



SUNNICA ENERGY FARM

EN010106

8.57 Written Summary of Applicant's Oral Submissions at the Issue
Specific Hearing – Environmental Matters on 7 December 2022

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010



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1 Introductory remarks

1.1 Introduction

- 1.1.0 The Issue Specific Hearing (ISH) regarding Environmental Matters covering Ecology and Biodiversity; Historic Environment; and Landscape and Visual Impact was held at 10:00am on 7 December 2022 as a blended event at King Edward VII Memorial Hall, High Street, Newmarket CB8 8JP and by virtual means using Microsoft Teams.
- 1.1.1 The Hearing took the form of running through the items listed in the detailed agenda published by the Examining Authority (ExA) on 29 November 2022 (Agenda). The discussion on environmental matters predominantly focused on:
- the Applicant's ecological surveys and proposed mitigation measures in relation to impacts on ecological receptors;
 - the Applicant's heritage assessment and proposed mitigation measures in relation to impacts on the historic environment; and
 - the Applicant's assessment methodology and proposed mitigation measures in relation to impacts on landscape and visual amenity.

2 Agenda Item 1 – Welcome, introductions and arrangements for the Hearing

2.1 The Examining Authority

- 2.1.0 Grahame Kean, Guy Rigby and Karin Taylor.

2.2 The Applicant

- 2.2.0 **SPEAKING ON BEHALF OF THE APPLICANT:** Richard Turney (Barrister at Landmark Chambers) and Nicholas Grant (Barrister at Landmark Chambers).
- 2.2.1 Present for the Applicant: Luke Murray (Director at Sunnica Limited), Nigel Chalmers (Technical Director at AECOM Limited), Professor Max Wade (Technical Director at AECOM Limited), Andy Wakefield (Associate Director at AECOM Limited), Amy Jones (Technical Director at AECOM Limited), Jon Rooney (Associate Director at ARUP Limited) and Andy Mayes (Associate Director at AECOM Limited).
- 2.2.2 The Applicant's legal advisors: Richard Griffiths, Tom Edwards and Matthew Fox, all of Pinsent Masons LLP.
- ## 2.3 Host Authorities
- 2.3.0 Suffolk County Council (SCC): Michael Bedford KC (of Cornerstone Chambers), Andrew Murray-Wood (Senior Ecologist), and Isolde Cutting (Senior Landscape Officer).

- 2.3.1 Cambridgeshire County Council (CCC) and East Cambridgeshire District Council (ECDC): Hashi Mohamed of Counsel (of No. 5 Chambers), Isolde Cutting (Senior Landscape Officer), Deborah Ahmed (Ecology Officer), Andy Thomas (Senior Archaeologist), Kevin Drane (Trees Officer (Planning)), and Christopher Partridge (Conservation Officer).
- 2.3.2 West Suffolk District Council (WSDC): Ed Grant of Counsel (of Cornerstone Chambers), Jackie Fisher (Ecology and Landscape Officer), Julie Barrow (Principal Planning Officer), and Christine Leveson (Principal Conservation Officer).
- 2.3.3 Chippenham Parish Council (CPC): Fiona Maxwell.
- 2.3.4 Worlington Parish Council (WPC): Paula McKenzie.
- 2.3.5 Isleham Parish Council (IPC): Richard Radcliffe.

2.4 Interested parties

- 2.4.0 Historic England (HE): Dr Will Fletcher.
- 2.4.1 Say No To Sunnica Action Group Limited (SNTS) and Newmarket Horseman's Group (NHG): Daniel Kozelko of Counsel (of 39 Essex Chambers), Dominic Woodfield (Ecology), Richard Hogget (Heritage) and John Jeffcock (Landscape and Visual).
- 2.4.2 Suffolk Wildlife Trust (SWT): Rupert Masefield.
- 2.4.3 Isleham Preservation Society (IPS): Mark Fletcher.
- 2.4.4 Friends of Isleham Nature Reserve (FINR): Avi Stacey.
- 2.4.5 Local residents: Dr Edmund Fordham, Alistair Burn.

