellaneous and General): Articles 32 to 45** include various general provisions in relation to the Order:-
- (a) **Article 32** sets out who has the benefit of the powers contained in the Order and **Article 33** sets out how those powers can be transferred;
 - (b) **Articles 34 and 35** provide (respectively) for how landlord and tenant law applies in relation to the Order and that the Order Land will be "operational land";
 - (c) **Articles 36 and 37** provide (respectively) powers in relation to trees which need to be removed or lopped and for hedgerows to be

removed in relation to the Scheme and in relation to trees subject to tree preservation orders;

- (d) **Articles 38 to 45** include provisions relating to the certification of plans and documents relevant to the Order; arbitration; protection for statutory undertakers through the protective provisions (set out in Schedule 12); service of notices under the Order; procedure in relation to approvals required under the Order; provisions relating to traffic management; guarantees in respect of the payment of compensation; and protection of Crown rights.

4.1.12 There are then 14 **Schedules** to the Order, providing for:

- (a) **Schedule 1** – the description of the Scheme – referred to as the authorised development in the Order;
- (b) **Schedule 2** - the requirements that apply to how the Scheme is constructed, operated, maintained and decommissioned, similar to planning conditions;
- (c) **Schedule 3** – a list of the local legislation relating to rivers and watercourses that the Order will disapply insofar as any provisions are inconsistent with the powers contained in the Order;
- (d) **Schedules 4 to 7** - matters in relation to street works and alterations, accesses and rights of way;
- (e) **Schedule 8** – details of land in which only new rights may be acquired;
- (f) **Schedule 9** – amendments to legislation to ensure appropriate compensation is payable where new rights over land are acquired under the Order;
- (g) **Schedule 10** – the documents and plans to be certified by the Secretary of State;
- (h) **Schedule 11** - arbitration rules that apply to most arbitrations in connection with the Order;
- (i) **Schedule 12** - provisions for the protection of statutory undertakers and their apparatus;
- (j) **Schedule 13** - details of the procedure for discharge of requirements and other consents, agreements or approvals required under the Order;
- (k) **Schedule 14** – contains details of the streets subject to temporary traffic regulation measures.

4.1.13 Mr Griffiths informed the hearing that the Applicant is proposing to make several changes to the draft DCO:

- (a) The Applicant will ensure that intrusive archaeological surveys in permitted preliminary works will apply to Requirement 13.
- (b) The above ground site preparatory and site clearance works in permitted preliminary works will be tied into Requirement 14, so that such works cannot commence until this requirement is discharged.
- (c) Article 17 will be amended to link the authority to survey and investigate land to the ecological and archaeological investigations that the Applicant will carry out.
- (d) Article 18(1)(b) will be deleted in the next iteration of the dDCO in response to one of the FWQs.

4.1.14 Mr Griffiths noted that various other amendments to the dDCO are also being considered but these are the main high-level changes that are currently proposed.

4.1.15 The ExA asked the Applicant to briefly expand on what has already been said in terms of explaining the need to disapply the various items of legislation listed in Schedule 3 of the dDCO.

4.1.16 Mr Griffiths explained that Article 6(1) refers to the various pieces of legislation that the Applicant is proposing to disapply, some of which require the consent of the relevant consenting body:

- (a) Subparagraphs (a) to (e) refer to drainage and flood risk matters. The Applicant is in discussion with the Environment Agency (EA) and the drainage authorities on these matters, as their consent is required. The EA's and the drainage authorities' interests will be protected through protective provisions that are currently being negotiated. It is anticipated that once agreement is reached on the protective provisions, that the EA and the drainage authorities will agree to the disapplication in subparagraphs (a) to (e).
- (b) Regarding subparagraph (g), consent from a relevant authority is not required to disapply the Neighbourhood Planning Act 2017. This subparagraph relates to the provisions in the Act that are not yet in force relating to temporary possession and use of land for constructing and maintaining the Scheme. Provisions that *may* apply have been disapplied. The Applicant is providing more detail on this matter in its response to FWQ 1.5.15.

4.1.17 Mr Griffiths further explained that per Article 6(2) the DCO applies the disapplication of the requirement to obtain a felling licence under the Forestry Act 1967 where certain trees need to be felled in order to carry out development authorised by a planning permission granted under the Town and Country Planning Act 1990.

- 4.1.18 In response to Mr Bedford's point regarding the disapplication of existing planning permissions and the reference to Worlington Quarry in Article 6(3), Mr Griffiths explained that it is possible to do so and the SoS has made DCOs in the past that include similar provisions, such as the Lake Lothing (Lowestoft) Third Crossing Order 2020.
- 4.1.19 Ruchi Parekh of Counsel on behalf of WSDC noted that, as flagged in the LIR, WSDC is concerned with potential conflict between the Scheme and an extant planning permission for an anaerobic digestion plant at Bay Farm [DC/15/2109/FUL] and queried whether a disapplication similar to that provided for Worlington Quarry was necessary. WSDC agreed to take this matter offline and determine whether there is a conflict.
- 4.1.20 Mr Griffiths explained the Applicant's understanding is that the relevant planning permission has been varied such that the potential conflict does not arise. The Applicant would be happy to discuss amending the Article if this was found to be necessary as a result of WSDC's review.
- 4.1.21 **Post-hearing note:** following discussion on this point at the Hearing, the Applicant has reviewed the planning permissions for the anaerobic digestion plant at Bay Farm. The original planning permission (reference DC/15/2109/FUL) (the "**2016 Permission**"), a copy of which is attached at **Appendix 1**, has the following relevant conditions:
- (a) Condition 2 states that the sugar beet and maize feedstock for the anaerobic digestion plant shall only be sourced from the areas shown on the plan titled "Geographical extent of feedstock sources: S&PBay – 001 Revision A dated 17.02.16";
 - (b) Condition 3 states that no feedstock shall be used other than agricultural crops or agricultural by-products/crop residues and manures. The condition goes on to state that where agricultural by-products/crop residues feedstock or manure feedstock are sourced from outside the area identified on the plan titled "Geographical extent of feedstock sources: S&PBay – 001 Revision A dated 17.02.16", they shall only be delivered in accordance with the Traffic Management Plan.
 - (c) Condition 4 requires the submission of the Traffic Management Plan, which is to include details of the traffic access routes to be taken to and from the site by delivery and collection vehicles.
- 4.1.22 On 11 July 2019, a non-material amendment was approved by West Suffolk Council (NMA(A)/15/2109 also contained in **Appendix 1**), which substituted various plans (relating to layout and elevations) and approved a minor modification to the approved Traffic Management Plan.
- 4.1.23 The accompanying letter to the modification stated that the project as conceived originally was to rely significantly on crop biomass, particularly maize and sugar beet, as its principal feedstock. The letter goes on to state that since the project's commissioning there have been changes to the Renewable Heat Incentive to

change the relative attractiveness of such feedstock compared to crop residues and agricultural by-products. This means that the anaerobic digestion plant has a greater reliance on feedstocks such as straw, spoiled straw from livestock enclosures, manure, and by-products of crops grown for the brewing and sugar industries. A modification to the Traffic Management Plan was therefore sought to ensure it referred to “sources” instead of “farms” to reflect the reality of how the plant is operating.

- 4.1.24 A further variation was approved on 15 October 2021 (DC/21/1535/VAR, also contained in **Appendix 1**) which amended the wording of Condition 3. This variation was granted under section 73 of the Town and Country Planning Act 1990 and therefore granted a new planning permission for the anaerobic digestion plant (the “**2021 Permission**”). The 2021 Permission expanded the types of feedstocks used in the plant, such as beer trub, bran, husks etc, all by-products of the beer-making process, as well as sugar beet fines. These all have by-product status and approval from the Environment Agency as ‘non-waste products suitable for processing within the AD industry’. Condition 3 was therefore amended to read in the 2021 Permission:

“No feedstock shall be used in the development hereby approved other than agricultural crops, together with agricultural and industrial (non-waste) byproducts 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...”

- 4.1.25 Whilst part of the Scheme is within the area identified on the “Geographical extent of feedstock sources: S&PBay – 001 Revision A dated 17.02.16” plan for where agricultural crops are to be sourced, the Applicant considers that there is no incompatibility that needs to be addressed in the dDCO for the following reasons:

- (a) the 2021 Permission does not govern how the fields shown on the “Geographical extent of feedstock sources: S&PBay – 001 Revision A dated 17.02.16” plan are to be managed; in other words, the 2021 Permission does not control how each field is to be used, whether for growing sugar beet, maize or indeed another crop or another use. Therefore, regardless of the Scheme the farmers could decide to not grow sugar beet / maize;
- (b) in any event, the 2021 Permission does not require that a percentage of feedstock must come from sugar beet and/or maize. It follows, therefore, that there would be no breach of the 2021 Permission if no agricultural crops were used;
- (c) the 2021 Permission permits more than agricultural crops to be used in the plant, agricultural and industrial (non-waste) by-products are also permitted which can be delivered to the plant in accordance

with the approved traffic management plan. Indeed, the variation of 2019 explained that the anaerobic digestion plant has a greater reliance on non-crop feedstocks. This is entirely permitted under the 2021 Permission – indeed 100% of the feedstock could come from non-crop feedstock;

- (d) the geographical extent plan is wider than just the land forming part of the Scheme; there remains land within the geographical area that can be used to grow sugar beet and/or maize.

4.1.26 There are no other conditions attached to the 2021 Permission that would give rise to an incompatibility – the remaining conditions relate to HGV movements and security lights/floodlights.

4.1.27 The Applicant has also been in discussions with Hugo Upton, of Bay Farm, who has confirmed via email that the Scheme will not affect Bay Farm's ability to provide maize to the anaerobic digestion plant:

"Bay Farm currently provides the anaerobic digestion plant with an agreed volume of maize. Should the Sunnica Scheme receive consent, then we confirm that Bay Farm can still provide the agreed volume of maize from other fields within the approved geographical area."

4.1.28 A copy of Mr Upton's email, along with a plan showing the other fields from which maize can be sourced for the anaerobic digestion plant, is attached at **Appendix 2**.

4.2 **Whether each battery energy storage system would be Associated Development or an aim in itself**

4.2.1 The ExA asked the Applicant to explain whether each Battery Energy Storage System (BESS) would be Associated Development (AD) or an aim in itself (i.e. as a means of storing energy already in the Grid and not generated by solar panels).

4.2.2 Richard Turney on behalf of the Applicant explained that each part of the BESS would be AD and is not an aim in itself. Mr Turney noted that the Applicant has provided justification for the BESS being AD in its application, specifically in the Planning Statement [APP-261-263] at paragraphs 3.2.3-3.2.10 and in addition the functions of the battery energy storage system are described in Table 10.1 of the Statement of Need [APP-260].

4.2.3 In response to FWQs, the Applicant will be providing a paper that sets out in more detail the operation of the BESS and explains why it is AD within the meaning of statute and relevant guidance on what constitutes AD. At Deadline 2, the Applicant will also be providing a revised version of the outline Battery Fire Safety Management Plan (BFSMP) that is substantially more developed in terms of the details it provides. It will include a greater indication of the plans for how each of the BESS areas will be used.

4.2.4 Mr Turney explained the direct relationship between the BESS and the solar PV. When the sun shines cannot be controlled, nor can solar power stations control when the power they generate will be needed. The purpose of the BESS is to

support the operation of the solar PV by storing energy from the solar farm and increasing efficiency. The solar farm could deliver substantial benefits without the BESS, but such benefits would be enhanced if the BESS is able to store energy when demand is low and then release energy when demand is high. This benefit is recognised in the various emerging draft national policy statements.

