



ID Number: 20031377

Sunnica Energy Farm EN010106

Suffolk County Council ISH3 Post-hearing Submission

Deadline 4

16 December 2022

GLOSSARY OF ACRONYMS

<i>DCO</i>	<i>Development Consent Order</i>
<i>ES</i>	<i>Environmental Statement</i>
<i>ExA</i>	<i>Examining Authority</i>
<i>ISH</i>	<i>Issue Specific Hearing</i>
<i>LVIA</i>	<i>Landscape and Visual Impact Assessment</i>
<i>NPS</i>	<i>National Policy Statement</i>
<i>OFH</i>	<i>Open Floor Hearing</i>
<i>PROW</i>	<i>Public Rights of Way</i>
<i>SCC</i>	<i>Suffolk County Council</i>

"The Council" refers to Suffolk County Council, "The Councils" refers to the four host authorities: Cambridgeshire County Council, East Cambridgeshire District Council and West Suffolk Council.

PREAMBLE

1. This submission provides further details on issues and queries raised at Issue-Specific Hearing 3 on Environmental Matters.

THE COUNCIL’S COMMENTS ON ISH3

Topic	Suffolk County Council’s Summary of Oral Case and responses to questions	References
Agenda Item 1 – Welcome, introductions and arrangements for the Issue Specific Hearing		
	<p>Suffolk County Council were represented by the following team in person:</p> <ul style="list-style-type: none"> - Michael Bedford KC, Barrister, Cornerstone Barristers - Isaac Nunn, Senior Planning Officer (NSIPs), Suffolk County Council - Claire Dickson, West Area Rights of Way Manager, Suffolk County Council - Paul Warmington, Consultant, Agilia Infrastructure Partners 	
Agenda Item 2 – Principle and nature of the development		
	<p>a. Implications for the Proposed Development of an eventual recommendation to delete a part or parts of the Order limits</p> <p>SCC outlined its view that there should be a tiered approach to the consideration of impacts, reflecting the mitigation hierarchy. The preference should be for avoidance before mitigation, and mitigation before compensation [these terms are used in line with the mitigation hierarchy in para 108(a) of the NPPF, albeit it is noted that EN-1 uses the term ‘mitigation’ more broadly as embracing both measures that</p>	

	<p>minimise impacts and measures that provide countervailing benefits to offset impacts that cannot be avoided or minimised].</p> <p>As part of that tiered approach, SCC indicated that the ExA may conclude that there should be land parcels within the site where PV solar panels should be removed altogether (the avoidance of impacts), parcels where the scale of PV solar panels should be reduced (the minimisation of impacts), or parcels where the PV solar panels should be retained but compensatory benefits should be provided (the offsetting of impacts) such as landscape enhancements or rights of way enhancements.</p> <p>SCC indicated that parcels E12, E13, and E05 were parcels where it considered that PV solar panels should be removed, but if the ExA was persuaded by the Applicant that those parcels should remain, then SCC would wish to see the extent of the PV solar panels in those parcels reduced. If the ExA was persuaded by the Applicant that such reduction was not feasible, then SCC would wish to see compensatory benefits provided to offset the residual impacts. Such offsetting could take the form of landscape enhancements or related improvements to the rights of way network. SCC drew attention to the role of the U6006, which lies between E12 and E13, as a recreational route which is enjoyed for its landscape and visual qualities, as an example of the relationship between landscape impacts and recreational impacts, and so a case where it may be appropriate to consider rights of way improvements as an offsetting measure if avoidance or mitigation was not possible.</p> <p>In relation to parcel E13 SCC would like to clarify that the concerns expressed in the LIR (paras 8.6 and 8.97) relate to biodiversity matters rather than landscape matters.</p> <p>SCC indicated that it saw no procedural difficulty in the removal of these parcels from the development.</p>	
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	<p>b. Benefit to local community from reduced energy costs</p> <p>SCC notes that the applicant is not proposing to provide benefits to the local community by way of reduced energy costs.</p>	
<p>Agenda Item 3 – Socio-economic and land use</p>		
	<p>a. Agricultural land classification</p> <p>i. Adequacy of agricultural land classification surveys, relevance of irrigation needs</p> <p>SCC noted the discussion between the Applicant and the action group and awaits the conclusion of their discussions.</p> <p>ii. Whether assessment of best and most versatile (BMV) agricultural land accords with planning policy</p> <p>b. The effects of the Proposed Development on the local community and economy</p> <p>i. Horse racing industry (HRI)</p> <p>ii. Generally: employment assumptions, effects on local economy and compensation package for local communities</p>	<p>Joint Local Impact Report [REP1-024] Paragraph 12.95</p>
<p>Agenda Item 4 – Air Quality and human health</p>		
	<p>a. Battery energy storage system (BESS) - safety</p> <p>i. Fire risk, potential effects and mitigation</p> <p>ii. Explosion and effects</p> <p>iii. Health implications</p>	

