

SUNNICA ENERGY FARM

REF: EN01016 DRAFT DEVELOPMENT CONSENT ORDER

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED

FORMS AND PROCEDURE) REGULATIONS 2009

**WRITTEN SUMMARY OF ORAL CASE FOR EAST CAMBRIDGE
COUNTY COUNCIL & CAMBRIDESHIRE COUNTY COUNCIL**

ISSUE SPECIFIC HEARING 2

Introduction

1. East Cambridgeshire District Council (“**ECDC**”) and Cambridgeshire County Council (“**CC**”) have separate interests and obligations around the topics discussed on ISH2. These matters build on the points contained in the Joint Local Impact Report with other local authorities. The following summary compliments the points made at the oral hearing. Both authorities welcome the removal of Sunnica West B as proposed through the change application, and we agree that no consultation is necessary in the circumstances.
2. The following summary points follow the agenda as set out by ExA. Where similar issues overlap with other authorities, we have not sought to repeat the points. Where issues have been addressed, we indicate so.

Ecology and biodiversity

3. The Council's view remains that further surveys will be required to address the gap in the evidence; this is particularly so in relation to protected species and flora / grassland. There is currently a gap in the evidence; some fields have been inaccurately mapped, some wrongly classified (i.e. some marked as pasture instead of agricultural); there are other misidentified land uses and generally poor level of detail. The Applicant's responses were not comforting, particularly by repeating that the loss of land relates to simple arable crop rotation to be replaced by claimed net gain¹. To this end, Mr. Turney's indication that further surveys are to come is welcome by the authorities.

4. We do not repeat the points made by West Suffolk in relation to badgers and the Stone Curlews (6 issues highlighted by Mr. Grant).² However, in regards to Stone Curlews additional focus should be given to a contingency plan if Stone Curlew mitigation doesn't work. This is where NE's position must be carefully examined and understood.³

5. Both authorities consider that impacts on the other designated sites and the proposed mitigation are acceptable.

¹ To be clarified at Deadline 5

² As highlighted at 8.64 in the Joint LIR [REP1-024]

³ NE's position ought to be understood as being ongoing concerns about how the impacts will be management of the impacts, see AS-313 and AS-314

Mitigation and BNG

6. The Applicant seems to want to dismiss the issues raised around arable plants / farmland birds based on the fact that they will deliver BNG. This is where the approach to the mitigation hierarchy, how the impacts will be assessed and ultimately whether there is betterment must be carefully examined by the ExA.
7. A point arose around the issue of securing mitigation relating to the impacts of the development following decommissioning. The Order Land is not just being secured by means of a lease, but also via CPO powers. Mr. Bedford K.C. on behalf SCC will be addressing the consequences of this. For present purposes, the authorities add this.
8. The Council's require BNG mitigation to be required for the lifetime of the development. It was noted that the developer seemed to suggest this was an exception. Conversely, ECDC argues the opposite. ECDC's standard condition by way of an example includes:

Prior to occupation a scheme of biodiversity improvements shall be submitted to and agreed in writing with the Local Planning Authority. The biodiversity improvements shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.

Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015.

9. It is accepted that this example relates to a residential development. However the principle expressed remains valid for present purposes.

10. In regards to much smaller solar farms (49.9MW max) ECDC have used on a separate application (20/00557/ESF) (which had a lifetime of 40 years) the following example:

Prior to first use a Landscape and Ecology Management Plan, including biodiversity improvements in accordance with the applicants Biodiversity Net Gain calculations submitted with this application, shall be submitted to and agreed in writing with the Local Planning Authority. The Landscape and Ecology Management Plan shall be implemented prior to the first use of the hereby approved development and thereafter maintained for the lifetime of the development.

Reason: To protect and enhance species in accordance with policies ENVI, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015.

11. The Applicant may argue that this solar farm example is more appropriate. The ExA may disagree and it would be entitled to do so should that view be taken. In any event, whichever way the ExA chooses to decide this matter, the period during which these measures are being sought to be in place (in perpetuity or for a limited period) will nevertheless be a material consideration when assessing the claimed benefits of the scheme.

Historic Environment

Whilst approaches to methodology may vary, the authorities do not raise fundamental issues around the issue of the heritage assessment undertaken. ExA have asked for some of the historical maps relating to the site (noting it would be standard to include in any heritage assessment) and their production would also be welcome (Deadline 4). The authorities once again welcome the removal of Sunnica West B, and with it the impacts on Snailwell Fen.