4.2.5 Mr Turney also set out why the BESS is proportionate to the nature and scale of the solar farm. This is because the scale of the BESS and its power capacity are effectively limited by the grid connection, which is 500MW. Clarifying the difference between power and energy involved with the solar PV and BESS, Mr Turney explained that the solar PV will be capable of supporting 500 MW of power and the BESS will be capable of importing 500MW, meaning the BESS is sized to import all of the power from the solar PV. The energy stored in the BESS is expressed in megawatt hours (MWH), which depends on the duration of the battery. For example:

- (a) If the battery is sized to run as a two-hour system, it is sized for two times the power of 500MW, or 1000MWH of energy in total (but with losses accounted for it would actually be sized at 1200MWH).
- (b) A four-hour system would still have 500MW of power, but the energy would be four times 500MW, or 2400MWH taking into account losses.

4.2.6 In terms of energy, the BESS has not been finally designed so the total amount of energy is not yet known. While the duration of the batteries (two-hour versus four-hour) may change, this will not affect the amount of power the BESS can import. The key point is that the BESS will be sized so that it can take all of the power from the solar PV – there is no additional element of power or capacity in this system. Mr Turney noted that a more detailed response on the technical points will be included in the Applicant's response to FWQ at Deadline 2.

4.2.7 Mr Turney also highlighted one further point relating to proportionality, explaining that the size parameters provided in the DCO control the areas identified as suitable for the BESS, being about 31 ha out of over 1000 ha. There are also various other controls and safety parameters, such as separation distances, that limit the actual extent of the BESS. These controls are set out in the outline BFSMP that is being submitted in substantially updated form at Deadline 2.

4.2.8 Daniel Kozelko of Counsel on behalf of SNTS and NHG queried whether an upper limit on the power of the BESS should be included in the dDCO, noting that the Little Crow Solar Park Order provides for 90MW of BESS as a power limit. Mr Kozelko also noted SNTS's concerns that the BESS would not purely be used for the purpose of storing energy from the Scheme.

4.2.9 Mr Turney stated that the Applicant is, in principle, happy to explore an upper limit on BESS power through the examination, but is concerned about the reference to Little Crow as precedent as it is not clear from the SoS's decision letter why that figure was chosen. This would need to be explored further. In terms of the relationship between the BESS and the Scheme, the import capacity of the BESS is the same as the export capacity of the solar PV, providing a clear relationship that falls firmly within the definition of AD.

- 4.2.10 Edmund Fordham asked if the key question is whether it is going to be technically feasible for the BESS to import power from the National Grid at 500MW and, if so, does the BESS not at this point cease to be AD as it is storing energy from a source other than the solar PV.
- 4.2.11 In response to Dr Fordham's question, Mr Turney confirmed that it is technically feasible for the BESS to import 500MW of power from the National Grid, and that the Applicant envisages that the BESS will be used to do just that as and when it may be required by the Grid. This is an entirely appropriate use of the BESS, particularly given that energy storage is going to be required from the Grid to a greater extent in coming years, and it does not take the BESS outside the ambit of AD. In the Applicant's view, it would be a strange conclusion to consider BESS proposals to be AD only if they could be exclusively charged by solar PV, as this would make poor use of the grid connection and would mean that batteries would lie idle when they could instead be servicing the National Grid.
- 4.3 **Whether imposing an upper limit on the capacity of the proposed development would be desirable or necessary**
- 4.3.1 The ExA asked whether the Applicant considers imposing an upper limit on the capacity of the proposed development is desirable or necessary.
- 4.3.2 Richard Turney on behalf of the Applicant stated that it is neither appropriate nor necessary to impose an upper limit on the capacity of the Scheme. This is explained in paragraphs 2.4.6 and 2.4.7 of the Explanatory Memorandum [AS-294] and will be further expanded upon in the Applicant's response to FWQ 1.5.61.
- 4.3.3 Summarising the point, Mr Turney explained that a capacity limit would not constrain the Scheme's environmental impacts – it would only serve to constrain the amount of renewable energy that can be generated, which is not in anyone's interest. The focus should be on the parameters that are secured through requirement 6 of the dDCO, the works plans [APP-007 as changed by AS-258] and the design principles [APP-264] and formed the basis of the Environmental Impact Assessment.
- 4.3.4 Edmund Fordham raised a concern regarding safety, asserting that the more MWH of energy stored in one location, the greater the scale of the potential hazard that the MWH presents. Dr Fordham further claimed that the nature of lithium-ion battery technology means that the risk goes up the larger the scheme, and that a prudent safety measure would be to include an upper limit on capacity.
- 4.3.5 Mr Turney acknowledged the question of BESS safety has arisen through Relevant Representations and it is something the Applicant is addressing, including through updating the outline BFSMP at Deadline 2. However, the Applicant does not accept the generality of the proposition that the more MWH, the greater the scale of the potential hazard. This assertion makes assumptions about the way in which the incident develops. Mr Turney noted that the Applicant will respond to these points in more detail as part of its response to Written Representations at Deadline 3.

4.4 The extent and assessment of preliminary works

- 4.4.1 The ExA asked the Applicant to explain what is envisaged by permitted preliminary works and what is the extent of these works.
- 4.4.2 Richard Turney for the Applicant noted that the hearing had already heard from the local authorities about the permitted preliminary works that are in dispute.
- 4.4.3 Mr Turney explained that the definition of permitted preliminary works is set out in Article 2 of the dDCO. The Applicant has carefully considered the works captured in the definition. With some exceptions, the works identified as permitted preliminary works have been identified as such because the Applicant considers their environmental impact does not require the mitigation secured by the Requirements in Schedule 2 to be in place before those works can be undertaken. However, where the Applicant considers that an element of permitted preliminary works should be captured by a Requirement, the dDCO already provides for that, for example in Requirement 11.
- 4.4.4 Mr Turney set out the works included under the definition in Article 2, which include:
- (a) Environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purposes of assessing ground conditions, removal of plant and machinery.
 - (b) Above ground site preparation for temporary facilities for the use of contractors, including temporary fencing. (Although, Requirement 11 has been drafted such that the undertaker cannot install temporary fencing without the permission of the relevant authority).
 - (c) Remedial work in respect of any contamination or other adverse ground conditions. (Although Requirement 18 already includes such works as part of commence).
 - (d) Diversion and laying of services.
 - (e) Provision of temporary means of enclosure and site security for construction.
 - (f) Temporary display of site notices or advertisements.
 - (g) Site clearance (including vegetation removal, demolition of existing buildings and structures).
- 4.4.5 Mr Griffiths acknowledged that local authorities are particularly concerned about intrusive archaeological surveys, above ground site preparation and site clearance and confirmed that the Applicant will be looking at amending the dDCO to ensure the appropriate requirements apply to these works.
- 4.4.6 Michael Bedford KC on behalf of SCC stated that SCC wishes to see revisions on some requirements to narrow down what is allowed under permitted preliminary works without engaging requirements. Specifically, Mr Bedford stated that one of

the matters in Requirement 6, being subparagraph (1)(f), expects details of vehicular and pedestrian access, parking and circulation areas, and potentially some of the works covered by permitted preliminary works could give rise to concern to SCC as highway authority if they did not engage the requirements.

4.4.7 Mr Turney, in response, confirmed that Mr Bedford's points are noted and that the Applicant will look further at how these concerns can be resolved through ongoing dialogue with the local authorities to try to broadly reach agreement on these provisions.

4.5 **Article 6(3), clarification of disapplication of legislation, including enforceability of planning conditions on Worlington Quarry**

4.5.1 The ExA highlighted three parts of Article 6 of particular interest, being the disapplication of the Neighbourhood Planning Act 2017, the planning permission for Worlington Quarry, and the Land Drainage Act 1991.

Neighbourhood Planning Act

4.5.2 The ExA asked whether Article 6(1)(g) would disapply provisions of the Neighbourhood Planning Act that relate to temporary possession for construction and maintaining the authorised development. The ExA further asked the Applicant to explain why the provisions of the Act relating to the period of notice to be given before temporary possession and for that notice to identify the period of possession are not relevant to this Application.

4.5.3 Richard Turney on behalf of the Applicant noted that the ExA has also asked this question as a FWQ, and a full answer will be filed at Deadline 2. Mr Turney flagged some key points relating to this question, namely that there is precedent for this approach. Fourteen days' notice for temporary possession is considered appropriate, as having a three month notice requirement is potentially disruptive to the construction programme and imposes an excessive burden on the Applicant.

4.5.4 In terms of the duration of temporary possession, Mr Turney stated that the Applicant's response to FWQ will set out in more detail why that is appropriate but, at a high level, the Applicant has tried to align the need for temporary use of land with the duration of temporary possession. This is appropriate because where land is needed for construction purposes, it will be used for that period and returned when it is no longer required. Applying a limit on this is inappropriate as it would constrain the ability to construct the scheme.

4.5.5 The ExA asked for an update on the Neighbourhood Planning Act Regulations.

4.5.6 Mr Turney confirmed that, as far as the Applicant is aware, no progress has been made on the Regulations and that is why DCOs (including this one) seek to disapply them.

Worlington Quarry

4.5.7 The ExA asked whether the Applicant had any additional matters to raise in relation to Article 6 and Worlington Quarry.

- 4.5.8 Mr Turney noted the concern raised by Michael Bedford KC on behalf of SCC about the legal ability to disapply planning permissions through the DCO process but emphasised that the same approach was taken in the Lake Lothing DCO, which is also in Suffolk. Mr Turney went on to explain that the actual conflict between the proposed development and Worlington Quarry is limited, and the Applicant has produced a plan to see how the interaction between the two developments will work so the ExA can be satisfied that the approach is specific and acceptable in planning terms.
- 4.5.9 The ExA queried whether the reference to enforcement action was appropriate when the Applicant is only seeking to disapply a limited number of planning conditions.
- 4.5.10 Mr Turney confirmed that the dDCO will be amended to tighten up the language used.
- 4.5.11 **Post-hearing note:** following the discussion on Article 6 and Worlington Quarry at the Hearing, the Applicant has amended the wording of Article 6(3) of the dDCO to refer to planning conditions ceasing to have effect rather than deeming no breach generally.
- 4.5.12 Mr Bedford stated his endorsement of this approach and clarified that his concern was not that it is not possible to disapply planning permissions through a DCO, but rather that the explanation provided in the Explanatory Memorandum was not sufficiently clear in his view.
- 4.5.13 Mr Turney acknowledged he had misunderstood Mr Bedford's point and asked that Mr Bedford explain the issue further so the Applicant can look to address the concern.

Land Drainage Act

- 4.5.14 The ExA asked SCC, as lead local flood authority, if they consider their interests are adequately protected by the protective provisions in the DCO.
- 4.5.15 Mr Bedford confirmed that SCC has not taken exception to this aspect of Article 6 as their interests are covered by the protective provisions in Schedule 12.
- 4.5.16 Mr Turney highlighted that there are protective provisions in various forms and in various places, with any outstanding matters to hopefully be resolved through ongoing discussions with local authorities.
- 4.6 **Articles 18 et seq, scope of compulsory acquisition powers & Article 43, scope of compensation guarantees**
- 4.6.1 The ExA noted that Articles 18 and 43 will be addressed in detail at the ISH on compulsory acquisition.
- 4.6.2 Interested parties were invited to raise any matters of concern regarding these two articles. No points were raised.