2.5 Arrangements for Hearing & other preliminary matters

- 2.5.0 The ExA noted the Update on Heritage Matters and Substation Connection **[REP3A-037]** submitted by the Applicant relating to the Applicant's intention to submit a change request, stating that it would be looked at in more detail at the ISH on Other Environmental Matters on 8 December 2022.
- 2.5.1 Richard Turney on behalf of the Applicant indicated that the Applicant intended to carry out non-statutory consultation outside the examination process, through press notices, site notices, and sending notices to the relevant Parish Councils, for consultation to begin on 15 December 2022. These notices would invite comments to the Applicant by 12 January 2023, who would then report on any comments received in a submission by 20 January 2023.

Post-hearing note: This matter was further discussed at ISH3 the next day, where it was confirmed that the Applicant will submit its change request on 13 January 2023 with the aforementioned notices to be published to notify interested persons that the change application is to be made on that date.

- 2.5.2 Michael Bedford KC on behalf of SCC confirmed that SCC does not see a need for non-statutory consultation on the proposed change, as if it were accepted by the

ExA interested parties would have the opportunity to make representations to express their views and for the ExA to gain a full understanding of the change during the Examination.

- 2.5.3 Hashi Mohamed on behalf of CCC and ECDC noted that CCC and ECDC are of the same position as SCC with regard to non-statutory consultation.
- 2.5.4 Moving to the Agenda, the ExA stated that because the Applicant's change request will affect a number of matters for discussion at the Hearing, the Agenda would be adapted as needed to incorporate the implications of the proposed change.

3 Agenda Item 2 – Ecology and biodiversity

3.1 Adequacy of ecological surveys

Bird surveys

- 3.1.1 Noting that all Local Authorities have an interest in birds generally, the ExA asked whether they consider that the surveys undertaken by the Applicant of breeding and non-breeding birds are adequate in order to ensure the Scheme safeguards and mitigates potential impacts on these species.
- 3.1.2 The ExA also raised a specific issue relating to Marsh Harrier, which was sighted by Ms Taylor on an earlier site visit but not included in the Applicant's survey results.
- 3.1.3 Mr Ed Grant on behalf of WSC indicated that the Local Authorities have not raised any issues in terms of the adequacy of surveys for birds in the wider context, with their concerns relating to particular species such as stone curlew.
- 3.1.4 Dominic Woodfield on behalf of SNTS and NHG stated that, in his view, there is a paucity of records and adequacy of data for a number of declining farmland bird species given his experience during his own admittedly limited site visits.
- 3.1.5 Mr Rupert Masfield on behalf of SWT noted SWT's view that additional surveys of breeding and wintering birds are needed and that they have particular concerns regarding ground nesting birds, in addition to stone curlew, such as skylarks.
- 3.1.6 Professor Max Wade on behalf of the Applicant emphasised that due regard must be had to the environment within which the ecological surveys have been undertaken. It is an intensive agricultural environment, which means that the diversity and number of birds is relatively low. Nevertheless, the surveys undertaken cover the whole of the area within the Order limits and appropriate zones of influence and provide appropriate temporal coverage in terms of breeding and wintering birds. Appropriate and robust methodology has been used. Professor Wade noted that, in all cases, the recognised and most up to date methods for surveying were used and the surveys were undertaken by experienced and competent AECOM ornithologists.
- 3.1.7 Professor Wade confirmed that AECOM has considerable confidence in the baseline data collected. As is usual with any infrastructure project, given the time between pre-submission surveys and the start of construction, further surveys prior

to commencement of construction will be carried out to reaffirm the baseline for ground nesting birds in particular.

Post-hearing note: This is secured through the Framework CEMP [REP3-015].

- 3.1.8 In terms of the discrepancies in the numbers of certain species recorded in the surveys identified by the ExA and interested parties, Professor Wade stated that this is not surprising in this type of landscape as the movement and number of birds present at any given time is variable depending on the time of day and time of year. Mr Richard Turney on behalf of the Applicant also noted that the presence of Marsh Harrier was reported in the desk-based breeding bird survey and recorded during the breeding bird surveys undertaken by the Applicant but was not breeding within or adjacent to the Order limits (see Appendix 8-I Breeding Bird Survey Report submitted as part of the Application) [APP-085].

Post-hearing note: As set out in [APP-085], surveys for the general breeding bird assemblage were undertaken in April to June 2019 and March to June 2020. These surveys followed standard territory mapping techniques and covered the entirety of the Order limits, along with a minimum 50m buffer around the Order limits. In addition, species specific surveys were undertaken for Stone Curlew, Woodlark and Nightjar.