12. The impacts on the setting of *Chippenham Park Registered Park & Garden* (“**RPG**”) is of extreme importance to ECDC. A further concerning matter arose in relation to the loss of trees on the avenue (to make way for a road) within⁴ the RPG and which affects the setting as well. Again, the Applicant’s answers, lack of clear clarification and assurances remains most concerning to ECDC.
13. The impact on the setting of the RPG of a scale and magnitude unlike any other development nearby. The conflict arises in both scale and proximity. There are clearly irreconcilable land uses. The proposed development will change the relationship between the RPG and its wider context for over a generation. Turning in into a semi-industrialised zone. Whilst planting may give some screening, it would

⁴ Arboricultural Impact Assessment Report [REP3-021] 22 November 2022, Tree Protection Plan Sheet 7

not address the magnitude of change and / or address the impacts. The screening proposed would be an intrusion in itself.

14. The authorities welcome the approach being proposed in relation to the Isleham plane crash site, though ECDC is still seeking the removal of E05 as previously identified within the LIR and its Written Statement. We look forward to seeing the formal response from the MOD and whether any licence is granted. If E05 is to be retained in any form, then the authorities would like to see an outline (landscape) design for the plane crash site submitted demonstrating and securing appropriate treatment of the site for the future.
15. In relation to the impacts on the conservation areas and their setting, the authorities do not have any further to add beyond the joint LIR.⁵ West Suffolk have raised separate issues to which the Applicant has promised to respond. They're not repeated here.
16. In so far as what policy says, in the Overarching National Policy Statement for Energy (EN-1) (not covering solar energy) it states in relation to heritage matters under paragraph 5.8.14 that "*Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting*" and that "*Substantial harm to*

⁵ Joint Local Impact Report [REP1-024], page 33 1b

or loss of a grade II listed building park or garden should be exceptional". It is not considered that the developer has provided exceptional justification in their submission to address the concerns.

17. It is considered that the draft EN-1 underscores this by ensuring that any conflict between any proposal and heritage asset is avoided or minimised⁶ in order to preserve the significance of the asset which is to be maintained for both this and future generations. Further, the Secretary of State (SoS) is required to give great weight to the conservation of the asset⁷ and how the weighting of harm should be considered in any overall assessment.⁸

18. Adopted National Policy Statement for Renewable Energy Infrastructure (EN-3) does not cover solar farms. In the Draft EN-3 it points out that the distance between the solar farm and grid connection can have a great impact on commercial feasibility.⁹ Given the great significance of Chippenham Historic Park and Garden it is considered that W03-W12 has only been chosen due to overall poor site selection. The selection of Sunnica West A demonstrates that there has not been a careful consideration as required¹⁰ and which means that overall not designed sensitively as expected.¹¹

⁶ Paragraph 5.9.19 of draft EN-1

⁷ Paragraph 5.9.21 of draft EN-1

⁸ Paragraph 5.9.23-5.9.25 of draft EN-1

⁹ Paragraph 2.48.11 of draft EN-1

¹⁰ Paragraph 2.53.5 of draft EN-1

¹¹ Paragraph 2.53.7 of draft EN-1

Landscape and visual impact

19. The magnitude of change, the geographical extent and the temporal scale of the development have been covered clearly in the Joint LIR.¹² The difference between the authorities and the Applicant with regards to the methodology and subsequent assessment are well rehearsed. Many of the resulting matters of disagreement originate from a site selection process, which was constraint-led, rather than design-led, and which has led the Applicant to a place where the opportunities for effective mitigation are limited.
20. Nevertheless, the focus now must necessarily be about what is acceptable in landscape and visual terms. The starting point, in this respect, is to acknowledge that this development will create a new landscape in this location. For this to become acceptable, and to achieve a successful integration of the new within the existing, a shift to a design led approach is essential now.
21. The Councils consider that a substantially improved approach to design and placemaking is required prior to consent being granted, as the

¹² 10.7 – 10.16 in the Joint LIR [REP1-024]

required considerations need to go beyond what can be achieved at the detailed design stages. This will need to include the consequent application of the mitigation hierarchy, consideration of removal of further solar array parcels, improvements of mitigation proposals in terms of appropriateness, robustness and effectiveness, and the integration of landscape, ecological, heritage and recreational requirements.

22. As a part of this, despite what has been said at the various hearing sessions, the view of the authorities remains that the only acceptable way forward in relation to landscape and visual harms is to remove parcels W03-W12 at Sunnica West A¹³ and E05 at Sunnica East A¹⁴.