4.7 Article 44, scope and proportionality of traffic regulation measures

- 4.7.1 Richard Kimblin KC on behalf of CCC and ECDC asserted that there is a deficiency in Part 3 of the DCO in terms of the ability of highway authority to control and engage with a wide range of matters that affect the highway. Michael Bedford KC on behalf of SCC noted similar concerns regarding alleged deficiencies in the extent of community consultation and consent of highway authorities required under Article 44.
- 4.7.2 Richard Turney on behalf of the Applicant highlighted that the Applicant has drafted and provided to local authorities heads of terms for side agreements in respect of highway matters that propose measures that would go some way to addressing their concerns. These draft heads of terms have been with local authorities for several months and the Applicant has not yet received a response. Mr Turney encouraged the local authorities to engage with the side agreements as a means of resolving some of their concerns.
- 4.7.3 In terms of the provisions of Article 44, Mr Turney emphasised the need to be absolutely clear that these are provisions in respect of traffic regulation measures during periods of construction and this is not a DCO which has significant permanent interference with highways. Schedule 14 specifically identifies the measures envisaged. If there are specific points to be made regarding these measures, these should be made and provided for through the examination process rather than adding an additional layer of consent or consultation.
- 4.7.4 The dCO operates by providing the Applicant with the power to carry out the street works in Part 3 or carry out the traffic regulation measures under Article 44 in respect of those works and measures identified in the corresponding Schedules to the dDCO. No further consent should be required. In respect of street works and traffic measures that fall outside those schedules, then the dDCO requires the Applicant to obtain the consent of the street authority.
- 4.7.5 Mr Turney also noted the Applicant's status as a utility undertaker and the powers it currently has in terms of breaking open the road to complete works necessary for its undertaking, and that this ability needs to be borne in mind to ensure the additional requirements put forward by the highway authorities do not exceed what is reasonable.

5. Agenda Item 4 – Schedule 2 of the DCO: Requirements and Schedule 13: Procedure for Discharge of Requirements

5.1 Overview of requirements

- 5.1.1 The ExA asked the Applicant to clarify three matters in relation to the Requirements set out in the dDCO:

- (a) Relationship of all plans to each other and documents to be secured by the DCO;

- (b) Need for supplementary outline plans and related requirements;
- (c) Approval process for BFSMP.

5.2 Clarification of relationship to each other of all plans and documents to be secured by the DCO

5.2.1 Richard Turney on behalf of the Applicant noted that the Applicant has prepared a table that provides an overview of the Requirements and the relationship to each other of all plans and documents secured by the dDCO in response to FWQ 1.5.64. This will be submitted at Deadline 2.

5.2.2 For example, the framework Construction Environmental Management Plan (CEMP) references the need for strategies and plans relating to archaeology (Requirement 13), ground conditions (Requirement 18), and water management (Requirement 19) to be developed. It is therefore appropriate that they are submitted separately to the CEMP, which would not include the same information as those matters when it comes to be discharged. More detail will inevitably be provided to meet the requirements of statutory consultees, as appropriate.

5.3 Need for supplementary outline plans and related requirements, for example highway access, individual aspects of construction practice and light emissions

5.3.1 The ExA asked whether there are any areas of the Scheme that do not appear to be covered by outline plans and related requirements.

5.3.2 Richard Turney on behalf of the Applicant explained that discussions are ongoing with the highway authorities in relation to the framework Construction Traffic Management Plan (CTMP). If there are particular concerns about highway accesses and lay out or formation, further provisions in the framework CTMP would be the way to resolve them and the Applicant is amenable to discussing this with the relevant authorities.

5.3.3 Mr Turney also stated that in response to the local authorities, a new Requirement will be included in the revised dDCO that requires the submission of a traffic management plan in respect of permitted preliminary works.

5.4 Approval of battery fire safety management plan

5.4.1 Richard Turney on behalf of the Applicant set out that under Requirement 7, a BFSMP, substantially in accordance with the outline BFSMP, must be submitted and approved by the relevant planning authorities before commencement of Work No. 2 of the authorised development. The relevant planning authorities must consult the Cambridgeshire Fire and Rescue Service and Suffolk Fire and Rescue Service prior to approval of the BFSMP.

5.4.2 Mr Turney noted that the ExA's FWQ included a further question about who should be consulted on the BFSMP. There is no requirement to consult East of England Ambulance Service NHS Trust (EEAST). EEAST has submitted a Relevant

Representation which does not suggest it needs to be consulted. Mr Turner confirmed that the Applicant is happy to consider this point if it is suggested that EEAST may wish to be consulted.

- 5.4.3 Mr Turney referred to the concern raised by SNTS on the scope of consultation on the BFSMP and suggestion that the Health and Safety Executive (HSE) must be consulted. The Applicant is happy to include the HSE as a consultee for approval and will update the requirement accordingly. In any event, HSE has been identified in the outline BFSMP as a key stakeholder with whom the plan has been prepared in collaboration.

5.5 Proposed approaches to discharge of requirements or managing appeals or disputes

- 5.5.1 The ExA asked the local authorities and interested parties whether there are any concerns in principle with the proposed approaches taken to the discharge of requirements or for managing appeals or disputes under the dDCO.
- 5.5.2 Michael Bedford KC on behalf of SCC raised three concerns with the mechanics of Schedule 13, two of which related to the time periods specified for relevant authorities to provide a response to an application for consent, agreement or approval under paragraph 2(1)(a) (28 business days) and the timeframe for relevant authorities and consultees to submit written representations relating to an appeal by the undertaker (10 business days). Mr Bedford submitted that these timeframes should be extended to 8 weeks and 20 days, respectively.
- 5.5.3 Richard Turney on behalf of the Applicant acknowledge Mr Bedford's submission and confirmed that the Applicant will review the time periods provided in Schedule 13 to see if the changed proposed are acceptable.
- 5.5.4 Ruchi Parekh of Counsel on behalf of WSDC endorsed Mr Bedford's points
- 5.5.5 Mr Turney noted that the question of deemed consent is a regular issue in DCO examinations, and the Applicant considers that it is the appropriate approach to take. Where the relevant authority cannot reach a decision within the time period provided, they can either seek an extension or issue a refusal notice, in the latter case triggering the appeal process. The deeming provision is only triggered when the relevant authority takes no action. The appeal process has a particular utility where there is disagreement between the undertaker and the relevant authority, but a requirement for the undertaker to go through an appeal process where there was no actual disagreement would be unreasonably burdensome on all parties.
- 5.5.6 Ms Parekh also stated that WSDC wished to clarify whether the Applicant does not have an in principle objective to the payment of fees for processing applications for consent, agreement or approval in accordance with the DCO.
- 5.5.7 In relation to fees, Mr Turney confirmed that the Applicant is content with the principle that it would be appropriate to pay fees to the relevant authority for discharging requirements relating to the seeking of consents, agreement or approvals and that this is likely best dealt with by way of a fee schedule in the dDCO.

A potential fee schedule is something that the Applicant will discuss with the relevant authorities.

6. Agenda Item 5 – Article 38 and Schedule 10 of the DCO: Documents and Plans to be Certified

- 6.1.1 The ExA asked to review a list of the documents to be certified in accordance with the dDCO, and also sought the views of those present at the hearing as to whether that list is complete.
- 6.1.2 In relation to public rights of way (PROW), Michael Bedford KC on behalf of SCC stated that, in his view, it would be preferable if a separate PROW plan was prepared rather than being adjunct within the framework CTMP.
- 6.1.3 Richard Turney on behalf of the Applicant stated that the Applicant is content that these sorts of plans can be prepared and agreed when it comes to discharging requirements rather than adding a new set of plans to be certified (which are going to be largely duplicative of plans included with the Application).

7. Agenda Item 6 – Article 40 and Schedule 12 of the DCO: Protective Provisions

- 7.1 Richard Griffiths on behalf of the Applicant set out a summary of the status of negotiations of protective provisions (PPs) with the relevant statutory undertakers. The Applicant has made good progress with statutory undertakers on the PPs: PPs with Anglian Water and Eastern Power Networks and UK Power Networks are agreed. PPs with Cadent Gas Limited and National Highways are substantially agreed subject to finalising the draft agreement.
- 7.2 Mr Griffiths went through each relevant statutory undertaker or utility provider in turn:
 - 7.2.1 **Anglian Water:** PPs are agreed and are contained in Part 3 of Schedule 12 to the dDCO.
 - 7.2.2 **Eastern Power Networks and UK Power Networks:** PPs are agreed and are contained in Part 7 of Schedule 12 to the dDCO.
 - 7.2.3 **Cadent Gas Limited:** PPs are agreed and are contained in Part 4 of Schedule 12 to the dDCO.
 - 7.2.4 **National Highways:** PPs are agreed and are contained in Part 9 of Schedule 12 to the dDCO.
 - 7.2.5 **National Grid Electricity Transmission plc and National Grid Gas plc (in progress):** Negotiations over the PPs are at an advanced stage and the Applicant expects agreement to be reached before the end of the Examination.

- 7.2.6 **Network Rail (in progress):** Negotiations over the PPs are continuing. The Applicant will continue to progress negotiations and aims to reach agreement prior to the end of Examination.
- 7.2.7 **Environment Agency (in progress):** Negotiations over the PPs are at an advanced stage and the Applicant expects agreement to be reached before the end of the Examination.
- 7.2.8 **Drainage authority / Lead Local Flood Authority (in progress):** drafts of the PPs are being negotiated:
- (a) Swaffham IDB's lawyers confirmed in October 2022 that the proposed approach for disapplying the legislation is agreed, subject to one point, and the protective provisions are agreed.
 - (b) An email was sent to Cambridgeshire County Council's lawyers in relation to the protective provisions for the benefit of the drainage authority on 29 September 2022 and a response is awaited.
 - (c) An email was sent to Suffolk County Council's lawyers in relation to the protective provisions for the benefit of the drainage authority on 28 September 2022 and a response is awaited.
- 7.2.9 The Applicant will continue to seek to negotiate with the Lead Local Flood Authorities and hopes to reach agreement prior to the end of the Examination.
- 7.2.10 **South Staffordshire Water (SSW) (in progress):** Negotiations over the PPs are at an advanced stage and the Applicant expects agreement to be reached before the end of the Examination.
- 7.3 There are eight other utility providers (seven telecommunications companies, and one electricity undertaker (Lightsource)) that the Applicant has been in contact with. Of those, Vodafone has confirmed that its assets are not affected by the Scheme. A substantive response is awaited from the other seven, however, standard PPs are included in the draft DCO providing appropriate protection should those parties have assets within the Order limits (provisions for the protection of electricity, gas, water and sewerage undertakers in the draft Sunnica DCO in Part 1 of Schedule 12; standard telecommunications protective provisions in the draft Sunnica DCO in Part 2 of Schedule 12).