	<p>The Outline Battery Safety plan provides a commitment by the developer to create a detailed Battery Safety Management plan in consultation with Suffolk and Cambridgeshire Fire and Rescue Service.</p> <p>This cannot be progressed until the design of the storage solution, chemical make-up of the batteries being proposed, capacity of individual units, density of storage, configuration of enclosures and location of neighbouring properties is known.</p> <p>The Battery Safety Plan must include details of early automatic fire detection, gas monitoring, isolation, containment, and suppression. The facility must have suitable safety features to mitigate the risk without the intervention of the Fire Service. The Service’s response should not be considered a risk mitigation measure.</p> <p>If a fire occurs the smoke plume will contain several hazards that are hazardous to human health, animal health and an environmental impact. Gases produced include, but are not limited to, Hydrogen Fluoride, Phosphorus pentafluoride, and Phosphoryl fluoride. These gases are toxic to human health and corrosive to tissues.</p> <p>Acute exposure through inhalation or skin absorption can result in irritation to eyes, throat, lungs and burns to the dermal layer. High concentration can lead to pulmonary oedema and death. A Hydrogen fluoride release can be mitigated by absorption in water, to prevent a gas cloud affecting residents or wildlife but the by-product of absorbing it is water is the production of Hydrofluoric acid which would need to be contain on site and not allowed to enter the environment, ground water or aquifers.</p>	
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	<p>The detailed battery safety management plan will need to be developed by a subject matter expert and testing of theories should be evidenced in real test scenarios and not scaled up from smaller trials.</p> <p>SCC welcomes the Applicant’s commitment to make the County planning authorities the discharging authorities for Requirement 7 of the DCO and looks forward to seeing this reflected in the next versions of the draft DCO and the OBSMP</p> <p>b. Emergency planning including evacuation plans</p> <p>A protracted incident may require the evacuation of residents and the establishment of a wide area cordon. The Local Resilience Forum, formed under the Civil Contingencies Act, would need to be consulted by the developer to create a Joint Emergency Response Plan, including a multi-agency response and public evacuation strategy.</p>	
<p>Agenda Item 5 – Water resources, flood risk and drainage</p>		
	<p>SCC notes that this is a matter that was deferred to written responses. Our submission is therefore provided here.</p> <p>a. Adequacy of flood risk assessment</p> <p>SCC LLFA has reviewed the submission with respect to surface water (pluvial) flooding and groundwater flooding only. We defer to the EA on matters of river (fluvial) flooding. The portion of the site within Suffolk is at either low or very low risk of surface water flooding and although the flood risk assessment is relatively high level, given the level of flood risk identified this is not a significant concern.</p>	

	<p>b. Design of Sustainable Drainage Systems (SuDS) features, floodplain compensation</p> <p>The design of SuDS for solar farms is a relatively new area of the discipline but the SuDS proposed are on the whole considered to be adequate by SCC LLFA at this stage and that they will effectively mitigate any additional surface water that may arise as a result of the solar panels being constructed. Further details are required however we consider that these can be provided at the detailed design stage once total drained areas are better understood. Floodplain compensation is again a matter for the EA, however given the lack of panels within functional floodplain (see point d) means that compensatory storage may not be required in Suffolk.</p> <p>c. Residual flood risk at Burwell Substation</p> <p>Burwell Substation is within Cambridgeshire, and we defer to their LLFA team on this matter.</p> <p>d. Solar panels in FZ3</p> <p>We defer to the EA on this matter as it relates to river (fluvial) flooding, but it does not appear that any solar panels are located within flood zone 3 in Suffolk. Solar farms are classified as Essential Infrastructure within the NPPF, https://www.gov.uk/guidance/national-planning-policy-framework/annex-3-flood-risk-vulnerability-classification this use is</p>	
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	<p>compatible with flood zones 1 and 2, with the Exception Test being required if to be located within flood zone 3.</p> <p>https://www.gov.uk/guidance/flood-risk-and-coastal-change#table2</p>	
<p>Agenda Item 6 – Public rights of way</p>		
	<p>Public Rights of Way are key feature within the landscape and provided an amenity for both connectivity between settlements, heritage feature, the landscape and ecology. SCC as Highway Authority has concerns regarding the temporary closures and reinstatement of routes, permissive paths and onsite enhancements, and the mitigation of the impact of the development on the local community.</p> <p>SCC would like to reiterate the point raised during the hearing of the importance of both its Suffolk Green Access Strategy (Rights of Way Improvement plan), which was approved in 2020, and Cambridgeshire’s equivalent strategy document. A central objective of the Suffolk Green Infrastructure Strategy is to “<i>Create a more connected network</i>” and actions to be pursued to deliver that objective include “<i>Obtain significant public rights of way improvements and legacies on nationally important development projects, such as Sizewell C and East Anglia Wind Farm developments.</i>” (section 2.3.2 of the Part 3 Delivery Plan of the Green Access Strategy).</p> <p>SCC welcomes the indication given by the Applicant at ISH3 that it is intending to discuss with the County Councils measures that can be taken to enhance the rights of way network, whether by improving existing routes or by providing new routes.</p> <p>a. Temporary closure and restoration</p> <p>SCC views that closures should be avoided for public rights of way wherever possible and managed through banksman to limit impact on users. If closures are</p>	<p>LIR 14.3</p> <p>8.42 Technical Note: Transport and Access</p>