- 3.1.9 In response to the ExA's query as to whether the Applicant intended to undertake any further surveys during the Examination stage, Professor Wade stated that, apart from the pre-construction surveys, the Applicant is not planning to undertake any further surveys at this stage.
- 3.1.10 Mr Grant on behalf of WSC raised two matters identified in the Local Impact Report [REP1-024] (LIR) in respect of the adequacy of surveys, the first being the Local Authorities' view that stone curlew surveys had not been consistently undertaken for the entirety of the breeding season. Mr Grant noted the position of Natural England as being satisfied with the Applicant's position on this issue and confirmed that WSC would fall into line with Natural England's position. The second issue related to coverage of the areas within 500m of the Order limits and the Applicant's decision to concentrate on areas identified in previous surveys. Mr Woodfield stated his agreement with the concerns expressed by Mr Grant.
- 3.1.11 Professor Wade explained that the surveys undertaken beyond the Order limits relied on the experience gained during surveys as to the types of habitat within which stone curlew could be expected to be found nesting, including records gathered by the Royal Society for the Protection of Birds (RSPB) and the results of the Phase 1 Habitat survey and crop types. The knowledge acquired meant that there was no need to cover the whole of the 500m zone of influence around the Order limits, surveys could instead be targeted and focus on areas where stone curlew could be expected to be found.
- 3.1.12 In relation to stone curlew in particular, Professor Wade highlighted that the surveys for this species need to be put in the context of this particular landscape, where there are approximately four to five pairs or one pair per 2.5 km². There are significant challenges in undertaking surveys for birds at this sort of density, and AECOM responded to those difficulties by following recognised survey methods and working closely with the RSPB.

- 3.1.13 The ExA asked whether there would be any merit in carrying out additional survey work, bearing in mind the importance of stone curlews.
- 3.1.14 Mr Turney confirmed that it is anticipated there could be further bird survey work undertaken post-consent but noted it would not be possible to undertake further breeding surveys before the end of the examination period. Mr Turney emphasised that the ExA should take particular comfort that Natural England has confirmed it is satisfied with the surveys undertaken and that the Applicant and Natural England have worked together to devise the mitigation proposed for stone curlews which is designed to mitigate any possible effects on stone curlews.

Post-hearing note: The Applicant has framed the terms of reference for the Ecology Advisory Group (as set out in the LEMP) such that it is hoped that the RSPB will join and support the Group. Advising on the implementation of the LEMP is a key part of the Group's role.

Flora and other surveys

- 3.1.15 The ExA noted that the Local Authorities have questioned the adequacy and extent of surveys undertaken for arable habitat and flora and asked for the Applicant's response on this matter.
- 3.1.16 Professor Wade stated that the surveys covered the entirety of the area within the Order limits, including the full extent of field margins and associated grassland strips. Arable flora is very much tied to agricultural activities, in particular field rotation, which helps to explain the identified differences in species records and distribution from year to year across the surveys. Depending on the rotation of crops, for instance, arable weeds might be found in a field margin one year but not in the few years following. Habitat surveys have also been undertaken for arable flora to monitor change within the Order limits. So, while initial surveys could appear to have gaps, these have been filled as changes in arable flora within the Order limits have been recorded.
- 3.1.17 Mr Grant for WSC stated that, according to the Local Authorities, significant areas have been excluded from the Applicant's arable field surveys, noting the Applicant's response that these exclusions were due to access issues. Mr Grant expressed the Local Authorities' wish for more information regarding which fields were scoped out of the surveys on the basis of accessibility.
- 3.1.18 Deborah Ahmed on behalf of CCC and ECDC, Mr Masefield on behalf of SWT, and Mr Woodfield for SNTS conveyed similar concerns regarding the need for further information on what fields were and were not included in the arable flora surveys and need for further survey work.
- 3.1.19 Mr Turney confirmed that further survey work had been undertaken and would be submitted at Deadline 5. He also noted that, if further clarification is needed regarding limitations in the method used for flora surveys, this is something that can hopefully be addressed through the Statement of Common Ground (SoCG) process. The Applicant would also be able to provide the requested information relating to access as part of the SoCG discussions with Local Authorities and other interested parties. The Applicant noted that the access limitations related to the cable route only and not the main solar PV and BESS sites.

- 3.1.20 The ExA stated that discussion on impacts on invertebrates would be deferred in light of the Applicant's prospective change request.