8. Agenda Item 7 – Consents, Licences and Other Agreements

- 8.1 Richard Turney on behalf of the Applicant confirmed that an updated list of consents, licences and other agreements required for the Scheme will be provided at Deadline 2.
- 8.2 **Post hearing note:** there was some discussion during the Hearing regarding whether a hazardous substances consent is required for the BESS. In response to the queries raised, the Applicant provides the following overview of The Planning

(Hazardous Substances) Regulations 2015 (HS Regulations) and their application to the BESS:

- 8.2.1 Paragraph 4.12.1 of National Policy Statement (NPS) EN-1 states that all establishments wishing to hold stocks of certain hazardous substances above a threshold require hazardous substances consent. The categories and thresholds of hazardous substances that require such a consent are set out in Schedule 1 of the HS Regulations:
- (a) Part 1 – sets out the different categories of hazardous substances to which the HS Regulations apply and the controlled quantities for those substances.
 - (b) Part 2 – provides a list of specific named hazardous substances and the controlled quantities for these substances.
 - (c) Part 3 – includes a third category of hazardous substances, which applies where it is reasonably foreseeable that a substance falling within Part 1 or Part 2 may be generated in an amount equal to or greater than the controlled quantity during loss of control of processes, including storage activities.
- 8.2.2 The Applicant cannot determine whether a consent will be required under the HS Regulations for the BESS at this stage. In order to reach a conclusive view on whether the BESS will fall under one of the three categories in Schedule 1 of the HS Regulations, details regarding the design of the BESS, what they are made of, and how they are to be arranged, must first be known. These details cannot be determined until details design is complete. This is the same as for the battery storage facilities at both Cleve Hill and Little Crow solar developments, both of which have received DCO consent.
- 8.2.3 Paragraph 4.12.1 of NPS EN-1 states that applicants should consult the HSE at the pre-application stage if a project is likely to need hazardous substances consent. While it is not currently known if hazardous substances consent will be needed for the BESS, the Applicant has previously consulted with HSE on the outline BFSMP.
- 8.2.4 Section 12(2B) of the Planning (Hazardous Substances) Act 1990 enables DCOs to include a direction that hazardous substances consent be deemed to be granted as part of the DCO. The Applicant confirms it is not seeking a deemed hazardous substances consent as part of this DCO.
- 8.2.5 In the event that a hazardous substances consent is required following completion of detailed design, the Applicant will apply for this consent at that time. The relevant hazardous substances authorities for such an application would be the council(s) of the district in which the BESS is to be located.

9. Agenda Item 8 – Statements of Common Ground relevant to the DCO

9.1 The ExA asked for an update from the Applicant as to the status of the various Statements of Common Ground (SoCG) and what can be expected at Deadline 2:

Party	Date latest version of SoCG was sent	Status and key negotiation points
Local authorities (SCC, CCC, WSCC and ECDC)	25 July 2022	Various meetings have occurred throughout October. Meeting held on 27 October 2022 and meeting planned for 04 November 2022.
Environment Agency	19 July 2022	Meeting held 10 October 2022. Awaiting further meeting on 2 November 2022.
Natural England (NE)	7 October 2022	Meeting held on 14 October with NE and the Applicant is reviewing an update to the SoCG.
Historic England (HE)	28 July 2022	Meeting held 7 October 2022. Most points under discussion as HE waiting to submit written representation.
National Highways	25 July 2022	Only one remaining point between the parties in the SoCG.
Suffolk Wildlife Trust (SWT)	25 October 2022	Awaiting response from SWT.
RSPB	n/a	RSPB has confirmed they do not want to be included in a SoCG.
Newmarket Horsemen	5 August 2022	Combined SoCG with Say No To Sunnica (see below).
National Grid	28 October 2022	Whilst an SoCG has been issued to National Grid, it is envisaged that once the PPs are agreed there may not be a need for an SoCG.
Chippenham Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Burwell Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Red Lodge Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Fordham Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.

Moulton Parish Council	16 September 2022	Awaiting response to meeting request. We expect to receive a response prior to deadline 2.
Freckenham Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Mildenhall High Town Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Worlington Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Snailwell Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Isleham Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Reach Parish Council	16 September 2022	Awaiting response to meeting request. Unlikely prior to deadline 2.
Ministry of Defence	16 September 2022	No response from MoD.
National Air Traffic Services (NATS)	16 September 2022	NATS has no objection and wrote to Inspectorate requesting withdrawal of its RR. The Inspectorate responded 5 August 2022 requesting that the NATS no objection is recorded and agreed in SoCG for completeness.
East of England Ambulance Service	04 August 2022	All outstanding points agreed in principle at a meeting on 28 October 2022.
Say No to Sunnica and Newmarket Horseman	16 September 2022	The Applicant is awaiting a response. Unlikely prior to deadline 2.
Anglian Water	n/a	The Applicant will issue shortly, although the PPs are agreed with Anglian Water.
Kennet Parish Council	n/a	The Applicant will issue shortly.
Barton Mills Parish Council	n/a	The Applicant will issue shortly.
Wicken Parish Council	n/a	The Applicant will issue shortly.
West Row Parish Council	n/a	The Applicant will issue shortly.
Newmarket Town Council	n/a	The Applicant will issue shortly.

9.2 The ExA noted that they are looking for a statement of matters of agreement and disagreement at Deadline 2.

- 9.3 In response to the ExA's request, Mr Turney explained that the draft SoCGs are largely with other parties and the Applicant has suggested meetings but is awaiting responses.

10. Agenda Item 9 – Review of issues and actions arising

- 10.1 The ExA invited interested parties to raise any additional concerns.
- 10.2 Richard Kimblin KC on behalf of CCC and ECDC raised two further points that sat outside of the hearing agenda:
- 10.2.1 Article 11 provides for the use of PROW when there is no right to use motor vehicles (e.g. a footpath) to be used by motor vehicles. Mr Kimblin proposed that Article 11(1)(b) be amended so that it is clear that it only authorises the use of PROW by motor vehicles for the purposes of crossing.
- 10.2.2 Article 37 provides for the disapplication of the regime in respect of tree protection orders. Acknowledging that there have been FWQ this point, Mr Kimblin stated that this is something that the tree officers for CCC and ECDC are concerned about and do not accept it is appropriate to wholly disapply the regime.
- 10.3 In response to the concerns raised by Mr Kimblin on PROWs, Richard Turney on behalf of the Applicant confirmed that Article 11 is envisaged being used to enable vehicles to cross PROWs where it would otherwise be a criminal offence to do so, and the Applicant is happy to clarify this through amendments to the drafting, if needed.
- 10.4 In relation to trees, Mr Turney noted that the Applicant is proposing to submit an arboricultural impact assessment at Deadline 3 that should address the underlying concerns of CCC and ECDC about the scope and effect of Article 37.

11. Agenda Item 10 – Close of hearing

- 11.1 The ExA closed the hearing at 16:38pm.

Appendices

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) ORDER 2015

Applicant**Agent**

Frimstone Ltd
Ashcraft Farm
Main Road
Crimplesham
Norfolk
PE33 9EB

Permission is hereby **granted** by Suffolk County Council as Local Planning Authority for the purposes of the above Act and Order for the development in accordance with the application dated 30 June 2015 and other documents as referred to in the attached conditions.

DESCRIPTION OF DEVELOPMENT

Proposed revision to phasing mineral extraction and restoration to permit approved phase 7 to be extracted prior to subsequent development

Worlington Quarry, Bay Farm, Worlington, Suffolk, IP28 6BS

Subject to the following **53** conditions:

CONDITIONS

(Planning conditions in **bold** type indicate the need to submit additional information for approval).

Signed by:.....
Head of Planning

Date:

Approved Details

1. Except as may be modified or required by the other conditions of this permission by the Minerals Planning Authority, none of the uses, operations and activities associated with the development hereby approved shall be carried out other than in accordance with the details set out in:

- a) Covering letter and planning application forms signed on behalf of Frimstone Ltd and dated 30 June 2015;
- b) Planning Statement by Frimstone Ltd dated June 2014;
- c) Drawing No. WORL/2015/01 titled "Location Plan" by Frimstone Ltd dated 30 June 2015;
- d) Drawing No. WORL/2015/02 titled "Phased Working Plan" by Frimstone Ltd dated 30 June 2015;

As previously approved:

- e) The Supporting Statement dated February 2004 to planning application F/04/227, as amended by letter dated 2 June 2004.
- f) Drawing BFW/PSL/2 – Plant site layout.
- g) Drawing BFW/RP/5A – Restoration proposals.
- h) Drawing W11/LAN/001 Rev A, dated May 2009 – Restoration phasing 2009/11.
- i) Drawing W11/LAN/002 Rev A, dated May 2009 – Restoration proposals phase A-D.
- j) Drawing W11/LAN/003 Rev A dated May 2009 – Restoration cross sections phases A-D.
- k) Restoration Scheme statement dated July 2009, comprising:
 - i) Seeding schedule for low fertility grassland.
 - ii) Planting Schedule Appendix A.
 - iii) Aftercare Programme for low fertility grassland.
 - iv) Aftercare programme for mixed woodland.
- l) Drawing BFW/LP/1 rev.1 – Additional advance planting.
- m) Planting schedule for advance planting, restoration planting, and off-site trackside planting with letter dated 21 October 2004.
- n) Drawing 4478/SK002 – Proposed access arrangement & visibility splays.
- o) Drawing 4478/SK003 rev B – Travel Plan traffic limits.
- p) Archaeological Investigation Brief and Specification dated 29 October 2004.
- q) Noise monitoring scheme set out in letter from Acoustic Associates Ltd dated 8 September 2004.
- r) Dust mitigation measures set out in letter from M Dickerson Ltd. dated 6 September 2004.
- s) Details of Power screen plant submitted with letter dated 21 October 2007.

Signed by:.....
Head of Planning

Date:

Reason: to clarify those details approved and in the interests of minimising the impact on the amenities of the local area in accordance with the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

Duration of Permission

2. The operations shall cease by 30 October 2019, at which time all buildings, plant and machinery shall be removed and the land restored in accordance with the relevant conditions below.

Reason: to enable the Minerals Planning Authority to retain control over operations at the site and to secure restoration within an appropriate timescale, having regard to the Suffolk Minerals Core Strategy Adopted Version September 2008.

Pipeline Safeguarding

3. No excavations shall be permitted or machinery placed within 6.1 metres either side of the National Transmission Gas Pipeline Crossing the site.

Reason: to safeguard and protect national transmission infrastructure within the site, having regard to the NPPF.

4. Prior to the disturbance of land within 12 metres of the National Transmission pipeline in each phase;
 - a) a post and rail fence shall be erected on the alignment of the safeguarded limit referred to in condition 3 of this permission on each side of the pipeline for the length of the pipeline affected by excavation;
 - b) sighting boards shall be provided at the crest of the slope adjacent to the pipeline and set at an angle of 40 degrees to the horizontal. Sighting boards shall be provided at intervals of 50 metres along the affected length of the pipeline within each phase.

Reason: to safeguard and protect national transmission infrastructure within the site, having regard to the NPPF.

5. The access track crossing of the National Transmission Pipeline shall be completed in accordance with Transco Specification T/SP/CE12, or such superseding specification as may be adopted by Transco or a successor.

Reason: to safeguard and protect national transmission infrastructure within the site, having regard to the NPPF.

6. Approved fill materials shall be placed against the excavated pipeline margin defined in condition 1 to a height of at least 50% of the depth of the excavation, within six months of the completion of excavation against the pipeline margin. The gradient of the fill shall not be less than 1 in 2 to the horizontal at any time after placement. Backfilling against the safeguarded margin to the pipeline in phase 3 and 6 shall be completed to these requirements prior to the commencement of excavation in phase 7.

Reason: to safeguard and protect national transmission infrastructure within the site, having regard to the NPPF.

Signed by:.....
Head of Planning

Date:

Display of Permission and Plans on Site

7. A copy of this permission, and the approved plans showing method and direction of working and restoration, shall be displayed in the operator's site office at all times during the life of the site.

Reason: to ensure that all employees may readily make themselves aware of the requirements of the planning permission and approved plans to ensure that all aspects of this proposal and stated intentions are complied with having regard to the NPPF.

Access and Traffic

8. The new vehicular access shall be retained in the approved form throughout the life of the site with a bound impervious material for a minimum distance of 65 metres from the edge of the metalled carriageway to a width of 7.3 metres, and shall be maintained free of potholes or broken sections.