	<p>required a safe alternative route should be sought on public rights of way or land within the applicant’s control. Severance of an already sparse network, even for a short period, will have a detrimental impact on the local community, Concerns over pedestrian traffic using adjacent road network during any closures, this results in shared use with standard traffic and construction traffic.</p> <p>SCC views that crossing points of PROW need to be clearly managed through banksman and signing. If banksman not available, consideration should be given gating access for construction traffic keeping prow clear and safe for users.</p> <p>All temporary closures must be agreed in advance with the Highway Authority. A clear communication strategy should be produced advertising closures in advance both on site, press notifications and user groups and local community.</p> <p>All PROW should be surveyed prior to commencement of works and restored following completion of works. This should be agreed with highway authority in advance.</p> <p>SCC are keen to minimise temporary restrictions and the applicant has indicated that they will look at least restrictive options: ensuring routes are only closed where necessary and for minimum time, banksman to manage routes, staggered closures between routes and, where appropriate, the appropriate signage and communication strategy is in place. SCC requested that an indicative construction timeframe for the access restrictions be provided to ensure limited impact.</p> <p>b. Permissive paths</p> <p>Permissive access is being proposed but needs to provide enhanced links to the local community to offset the disbenefit to the local community of temporary</p>	<p>LIR 14.5</p>
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	<p>severance of the network for both PRow and quieter country roads during the construction phase.</p> <p>Further areas within the DCO area should be reviewed and access enhanced wherever possible to provide green infrastructure benefit.</p> <p>The Highway Authority are willing to actively engage with the applicant to review the permissive path options.</p> <p>The applicant has stated that they are intending to sign (or in some cases have in place) lease agreements for the various landowners and stated that the option of creating permanent public rights of way within the Order Limits is not available. SCC does not agree that the Applicant would not have the power to dedicate public rights of way within parcels that it acquires via compulsory acquisition of the freehold under the terms of the DCO. Whilst SCC acknowledges that a leasehold interest would be insufficient to allow the creation of a permanent public right of way, it would be the Applicant's choice to pursue that option rather than to use the compulsory acquisition powers of the DCO.</p> <p>However, irrespective of this issue of available powers, SCC welcomes the indication given by the Applicant (both at ISH3 and in its closing remarks at OFH2) that it is intending to discuss with the County Councils the establishment of a monetary package for enhancing public rights of way in the area, secured by a s.106 agreement, which could include both improvements to existing routes and the creation of new routes. Provided that SCC was indemnified as regards the costs and any compensation liabilities, SCC would be prepared in principle to consider use of its own statutory powers in relation to the creation of public paths (by agreement or by order) as part of an overall approach to rights of way enhancements. Mechanisms to secure these enhancements should be included as part of a mitigation package.</p>	
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	<p><u>Impact of development on local community</u></p> <p>Links outside DCO order limits should also be funded to enable better connections to permissive access proposals. This can be through both physical improvements and filling missing links in existing network. This can be secured through a S106 agreement.</p> <p>SCC will actively engage with applicant to cover access mitigation and agree a Public Rights of Way and Access Mitigation Strategy. This would consider not only improvements but also education for visitors covering ecology, green energy and heritage. The views of the ecology and landscape colleagues, users and local community would help form the mitigation strategy.</p> <p>We are currently in the early stages of dialogue with the applicant on this approach, the applicant confirmed they would be willing to enter into an agreement with both Highway Authorities to deliver enhancements needed.</p>	
Agenda Item 7 – Next steps		
Agenda Item 8 – Close of the hearing		
	<p>SCC note that item 3bii will be deferred to be handled in written submissions and that items 4bii and item 5 were not discussed at this hearing due to unforeseen time constraints relating to other agenda items requiring additional discussion.</p>	