23. Work has been done on arboricultural matters with the submission of a new AIA. But this latest document remains deficient. The two-tier approach to the assessment and level of detail provided is not sufficiently explained, and the criteria, which trigger the more detailed assessment are not clearly set out. The key areas for surveys were not agreed with the Councils. The plans are difficult to read, and it is not immediately obvious which trees are impacted by the proposals. With regards to TPO trees, it appears that they were only identified in as far as it is currently anticipated that they would be affected by the proposed

¹³ 1-24 Joint LIR [REP1-024], Table 6, page 122 and 10.138

¹⁴ 1-24 Joint LIR [REP1-024], Table 6, page 125 and 10.124

works. All TPO trees need to be clearly identified on the TPO Trees Location Plan, as well as the Tree Constraints and Tree Protection Plans and the Environmental Masterplans.

24. Inconsistences in relation to terms, keys and symbols used are unhelpful. The fundamental flaws contained in the AIA, both in substance and form, do not give confidence to the work undertaken. We remain unclear what has been included or omitted. We welcome the indication that the report will be updated and these points picked up.

25. The Outline LEMP requires further revision, and the Councils will provide comments on this separately at D4. The Landscape Masterplans require further revisions and there is a dialogue between the Councils and the Applicant on this.

26. Representations have been made on behalf of the HRI re Limekilns and Water Hall Gallops. Those are not repeated save for the following. The historic landscape around the gallops is one of the special qualities that make Newmarket a world leader in the horse racing industry. This proposed development will transform this landscape and its character negatively for almost two generations by changing the rural backdrop to the Limekilns to a significantly urbanised view.

27. In light of all this, the Councils consider that the ecological assessment set out at Chapter 8 of the ES (APP-040) must be updated to accurately reflect, or assess, the proposed tree works set out in the AIA (REP3-021). Otherwise, it would proceed on the incorrect basis.
28. The current Chapter 8 of the ES is deficient in the following ways.
- (i) It did not discuss the presence of irreplaceable habitat, namely 16 veteran/ancient trees identified in the AIA;
 - (ii) Does not discuss the proposed tree works to the scheme;
 - (iii) Assumes '*all woodland present within the Order limits will be retained*'¹⁵ and yet a number of woodland / tree groups will be lost to the scheme.
 - (iv) The bat surveys¹⁶ and the habitat surveys¹⁷, upon which the ecological assessment is based, did not survey all the trees or hedgerows (as set out above) that are shown as being affected in the AIA.
29. The fact that the distance is c.1km, that what intervenes are two major roads and railway line, that it is set down below the eyeline in a cutting and well-integrated into the landscape, and indeed the fact that this is predominantly a place of work adds nothing to the point. It neither softens nor makes the impacts any more acceptable in the present case.

¹⁵ Table 810, page 8-108

¹⁶ APP-087

¹⁷ APP-079

The Applicant's approach further overlooks that the Limekilns is historically connected to the landscape around Chippenham Park and that the proposals of Sunnica West A would result in significant adverse effects on the landscape character of the Limekilns because of its openness and undulating landform. It also fails to acknowledge that the Limekilns is used by footpath users and that they would experience varying views of Sunnica from almost anywhere along their walk over the Limekilns (sequential visual effects). As in other places within the DCO area, there seems to be little or no respite from the visual effects of the scheme. An effect due to last for many decades to come.

30. The Applicant prays in aid on national infrastructure projects having some lower hurdle to clear when it comes to impacts on the landscape. The impact nevertheless is substantial: (1) the loss of landscape features; (2) impacts on perceptual qualities of the landscape; (3) the impacts on recreation and public use of the area; and the general change to the views local landscape character as a whole.¹⁸

In-combination impacts

31. On this item on the agenda, it is welcome that land parcels W01, W02 and ECO4 are proposed to be removed in due course. The authorities welcome this step. As to land parcels between W03-W12, W17 and ECO5 the requirement and proposal for visual screening is

¹⁸ See Joint LIR, 10.141-10.144, and the Applicant's Response REP3-019, pages 88-91

irreconcilable with the constraints set out above (and orally) within the historic landscape around and within the setting of Chippenham Park. The Examining Authority should also assess the impact upon the horse racing industry here.

32. Within Sunnica East A, conflicting requirements for landscape, public amenity/recreation, historic environment (plane crash site) and ecology suggest the removal or substantial reduction of E05. In this respect ECDC preferred option is to apply the mitigation hierarchy and avoid harm, by removal of E05. Failing this, the Councils would request that the E05 will not engulf the plane crash site, unless the applicant can provide a strong outline design that demonstrates positive placemaking (as explained above).

33. A sound structure for Rights of Way that connects the plane crash site to Isleham, would form an essential part of such a design. It is considered that in order to achieve this the northern half of E05 has to be removed, a memorial/reflection space created adjacent to the crash site with Rights of Way connecting back to Isleham to be secured via a Public Rights of Way Mitigation Strategy. Additional Rights of Way should also benefit ecology by reducing recreational pressure of ecological sensitive mitigation areas.

END

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ISSUE SPECIFIC HEARING 2

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