Reason: in the interest of highway safety having regard to the NPPF.

Traffic Routeing

9. All HGV traffic movements to and from the site shall be subject to the submitted Travel Plan. No HGV movements shall be permitted to and from the site involving the delivery of aggregates or waste other than in accordance with the routeing requirements of the Travel Plan. The site operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Travel Plan throughout the period of occupation of the site.

Reason: in the interests of highway safety and safeguarding the local environment from debris through movements of traffic on inappropriate roads having regard to the NPPF.

10. A sign shall be maintained at the site exit instructing drivers of vehicles to turn left. The sign shall be erected in accordance with details that have been approved in writing by the Minerals Planning Authority, and shall be retained throughout the life of the site.

Reason: in the interests of highway safety and safeguarding the local environment from debris through movements of traffic on inappropriate roads having regard to NPPF.

Annual Report

11. By 1 January each year following the commencement of the development, a written report shall be submitted to the Minerals Planning Authority providing the following details:
- a) identifying the area(s) of extraction within the previous 12 months;
 - b) the area of land restored, i.e. the area receiving final re-placement of soils, within the previous 12 months,
 - c) the tonnage of primary and recovered aggregates, identified by type, processed or raised at the site within the previous 12 months;
 - d) the estimated reserve of primary aggregates, both unworked and in stockpiles, within the site; and

Signed by:.....
Head of Planning

Date:

- e) within the aftercare period, the steps taken to implement the approved aftercare programme.

Reason: to provide an audit of site development to ensure that development proceeds in accordance with the stated intentions and approved phasing and to assist the monitoring of site reserves, having regard to the Suffolk Minerals Core Strategy Adopted Version September 2008.

Habitat Protection

12. No soils shall be disturbed, materials stored, or machinery operated, upon land within 20 metres of the site boundary with the U6004, (Elms Road).

Reason: to safeguard the habitat of Invertebrate Species Protected by the Countryside & Wildlife Act 1981, having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version 2008.

13. **Prior to the felling of trees anywhere within the site, the trees proposed to be felled shall be surveyed by a competent person for the presence of bats. The details of the survey shall be provided to the Minerals Planning Authority within 21 days of survey. If bats are found no felling shall take place until a scheme has been submitted and approved by the Minerals Planning Authority, for the removal of the tree(s) which would not put the bats at risk and provide for an alternative roost site. Tree felling shall be undertaken only in accordance with the approved scheme.**

Reason: to protect the roosting or dwelling sites of species protected under the Countryside and Wildlife Act 1981, consistent with the provisions of the Countryside and Rights of Way Act 2001, and having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

14. **Not more than two months prior to disturbance within any phase, and annually between 31 October and 1 May throughout the period of mineral extraction, the current and adjacent unworked phase shall be surveyed by a competent person for the presence of badger setts. The details of the survey shall be provided to the Minerals Planning Authority within 21 days of survey. No working shall commence or machinery operated within 30 metres of any sett found until a licence for such operations has been obtained from English Nature, and a scheme of mitigation of the effect of operations on badgers has been submitted to and approved by the Mineral Planning Authority. Mitigation shall be undertaken in full accordance with the approved scheme.**

Reason: to protect the dwelling sites of species protected under the Countryside and Wildlife Act 1981, consistent with the provisions of the Countryside and Rights of Way Act 2001, and having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

Signed by:.....
Head of Planning

Date:

15. Not more than two months prior to disturbance within in any phase, the next unworked phase shall be surveyed by a competent person for the presence of ground nesting birds. The details of the survey shall be provided to the Minerals Planning Authority within 21 days of survey. Should any protected species of birds be found to be nesting within the area of the phase, no soil disturbance shall be made, or machinery operated on the land, until a scheme of mitigation to prevent disturbance to nesting birds has been submitted to and approved by the Minerals Planning Authority. Mitigation shall be undertaken in full accordance with the approved scheme.

Reason: to protect the roosting or dwelling sites of species protected under the Countryside and Wildlife Act 1981, consistent with the provisions of the Countryside and Rights of Way Act 2001, and having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

16. No excavation or storage of soil or aggregate shall be made within 10 metres of any retained tree belt, and within 5 metres of any retained hedgerow within or abutting the boundary of the site.

Reason: to protect trees and hedges adjacent to proposed extraction areas from damage arising from mineral extraction within the rooting zone of such trees or hedges, having regard to the NPPF.

Archaeology

17. At least one month before the start of any earth moving activities on the site, the applicant shall notify the Minerals Planning Authority of the date on which such activities are to start. Access shall be allowed for onsite archaeological observations by a qualified archaeologist who has been approved as competent by the County Archaeological Service.

Reason: to enable the archaeological interest in the site to be adequately investigated and recorded having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

18. No development shall take place in subsequent phases until the applicant has implemented a programme of archaeological investigation and recording in respect of successive phases in accordance with the approved Archaeological Investigation Brief and Specification dated 29 October 2004.

Reason: to enable the archaeological interest in the site to be adequately investigated and recorded having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

Site Screening

19. All woodland belts shown retained within and adjacent to the site shall be retained and managed throughout the period of approved operations. Any trees removed, severely, damaged or becoming seriously diseased, other than removals required as part of approved thinning programmes, shall be replaced with trees or bushes of such size as specified by the Minerals Planning Authority in the planting season following their removal.

Signed by:.....
Head of Planning

Date:

Reason: to ensure adequate screening of the development in the interests of rural and residential amenity, and to ensure the retention of important landscape features, having regard to the Suffolk Minerals Core Strategy Adopted Version September 2008.

20. Tree belts or woodland identified for removal on approved drawing BFW/WP/3D – “Phased Working Plan” shall be retained as long as possible having regard to the Habitat Protection conditions of this permission. Removal shall be timed to take place only as necessary to facilitate working in accordance with the Timetable for Working and Restoration submitted with the Environmental Statement for application F04/227, as amended by the Frimstone Planning Statement dated June 2015, or as may reflect working progress throughout the life of the site.

Reason: to ensure adequate screening of the development in the interests of rural and residential amenity, and to ensure the retention of important landscape features, having regard to the Suffolk Minerals Core Strategy Adopted Version September 2008.

21. Screen bunds comprising soils stripped from the site shall be formed in the positions identified on approved drawing BFW/WP/3D - "Phased Working Plan" and the sequence and origin set out in the 'Method and Sequence of Working' at paragraphs 3.7 to 3.10 of the Supporting Statement to the Planning Application F04/227, as amended by the Frimstone Planning Statement dated June 2015. Topsoil shall first be stripped from the proposed location of the subsoil bunds, and topsoil and subsoils shall be stored separately, in accordance with drawing BFW/WP/3D.

Reason: to ensure adequate screening of the development in the interests of rural and residential amenity, and to ensure the retention of important landscape features, having regard to the Suffolk Minerals Core Strategy Adopted Version September 2008.

22. The topsoil bund to phase 9, and the subsoil bund to phase 8, shall be formed to a uniform height of not less than 5 metres.

Reason: to ensure adequate screening of the development in the interests of rural and residential amenity, and to ensure the retention of important landscape features, having regard to the Suffolk Minerals Core Strategy Adopted Version September 2008.

23. Management of the soil storage bunds through annual weed control carried out by strimming vegetation in May shall take care to avoid ground nesting birds and shall be undertaken throughout the period that the soil storage bunds remain in situ.

Reason: to protect mounds from soil erosion and prevent build-up of weeds in the soil that will be used for agriculture, having regard to the NPPF.

Signed by:.....
Head of Planning

Date:

Soil Handling

24. Soils shall only be handled when they are in a dry and friable condition.

(For clarification purposes the criterion for determining the moisture content of soils suitable for their handling and being "dry and friable" is based on a field assessment of the soils wetness in relation to its lower plastic limit. The assessment should be made by attempting to roll a ball of soil into a thread on the surface of a clean plain glazed tile (or plate glass square) using light pressure from the flat of the hand. If a long thread of less than 3mm diameter can be formed, the soil is wetter than the lower plastic limit and soil moving should not take place until the soils have dried out. If the soil crumbles before a long thread of 3mm diameter can be formed, the soil is dry enough to move. The assessment should be carried out on representative samples of each major soil type.)

Reason: to prevent damage to soils having regard to the NPPF.

25. Soil stripping or replacement shall not be undertaken within phase 4 or 5 when winds of Force 4 or above on the Beaufort Scale are blowing from a northerly direction.

Reason: to ensure soil stripping and replacement operations do not give rise to dust likely to adversely affect the residential amenity of householders within the vicinity of the site, having regard to the NPPF.

26. Imported subsoils and reclaimed topsoils stored prior to use in restoration shall be stored only in the 'additional soils storage area' identified on drawing BFW/WP/3D, shall not exceed 5 metres in height, and be free of objects larger than 15cm in any dimension which are likely to cause obstruction to cultivations. Weed control shall be exercised over stored imported soils in accordance with condition 23.

Reason: to prevent loss or damage of soil, or mixing of dissimilar soil types, having regard to the NPPF.

Landscaping

27. The 'Proposed Mixed Woodland' identified on drawing BFW/RP/5a shall be progressively planted within the first available planting season following completion of soil replacement in each phase. The planting shall be undertaken in accordance with a detailed planting scheme which shall be submitted to and approved by the Minerals Planning Authority in advance of planting; the scheme shall accord with the principles set out in section 6 of the Environmental Statement, as supplemented by the applicant's letter dated 2 June 2004. The planting scheme shall identify the planting species mix, the size of plants, and the method of protection from rabbits and deer predation.

Reason: to ensure the phased completion and maintenance of restoration in accordance with the submitted details, and to enable the Minerals Planning Authority to control the details of species and planting in subsequent phases, having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

Signed by:.....
Head of Planning

Date:

28. The detailed planting, seeding and aftercare proposals set out in Drawing W11/LAN/001 Rev A, dated May 2009 - Restoration phasing 2009/11 and Drawing W11/LAN/002 Rev A, dated May 2009 - Restoration proposals phase A-D, and the Restoration Scheme statement dated July 2009, comprising:

- a) seeding schedule for low fertility grassland;
- b) planting Schedule Appendix A;
- c) aftercare Programme for low fertility grassland; and
- d) aftercare programme for mixed woodland;

shall be implemented within the first available planting season following completion of the restoration levels shown on Drawing W11/LAN/002A over the areas A, B, and C identified on Drawing W11/LAN/001A.

Reason: to ensure the phased completion and maintenance of restoration in accordance with the submitted details, having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

29. All landscaping shall be maintained throughout that period the applicant or any successor operates in any way on the site pursuant to this permission by:

- a) keeping the new planting free from competing grass and weeds through the use of an appropriate 'translocated' herbicide;
- b) replacing any trees and shrubs each year which are subsequently substantially damaged, seriously diseased or dead, with species of a similar size and description unless otherwise agreed in advance in writing with the Minerals Planning Authority; and
- c) checking, adjusting and repairing all stakes, ties, shelters or fencing used in the scheme.

Reason: to ensure the maintenance of restoration in accordance with the submitted details, having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

Signed by:.....
Head of Planning

Date:

Permitted Hours

30. No operations authorised or required under this permission (other than servicing, environmental monitoring and maintenance) shall be undertaken outside the following times;

Mineral extraction, waste processing

0700 to 1700 hours Monday to Friday

0700 to 1300 hours Saturdays

Loading and haulage of aggregate, other than local deliveries

0600 to 1800 hours Monday to Friday

0600 to 1300 hours Saturdays

Local deliveries shall not leave the site other than between 0900 to 1700 hours Monday to Friday

Soil stripping/replacement

0800 to 1700 hours Monday to Friday

0800 to 1300 hours Saturdays

Reason: working outside these hours would be detrimental to residential and rural amenity having regard to the NPPF.