3.2 Impacts on Stone Curlews and adequacy of proposed mitigation

- 3.2.1 The ExA requested that the Local Authorities summarise their position on stone curlews.
- 3.2.2 Mr Grant on behalf of WSC set out the concerns regarding impacts on stone curlew at E12 and potentially E05 and E13, as the survey results showed a significant amount of nesting sites in E12. WSC is of the view that any impacts on E12 must be avoided (i.e. no solar panels on that parcel), such that the Applicant has not followed the mitigation hierarchy by proposing development on this parcel. In terms of E05 and E13, WSC considers that, in the absence of evidence from historical data relied on by the Applicant, these parcels should be in the avoidance tier of the hierarchy before considering effectiveness of mitigation. Mr Grant also set out that the LPAs are concerned about the public potentially accessing the stone curlew plots.
- 3.2.3 Mr Masfield on behalf of SWT noted a similar concern regarding avoidance of development at E12, and potentially E05 and E13.
- 3.2.4 Professor Wade on behalf of the Applicant confirmed that the historical data relating to stone curlew can be provided but noted that it has been provided to the Applicant in confidence by RSPB.

Post-hearing note: Further to ExA Action Point 2, the Applicant can confirm that it is unable to provide this data to the LPAs, as the information has been provided by RSPB under an Applicant only licence which would not permit the onward transmission of the information. The LPAs may be able to request the information directly from RSPB.

- 3.2.5 Professor Wade went on to explain that one of the reasons the density of stone curlew is so low is because the habitat available is sub-optimal and the amount available at any one time is relatively low. Plots E12, E05 and E13 have only recently become suitable for stone curlew. The nature of the arable fields and crop rotations means there is no guarantee that these sites would continue to provide suitable habitat in 2023 or 2024.
- 3.2.6 The Applicant's approach is to instead provide habitat that is specifically designed and maintained for stone curlew for the life of the Scheme. This would significantly increase the likelihood of stone curlew using them, and they would be able to do so on a long-term basis. The habitats proposed will also significantly improve foraging opportunities for stone curlew, reducing the distance they need to fly and, as a result, reducing the energy required and predation risk.
- 3.2.7 Mr Turney on behalf of the Applicant emphasised the need to be careful with the term 'avoid' in relation to plots of arable land. This is because not developing a particular plot for solar does not mean that it will be retained as habitat for stone curlew, and indeed this is unlikely due to crop rotation. The Scheme, on the other hand, would make provision for suitable stone curlew habitat for decades to come.

- 3.2.8 Mr Woodfield on behalf of SNTS raised a concern with the sufficiency of the quantum of mitigation proposed for stone curlew and questioned the assumption that stone curlew will flock to the new habitats created as part of the mitigation.

Post-hearing note: The creation of Stone Curlew nesting plots is based on the 2 ha per pair sizing requirement recommended by the RSPB. The Stone Curlew breeding population is up to five pairs. As such, ten 2 ha plots will be provided.

- 3.2.9 Mr Turney highlighted that Mr Woodfield's suggestion that the effectiveness of the stone curlew mitigation will be left unproven is not correct, noting that a maintenance regime is proposed to be implemented in accordance with the Landscape and Ecology Management Plan (LEMP). This includes an Ecological Advisory Group, which will have members from those parties interested in stone curlews, such as RSPB.
- 3.2.10 The ExA inquired whether there are any management or monitoring schemes relating to stone curlew operating within the Order limits.
- 3.2.11 Professor Wade confirmed that RSPB volunteers undertake surveys on land within the Order limits, and that the Applicant has been liaising with RSPB from the outset. There are also farmers within the wider area that are part of this same scheme. The AECOM ecologists, able to undertake surveys during the COVID-19 pandemic, shared their records with the RSPB team. The Applicant intends to integrate the Scheme with the work the RSPB team are doing, as far as possible and the LEMP will be updated at Deadline 5 to account for this.
- 3.2.12 Mr Bedford KC on behalf of SCC sought clarification regarding the frequency of monitoring of stone curlew plots.
- 3.2.13 Mr Turney confirmed that annual monitoring is something that has been agreed to with Natural England for the life of the Scheme and other ecological stakeholders and will be reflected in the updated LEMP in due course.

Post-hearing note: The Applicant notes that it will also be updating the Offsetting Habitat Provision for Stone-Curlew Specification [APP-258] alongside the LEMP following discussions with the LPA and the discussion at the Hearing for Deadline 5.