Groundwater Protection

31. Only indigenous subsoils arising from the site shall be deposited into groundwater.

Reason: to prevent pollution of watercourses and aquifers having regard to the NPPF.

32. There shall be no discharge from the site to any watercourse.

Reason: to prevent pollution of watercourses and aquifers having regard to the NPPF.

33. Prior to being brought into use, any above ground fuel storage or refuelling facility shall have been bunded to at least 110% of the tank capacity and constructed on an impermeable base with an independent sealed drainage system with no direct discharge to any watercourse, land, or underground strata.

Reason: to prevent pollution of watercourses and aquifers having regard to the NPPF.

34. All drums and small containers used for oil and other chemicals shall be stored in bunded areas which do not drain to any watercourse, surface water or soakaway.

Reason: to prevent pollution of watercourses and aquifers having regard to the NPPF.

35. Nothing other than clean dry inert waste materials shall be deposited at the site.

Reason: to prevent pollution of watercourses and aquifers having regard to the NPPF.

Signed by:.....
Head of Planning

Date:

Noise and Dust Control

36. Noise from operations on the site (excluding screen bund formation and other temporary operations such as soil stripping, restoration works etc) shall not exceed the following LAeq (1 hour) values measured at the noise monitoring location identified on the attached plan.

- a) All operations except soil stripping/reinstatement/bund formation 47dB (A) LAeq (1 hour).
- b) Soil stripping/reinstatement/bund formation (undertaken for up to eight weeks in any year) 70dB (A) LAeq (1 hour).

Reason: to protect the amenities of local residents from unnecessary noise having regard to the NPPF.

37. Noise monitoring shall be undertaken at six monthly intervals or such other frequency as may be agreed in writing with the Mineral Planning Authority, in accordance with the approved noise monitoring scheme set out in letter from Acoustic Associates Ltd dated 8 September 2004. Monitoring results shall be forwarded to the Minerals Planning Authority within 14 days of measurement.

Reason: to protect the amenities of local residents from unnecessary noise having regard to the NPPF.

38. No plant, machinery or vehicles shall be used on the site unless fitted with effective silencers.

Reason: to protect the amenities of local residents from unnecessary noise having regard to the NPPF.

39. Only broadband sound reversing alarms shall be employed on plant, including dump trucks, on the site.

Reason: to protect the amenities of local residents from unnecessary noise having regard to the NPPF.

40. The following dust minimisation measures shall be employed at the site in dry ground conditions:

- a) all vehicles carrying materials with potential to create dust will be sheeted on entry and exit to and from the site;
- b) internal haul roads will be maintained by filling of potholes to minimise dust;
- c) roads and circulation areas will be dampened down on periods of dry weather by spraying water;
- d) vehicle speeds will be restricted over unsurfaced site tracks to 5 mph;
- e) all plant engaged on the site shall be fitted with radiator deflector plates and exhausts pointing upward from the horizontal; and
- f) concrete crushing and grading equipment employed on the site shall be fitted with water spray bars to minimise the creation of dust from the crushing and stockpiling process. Such spray bars shall be employed during all concrete crushing operations.

Reason: to minimise the effect of dust on the environment having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version September 2008.

Signed by:.....
Head of Planning

Date:

Plant and Machinery

41. The plant site shall be laid out and operated in accordance with drawing BFW/PSL/2, and paragraphs 3.11 and 3.12 of the Environmental Statement.

Reason: to ensure the plant is located and arranged as stated in the application to minimise environmental impact, having regard to the NPPF.

42. Fixed plant shall be painted Cumberland Green BS.12 B21 within three months of erection and retained in that colour throughout the life of the site.

Reason: in the interests of protecting rural amenity, having regard to the NPPF.

Imported Aggregates

43. No materials or aggregate shall be imported to the site for storage and/or subsequent processing or sale.

Reason: the importation of aggregate and other materials may give rise to unacceptable traffic movements to the site and/or delay completion of working and restoration, having regard to the NPPF.

Restoration

44. Restoration of the site shall be undertaken progressively in accordance with the principles set out in:

- a) paragraphs 3.23 to 3.33 of the Environmental Statement as amended by applicant's letter dated 2 June 2004,
- b) Drawings BFW/RP/5a, and, in respect of phases 1 and 2,
- c) Drawings W11/LAN/001 Rev A, dated May 2009,
- d) Drawing W11/LAN/002 Rev A, dated May 2009 – Restoration proposals phase A-D,
- e) Drawing W11/LAN/003 Rev A dated May 2009 – Restoration cross sections phases A-D,
- f) Restoration Scheme statement dated July 2009, comprising:
 - i) seeding schedule for low fertility grassland,
 - ii) planting Schedule Appendix A,
 - iii) aftercare Programme for low fertility grassland, and
 - iv) aftercare programme for mixed woodland.

Reason: to ensure a progressive restoration of the site in accordance with the stated intentions and submitted details, having regard to the NPPF.

45. Excavations within phase 9 shall not exceed limits which are capable of being restored to achieve conformity with drawing BFW/RP/5A using indigenous materials from within the site only.

Reason: to ensure that restoration of phase 9 as specified in the application is not prejudiced by excavating phase 9 to an excessive depth incapable of restoration using only indigenous subsoils within the site, having regard to the comments of Defence Estates and the NPPF.

Signed by:.....
Head of Planning

Date:

46. Extraction of sand and gravel shall not commence in phase 4 until phases 1, 2a and 2b have been substantially restored. Excavations in phase 8 shall not commence until phases 1 to 5 have been substantially restored.

Reason: to enable the Minerals Planning Authority to retain control over the phased restoration of the site, having regard to the NPPF and the Suffolk Minerals Core Strategy Adoption Version September 2008.

47. Only indigenous subsoils, or subsoils, of similar Breckland type shall be used within the upper 1 metre of the restored soil profile within the area restored to low fertility grass heath, (i.e. phases 1, 2a, 2b, 8 and the plant site) as defined on drawing BFW/WP/3D. Topsoil stripped from the site shall be applied only to those areas to be returned to arable use, or to be subject of tree planting.

Reason: to enable the Minerals Planning Authority to retain control over the phased restoration of the site, having regard to the NPPF and the Suffolk Minerals Core Strategy Adopted Version 2008.

48. The gradients of the restored land shall be generally in accordance with drawings BFW/RP/5a and, in respect of phases 1 and 2, Drawings W11/LAN/001 Rev A, dated May 2009 and Drawing W11/LAN/003 Rev A dated May 2009 - Restoration cross sections phases A-D.

Reason: to ensure a progressive restoration of the site in accordance with the stated intentions and submitted details, having regard to the NPPF.

- 49. The proposed conservation headlands identified on drawing BFW/RP/5a shall be formed with an even batter slope not exceeding 1 in 2 and seeded in accordance with a detailed seeding and planting scheme to be submitted to and approved by the Minerals Planning Authority not less than two months following the completion of restoration in phase 9. The seeding and planting scheme shall be in accordance with paragraphs 8.162 to 8.164 of the Environmental Statement.**

Reason: to ensure the site is restored in accordance with the submitted details and stated bio-diversity objectives, having regard to NPPF.

- 50. Within three months of completion of restoration planting within phase 9 a fence to deter wildfowl use of the reed marsh shall be constructed to connect the two areas of retained woodland at the southern end of phase 9, in accordance with details which shall be submitted to and approved by the Minerals Planning Authority. The fence shall be maintained in the approved form throughout the period of approved operations and aftercare.**

Reason: to ensure the site is restored in accordance with the submitted details and stated bio-diversity objectives, having regard to the comments of Defence Estates and the NPPF.

Signed by:.....
Head of Planning

Date:

Aftercare

51. All phases of restoration shall be subject to aftercare for a period of not less than 10 years in respect of areas restored to wet woodland and low fertility grass heath, and five years in respect of areas restored to arable use.

Reason: to ensure the site is restored in accordance with the submitted details and stated bio-diversity objectives, having regard to the comments of Defence Estates and the NPPF.

52. The approved programme of aftercare to nurture and manage the creation of the low fertility grassland and wet woodland restored areas for the 10 year aftercare period, as set out in Table 1 of the Restoration Scheme statement dated July 2009 shall commence from the completion of the replacement of soil over Areas A to C identified on Drawing W11/LAN/001, the date of which shall be notified in writing to the Minerals Planning Authority within 14 days of the completion of spreading of final soil cover over these Areas.

Reason: to ensure the site is restored in accordance with the submitted details and stated bio-diversity objectives, having regard to the comments of Defence Estates and the NPPF.

53. **Within two months of the date of completion of restoration within Phase 3 an agricultural aftercare scheme providing for such steps as may be necessary to bring the land identified for agricultural after use on drawing BFW/RP/5a to the required standard for use for agriculture shall be submitted to the Mineral Planning Authority for approval. The aftercare scheme shall be implemented as approved in writing by the Minerals Planning Authority.**

The submitted scheme shall specify the steps to be taken and state the five year period during which they are to be taken and shall make provision for:-

- (i) soil analysis,**
- (ii) planting,**
- (iii) cultivating,**
- (iv) fertilising,**
- (v) watering,**
- (vi) drainage,**
- (vii) weed control measures,**
- (viii) grazing management,**
- (ix) keeping of records,**
- (x) annual meetings before the 1 of May each year during the aftercare period with representatives of the Minerals Planning Authority, DEFRA, landowners and interested parties to review performance,**
- (xi) before the 1 September of every year during the aftercare period details shall be provided for the Authority's approval of the following:**
 - i) proposals for managing the land in accordance with the rules of good husbandry including planting, cultivating, seeding, fertilising, draining, watering or otherwise treating the land for the forthcoming**

Signed by:.....
Head of Planning

Date:

12 months; and

ii) a record of aftercare operations carried out on the land during the previous 12 months.

The period of agricultural aftercare for the site or any part of it shall commence on the date of written certification by the Minerals Planning Authority that the site or, as the case may be, the specified part of it, has been satisfactorily restored.

Reason: to ensure the site is restored in accordance with the submitted details having regard to the NPPF.

Date

Head of Planning
Strategic Development
Resource Management
5th Floor, Block 2
Endeavour House
8 Russell Road
Ipswich, IP1 2BX

Signed by:.....
Head of Planning

Date:

Working with applicant in a positive and proactive manner

The County Council has engaged in pre-application discussions with applicant departments or their agents, and by ongoing dialogue during the determination of the application.

NOTES:

1. Attention is drawn to the fact that any failure to adhere to the approved plans or to comply with the conditions attached to this planning permission constitutes a contravention of the provisions of the above Act in respect of which enforcement action may be taken.
2. This planning permission does not entitle you to do anything for which the consent of some other landowner, person or public authority is required.

APPEALS TO THE SECRETARY OF STATE

1. If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
2. If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
3. Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.
4. The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
5. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
6. In practice the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.

PURCHASE NOTICES

1. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
2. In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for that Park, or in any other case the district council (or county council which is exercising the functions of a district council in relation to an area for which there is no district council), London borough council or Common Council of the City of London in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town and Country Planning Act 1990.

Signed by:.....
Head of Planning

Date:

Forest Heath District Council

TOWN AND COUNTRY PLANNING ACT 1990
Application No: DC/15/2109/FUL

TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015

AGENT

Keymer Cavendish Limited
FAO: Mr Edward Keymer
Frolic Farm
Lode Fen
Lode
Cambridge
CB25 9HF

APPLICANT

Strutt & Parker Farms Ltd/Upton
Suffolk Farms Limited
1 Whitbreads Business Centre
Whitbreads Farm Lane
Chatham Green
Chelmsford
Essex
CM3 3FE

Date Registered: 4th November 2015

Date of Decision: 8th March 2016

PROPOSAL

Planning Application - Installation of on-farm anaerobic digestion plant to produce biogas with three digesters, silage clamps, lagoon, pipeline to gas grid, landscaping and associated infrastructure.

LOCATION

Bay Farm , Bay Farm, Worlington, Suffolk, IP28 6BS

Permission is hereby **GRANTED** by the Council as Local Planning Authority for the purpose of the above Act and Orders for development in complete accordance with the approved plans, specifications and information contained in the application, and subject to compliance with the following condition(s):

- 1 The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

- 2 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.

Reason: To maintain control over the scale and nature of the operation and the source of feedstock in the interests of the amenities of the area.

- 3 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: 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 retained for at least two years and be available for inspection by the Local Planning Authority upon request.

Reason: To maintain control over the scale and nature of the operation and the type of feedstock in the interests of the amenities of the rural area.

- 4 No development shall take place until a Traffic Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall include details of the Traffic Access Route to be taken to and from the site by delivery and collection vehicles, the method of imparting this information to drivers visiting the site and details of actions to be taken in the event of breaches. The plan shall also include details of the hours during which deliveries will be taken at, and despatched from, the application site. The development hereby permitted shall only be operated in accordance with the approved Plan. The provisions of the traffic management plan and traffic access route shall not apply to existing agricultural operations at Upton Suffolk Farms.

Reason: To reduce and / or remove as far as is reasonably possible the effects of feedstock delivery traffic in sensitive areas.

- 5 No HGV movements associated with the AD plant shall use the existing farm track which leads between Bay Farm and Golf Links Road.

Reason: To reduce and / or remove as far as is reasonably possible the effects of HGV traffic in sensitive areas.

- 6 All HGV traffic movements to and from the site over the duration of the construction period shall be subject to a Deliveries Management Plan which shall be submitted to the planning authority for approval a minimum of 28 days before any deliveries of materials commence. No HGV movements shall be permitted to and from the site other than in accordance with the routes defined in the Plan. The site operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of construction of the site.

Reason: To reduce and / or remove as far as is reasonably possible the effects of HGV traffic in sensitive areas.

- 7 No other part of the development hereby permitted shall be commenced until the surface of the existing vehicular access to Bay Farm from the C610 carriageway has been repaired to ensure that a consistent bound surface exists

for 10 metres from the nearside edge of the carriageway. Thereafter the access shall be retained in the specified form.

Reason: In the interests of highway safety to ensure that the main highway access to Bay Farm is in good condition to enable vehicles to enter and exit in a timely manner.

- 8 The site demolition, preparation and construction works shall be carried out between the hours of 08:00 to 18:00 Mondays to Fridays and between the hours of 08:00 to 13:30 Saturdays and at no time on Sundays or Bank Holidays without the prior written consent of the Local Planning Authority.

Reason: To protect the amenity of the area.

- 9 Any waste material arising from the site preparation and construction works shall not be burnt on site but shall be kept securely in containers for removal to prevent escape into the environment.

Reason: To protect the amenity of the area.

- 10 No security lights or floodlights shall be erected on site without the submission of details to, and written approval from, the Local Planning Authority to ensure a lighting environment of low district brightness at residential properties and the surrounding rural area.

Reason: To protect the amenity of the area.

- 11 The sound proofing of the premises shall be such to ensure noise levels emitted from the premises do not exceed the background noise level at any time when measured as a 5 minute LAeq at a distance of 3.5 metres from the boundary of the nearest residential property.

Reason: To protect the amenity of the area and the residential amenities of the occupiers of the nearby properties.

- 12 The anaerobic digester plant may not be brought into operation until the site investigation and post investigation assessment report has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation for archaeological evaluation and the provision made for analysis, publication and dissemination of results and archive deposition.

Reason: To enable any remains of archaeological significance to be investigated and recorded.

- 13 All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced

within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To enhance the appearance of the development.

- 14 The recommendations set out in paragraphs 3.84 - 3.93 and 3.91 of the Environmental Report, where not already incorporated into the landscaping proposals shown on Plan Ref - CE-BY0951-DW03 Rev A, shall be complied with in full unless otherwise agreed in writing with the Local Planning Authority through the variation of this condition.

Reason: To ensure that mitigation measures are provided to ensure that wildlife habitats are maintained and are not adversely affected by the development.

- 15 The recommendations set out in section 4 of the Badger Survey (dated January 2016) shall be complied with in full unless otherwise agreed in writing with the Local Planning Authority through the variation of this condition.

Reason: To ensure that mitigation measures are provided to ensure that wildlife habitats are maintained and are not adversely affected by the development.

- 16 The trees shown on the eastern site boundary shall be fenced as described below, and the Local Planning Authority shall be advised in writing that the protective measures/fencing have been provided before any equipment, machinery or materials are brought onto the site for the purposes of development and shall continue to be so protected during the period of construction and until all equipment, machinery and surplus materials have been removed from the site. Where possible the fencing shall be erected outside the 'Root Protection Area' (RPA) defined by a radius of $\text{dbh} \times 12$ where dbh is the diameter of the trunk measured at a height of 1.5m above ground level. Where fencing can not be erected outside the RPA an arboricultural method statement shall be submitted and approved in writing in accordance with the relevant condition. Within the fenced area no work shall take place; no materials shall be stored; no oil or other chemicals shall be stored or disposed of; no concrete, mortar or plaster shall be mixed; no fires shall be started; no service trenches shall be dug; no soil shall be removed or ground level changed at any time.

Reason: To ensure that the most important and vulnerable trees are adequately protected during the period of construction.

- 17 Development shall not begin until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approval details.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3).

- 18 Prior to the commencement of any development, a scheme for the provision and implementation of (i) pollution control (including full details of leachate storage tanks, reservoir, and pipe work), (ii) surface water and (iii) foul water drainage shall be submitted and agreed in writing with the Local Planning Authority. The works/scheme shall be constructed and completed in accordance with the approved plans/specifications at such time(s) as may be specified in the approved scheme.

Reason: To ensure a satisfactory method of drainage and reduce the risk of pollution to the water environment.

- 19 Piling or any other foundation designs and investigation boreholes using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3).

- 20 Prior to the commencement of the construction and/or installation of components of the development, including the digester tanks, compounds and technical buildings, details of the external appearance, dimensions and materials (including precise details of colours) shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory.

- 21 Prior to the commencement of the construction of the Digestate Storage Lagoon details of the lagoon cover and its operation shall be submitted to and approved by the Local Planning Authority. The approved cover shall be retained and used in accordance with the approved details.

Reason: To protect the amenities of the area and ensure the digestate lagoon is covered in accordance with advice from the Environment Agency.

- 22 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Ref:	Version	Document Type	Date
STRUTT & PARKER FARMS OCT 2015 (No Nos.)	(No Nos.)	Environmental Report	21.10.2015
PART 1		Design and Access Statement	29.10.2015
PART 2		Flood Risk Assessment	21.10.2015
20217/004	Rev G	Flood Risk Assessment	21.10.2015
20217/006	Rev B	Layout	21.10.2015
20217/010	Rev B	Elevations	21.10.2015
20217/011	Rev B	Elevations	21.10.2015
20217/012	Rev C	Layout	21.10.2015
20217/007	Rev O	Visibility splays	21.10.2015
20217/150	Rev B	Elevations	04.11.2015
CE-BY0951-DW03	Rev E	Location Plan	19.01.2016
FEEDSTOCK AREAS	Rev A	Landscaping	21.01.2016
	S_P-BAY-001	Other	17.02.2016
	REV A		
IRRIGATION PLAN		Other	19.01.2016

Reason: To define the scope and extent of this permission.

The Following policies are considered relevant to the current decision:

Core Strategy Policy CS1 - Spatial Strategy

Core Strategy Policy CS2 - Natural Environment

Core Strategy Policy CS4 - Reduce emissions, mitigate and adapt to future climate change

Core Strategy Policy CS5 - Design quality and local distinctiveness

Development Management Policy DM1 Presumption in Favour of Sustainable Development

Development Management Policy DM2 Creating Places Development Principles and Local Distinctiveness

Development Management Policy DM5 Development in the Countryside

Development Management Policy DM6 Flooding and Sustainable Drainage

Development Management Policy DM8 Low and Zero Carbon Energy Generation

Development Management Policy DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance

Development Management Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity

Development Management Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

Development Management Policy DM11 Protected Species

Development Management Policy DM13 Landscape Features

Development Management Policy DM16 Local Heritage Assets and Building Protected by an Article 4 Direction

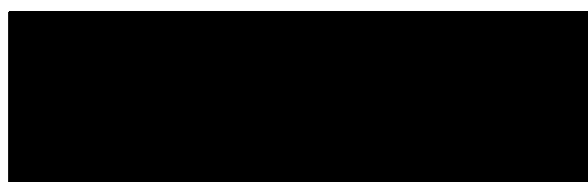
Development Management Policy DM20 Archaeology

Development Management Policy DM31 Farm Diversification

Development Management Policy DM45 Transport Assessments and Travel Plans

NOTES:

- 1 When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising. In this case it was possible to secure further details and amendments to the scheme. These satisfied statutory consultees and provided additional material to ensure the impact of the proposal could be satisfactorily mitigated.



Head of Planning and Growth

Date: 8th March 2016

Mr Edward Keymer
Frolic Farm
Lode Fen
Lode
Cambridge
CB25 9HF

Case Officer: Sarah Drane
Direct Line: 01638 719432

Application no: NMA(A)/15/2109

Today's Date: 11 July 2019

Dear Sir/Madam

Non-Material Amendment

Location: Bay Farm Bay Farm Worlington Suffolk IP28 6BS

Amendments: Non Material Amendment to DC/15/2109/FUL -
Substitute previously approved plans as follows:

1. 20217/004 rev. G Layout
2. 20217/011 rev. C Layout
3. 20217/010 rev. B Elevations
4. 20217/006 rev. B Elevations
5. 20217/007 rev. B Elevations

for the following plans which show the site layout as build and how it compares to that previously approved:

1. 20217/1004 rev. A Site Layout
2. 20217/1011 rev. B Overall Site Layout
3. 20217/006 rev. H Elevations sheet 1
4. 20217/007 rev. H Elevations sheet 2
5. 20217/009. rev. G - new plan: plant and equipment

I refer to the above application and accompanying plans received in this office on the 17 June 2019. I have had the opportunity to consider the details and have the following comments to make.

This proposal seeks approval of a non-material amendment to planning permission DC/15/2109/FUL for a Anaerobic Digestion (AD) plant at Bay Farm and a minor modification to the Traffic Management Plan (TMP) agreed under

Condition 4 of this planning permission. The slight change to the TMP, as set out within the submission is acceptable.

A number of changes have been made to the overall site layout and design. The differences between the approved and built plans are;

- o Change manure tank to liquids tank on all plans
- o Water softener added to key
- o Note added to elevations - gas compound not built
- o Note added to Pentair Building - multiple technologies inside
- o Note to say smaller items of kit added due to technology changes

It is agreed that the effects of these changes are only in terms of the visibility of the installation from its surroundings. As the changes have resulted in the plant being smaller, more compact and better laid out, they therefore have led to a lesser landscape and visual impact. The changes made are therefore considered to be non-material in the wider context of the whole scheme.

The elevation and layout plan changes are as follows:

1. 20217/004 rev. G Site Layout to be substituted for 20217/1004 rev. A
2. 20217/011 rev. C Overall Site Layout to be substituted for 20217/1011 rev. B
3. 20217/006 rev. B Elevations sheet 1 to be substituted for 20217/006 rev. H
4. 20217/007 rev. B Elevations sheet 2 to be substituted for 20217/007 rev. H
5. 20217/009 rev. G. - new plan (new plant and equipment)

This permission agrees the variation in design as set out in this notice for application DC/15/2109/FUL which remains subject to the planning conditions set out in the decision notice.

If you have not already done so, you should check with the Building Control Section to ascertain whether an additional application is required under the Building Regulations. They can be contacted at the above offices or by telephone on (01284) 757387.

Please contact the Case Officer, Sarah Drane, in case of query.

Yours faithfully



David Collinson
Assistant Director - Planning & Regulatory Services

A copy of this letter will be attached to the public Planning Register

Mr Edward Keymer
Frolic Farm
Lode Fen
Lode
Cambridge
CB25 9HF

Case Officer: Sarah Drane
Direct Line: 01638 719432
Email: planning.help@westsuffolk.gov.uk
Application no: NMA(A)/15/2109
Today's Date: 11 July 2019

Dear Sir/Madam

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I refer to the above application and accompanying plans received in this office on the 17 June 2019. I have had the opportunity to consider the details and have the following comments to make.

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Condition 4 of this planning permission. The slight change to the TMP, as set out within the submission is acceptable.

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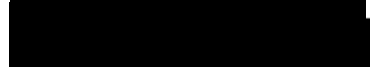
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4. 20217/007 rev. B Elevations sheet 2 to be substituted for 20217/007 rev. H
5. 20217/009 rev. G. - new plan (new plant and equipment)

This permission agrees the variation in design as set out in this notice for application DC/15/2109/FUL which remains subject to the planning conditions set out in the decision notice.

If you have not already done so, you should check with the Building Control Section to ascertain whether an additional application is required under the Building Regulations. They can be contacted at the above offices or by telephone on (01284) 757387.

Please contact the Case Officer, Sarah Drane, in case of query.

Yours faithfully



David Collinson
Assistant Director - Planning & Regulatory Services

A copy of this letter will be attached to the public Planning Register

Application No: DC/21/1535/VAR

AGENT

Edward Keymer - Keymer Cavendish Limited
Frolic Farm
Lode
Cambridge
CB25 9HF

APPLICANT

Bay Farm Power
Bay Farm Power
Anaerobic Digester Plant
Bay Farm
Worlington
IP28 6BS

Date Registered: 5 August 2021

Date of Decision: 15 October 2021

Town And Country Planning Act 1990 (as Amended)

**Town & Country Planning (Development Management Procedure)
(England) Order 2015**

Proposal: Planning application - Variation of condition three of DC/15/2109/FUL to enable the wording for condition three to be changed to: 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 for the Installation of on-farm anaerobic digestion plant to produce biogas with three digesters, silage clamps, lagoon, pipeline to gas grid, landscaping and associated infrastructure

Location: Bay Farm, Bay Farm, Worlington, Suffolk, IP28 6BS

Permission is hereby **GRANTED** by the Council as Local Planning Authority for the purpose of the above Act and Orders for development in complete accordance with the approved plans, specifications and information contained in the application, and subject to compliance with the following condition(s):

- 1 The sugar beet and maize feedstock for the AD plant hereby permitted shall

only be sourced from the areas shown in the approved plan: Geographical extent of feedstock sources: Plan Number: S&PBay- 001 Revision: A dated 17.02.16, as approved under DC/15/2109/FUL.

Reason: To maintain control over the scale and nature of the operation and the source of feedstock in the interests of the amenities of the area.

- 2 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.

Reason: To maintain control over the scale and nature of the operation and the type of feedstock in the interests of the amenities of the rural area.

- 3 The development hereby permitted shall only be operated in accordance with the amended Traffic Management Plan as approved under NMA(A)/15/2109. The provisions of the traffic management plan and traffic access route shall not apply to existing agricultural operations at Upton Suffolk Farms.

Reason: To reduce and / or remove as far as is reasonably possible the effects of feedstock delivery traffic in sensitive areas.

- 4 No HGV movements associated with the AD plant shall use the existing farm track which leads between Bay Farm and Golf Links Road.

Reason: To reduce and / or remove as far as is reasonably possible the effects of HGV traffic in sensitive areas.

- 5 No security lights or floodlights shall be erected on site without the submission of details to, and written approval from, the Local Planning Authority to ensure a lighting environment of low district brightness at residential properties and the surrounding rural area.

Reason: To protect the amenity of the area.

The Following policies are considered relevant to the current decision:
Development Management Policy DM1 Presumption in Favour of Sustainable Development

Development Management Policy DM2 Creating Places Development Principles and Local Distinctiveness
 Development Management Policy DM5 Development in the Countryside
 Development Management Policy DM6 Flooding and Sustainable Drainage
 Development Management Policy DM8 Low and Zero Carbon Energy Generation
 Development Management Policy DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance
 Development Management Policy DM11 Protected Species
 Development Management Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
 Development Management Policy DM13 Landscape Features
 Development Management Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
 Development Management Policy DM16 Local Heritage Assets and Building Protected by an Article 4 Direction
 Development Management Policy DM20 Archaeology
 Development Management Policy DM31 Farm Diversification
 Development Management Policy DM45 Transport Assessments and Travel Plans
 Core Strategy Policy CS1 - Spatial Strategy
 Core Strategy Policy CS2 - Natural Environment
 Core Strategy Policy CS4 - Reduce emissions, mitigate and adapt to future climate change
 Core Strategy Policy CS5 - Design quality and local distinctiveness

Informatives:

- 1 Any failure to adhere to approved plans or to comply with any conditions or limitation attached to this permission/consent may lead to enforcement action being taken. This permission may be invalidated if conditions requiring compliance before commencement are not complied with.
- 2 The project may be subject to the requirements of the Building regulations 2010. Advice and assistance can be obtained from our Building Control Team on 01284 757387 or building.control@westsuffolk.gov.uk. They will work with you offering competitive fee quotations and pre-application advice upon request.
- 3 This permission does not grant any approval or consent which may be required under any enactment, byelaw, order or registration other than the Town and Country Planning Act 1990 or under any covenant.
- 4 The development hereby approved should be built in accordance with the approved plans as a further planning permission will be required where material alterations or revisions are proposed to an approved scheme. An application for non-material changes to the planning permission can be submitted in writing to the Local Planning Authority under Section 96A(4) of

the Town and Country Planning Act 1990. A specific form will be required for that purpose and these are available via the Planning Portal or they can be downloaded from the council's website at www.westsuffolk.gov.uk. A fee of £34 for a householder application or £234 for all other applications will be required in order to register the application.

- 5 Any works to a watercourse (i.e. main river, ordinary watercourse, ditches, dykes, cuts) require separate permits or consents from the local drainage authority before construction takes place. Please contact the following drainage authority if works affect:-
 - Main river – may require environmental permit from the Environment Agency
 - Non-main river – may require land drainage consent under section 23 of the Land Drainage Act 1991 either from the Lead Local Flood Authority or IDB.
- 6 When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising. In this case the application could be approved without negotiation or amendment so there was no need to work with the applicant.



Rachel Almond
Service Manager - Planning & Regulatory Services

Date: 15 October 2021

West Suffolk Council

NOTES

- 1 If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or consent, or to grant permission or consent subject to condition, they may appeal to the Secretary of State for Communities and Local Government. The applicant's right of appeal is in accordance with the appropriate statutory provisions which follow:

Planning Applications: Section 78
Town and Country Planning Act 1990

Listed Building Applications: Section 20
Planning (Listed Buildings and
Conservation Areas) Act 1990

Advertisement Applications: Section 78
Town and Country Planning Act
1990 Regulation 15
Town and Country Planning
(Control of Advertisements)
Regulations 2007

Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.

Appeals must be made on a form which is obtainable from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at
<https://www.gov.uk/government/publications/model-notification-notice-to-be-sent-to-an-applicant-when-permission-is-refused>

The Secretary of State has power to allow a longer period for the giving of

a notice of appeal but he/she will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him/her that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by it, having regard to the statutory requirements*, to the provisions of the Development Order, and to any directions given under the Order. The Secretary of State does not in practise refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him/her.

2. If permission or consent to develop land or carry out works is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development or works which has been or would be permitted they may serve on the Council of the district in which the land is situated, a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 137 of the Town and Country Planning Act 1990 or Section 32 Planning (Listed Buildings and Conservation Areas) Act 1990.
3. If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

*The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.

Appendix 2 Email from Bay Farm

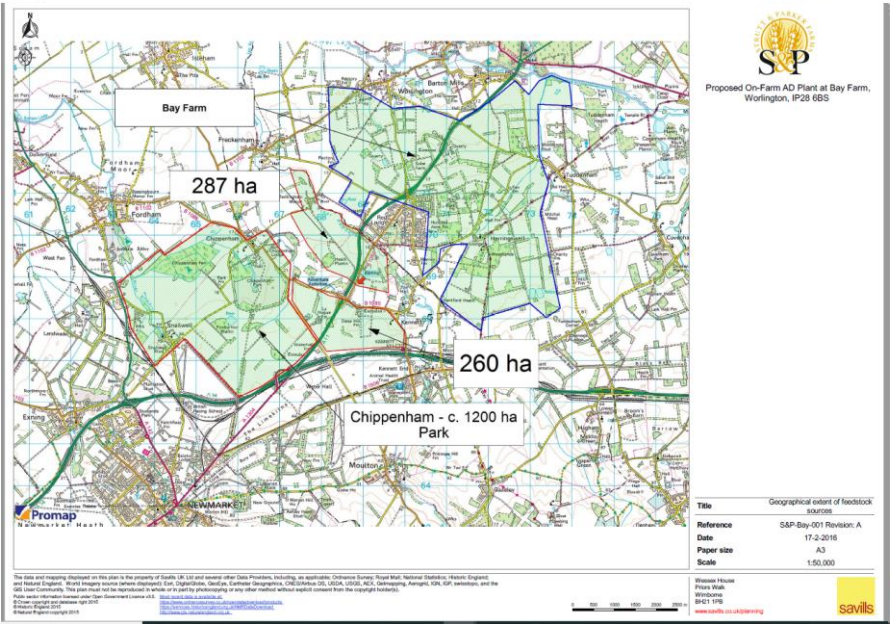
From: Hugo Upton [REDACTED]
Date: Thu, Nov 10, 2022 at 12:25 PM
Subject: Fwd: Bay Farm - AD Plant feedstock - Statement for the Sunnica DCO Application
To: Luke Murray [REDACTED] Matt Hazell [REDACTED]

Dear Sunnica,

Bay Farm currently provides the anaerobic digestion plant with an agreed volume of maize. Should the Sunnica Scheme receive consent, then we confirm that Bay Farm can still provide the agreed volume of maize from other fields within the approved geographical area.

Yours Sincerely,

Hugo Upton



S&P
Proposed On-Farm AD Plant at Bay Farm,
Worthing, IP28 6BS

Title: Geographical extent of feedstock
Reference: SAP-Bay-001 Revision: A
Date: 17-2-2016
Paper size: A3
Scale: 1:50,000

Worthing House
Pine Way
Worthing
BN11 1PS
www.savills.co.uk/engineering

savills