3.3 Impacts on other ecological receptors and adequacy of proposed mitigation measures

Badgers

- 3.3.1 The ExA asked whether the Applicant had made any progress addressing the concerns raised by the Local Authorities regarding loss of access for badgers to foraging land and their request for further surveys and enhanced mitigation measures, including access to solar fields.
- 3.3.2 Professor Wade on behalf of the Applicant confirmed that progress has been made in two key areas. First, there will be significantly more foraging land available to badgers by way of the grassland in the solar arrays, which badgers will have access to via appropriately designed permeable fencing. There will be a sufficient gap at

the base of the fencing to enable animals like badgers (but not deer) to move through. Second, the changes relating to Burwell Substation, where there were concerns relating to badgers, mean that badgers will no longer be impacted at that location. Natural England now agrees with the Applicant that badgers are not now an issue and there will be no need for the Applicant to apply for a licence.

- 3.3.3 Mr Grant on behalf of WSC confirmed that the issue of badgers has now been sufficiently addressed in their view.

Other matters

- 3.3.4 Mr Grant raised a number of other issues relating to impacts on ecological receptors:
- a. Concerns regarding wider grassland issues ought to be addressed prior to detailed LEMP stage.
 - b. Issues relating to minimising access to habitats (particularly stone curlews) by the public should not be held off until detailed design stage.
 - c. The Applicant's position is that monitoring in suitable habitat within 500 m of the Order Limits can take place during operation. WSC is now agreed on this matter.
 - d. Insufficient detail regarding off-setting measures and impacts on rabbits. The Applicant has acknowledged that further detail should be provided but has not done so.
 - e. Potential conflict between the stone curlew plots in ECO01 and the archaeological management strategy as ECO01 also identified as an archaeological area in parameter plans.
 - f. Ensuring there is a contingency plan to deal with design and construction issues requiring changes to mitigation proposals which could be helped by ensuring that the Ecology Advisory Group are involved in the detailed design process.

Post-hearing note: The Applicant has now reviewed and considered the matters raised by Mr Grant in detail and provides the following responses:

- a. Wider grassland issues were addressed in the workshop with the Local Authorities on 1st December 2022 and the outcomes are being included in the revised OLEMP to be submitted at Deadline 5.
- b. Issues relating to minimising access to habitats (particularly stone curlews) for public recreation by the public were addressed in the workshop with the Local Authorities on 1st December 2022. One of the outcomes was for the Applicant to consider a circular path around the perimeter of field E05 which would have the benefit of encouraging walkers and their dogs away from the Stone Curlew mitigation area. The Applicant is considering this and will confirm the position in the revised OLEMP to be submitted at Deadline 5.

- c. Monitoring of suitable habitat within 500 m of the Order Limits will take place during operation including liaison with the RSPB volunteers. Monitoring requirements generally are set out in the OLEMP.
- d. The Applicant has acknowledged that further detail should be provided on impacts to species such as rabbits and this will be included in the next iteration of the OLEMP to be submitted at Deadline 5.
- e. The processes for creating and managing habitats for stone curlew and the environment required to conserve archaeology are compatible with one another. The environment which best suits both is managed grassland or bare ground with controlled access and no soil disturbance. Details are included in the OLEMP, but will be developed further in the revised OLEMP to be submitted at Deadline 5.
- f. The Ecology Advisory Group will be involved with the Scheme prior to the detailed design process. The Group will have a role in dealing with any design and construction issues requiring changes to mitigation proposals. This will be further clarified in the revised OLEMP to be submitted at Deadline 5.

3.3.5 Mr Masfield on behalf of SWT stated that the Applicant's proposed mitigation is focused on habitat establishment and management rather than outcomes in terms of nesting stone curlews, and there should be an outcome objective of at least no reduction in nesting pairs within the Order limits and 500m zone of influence.

3.3.6 The ExA asked whether the mitigation proposals would allow for expansion of the stone curlew population rather than maintenance only.

3.3.7 Professor Wade confirmed that there is potential for the stone curlew population to expand as a result of the mitigation measures proposed within the Scheme and the grassland areas that will also provide suitable habitat. This will be an improvement on the habitat currently available to stone curlew. Professor Wade also confirmed that the LEMP will be updated at Deadline 5 to emphasise outcomes, including in terms of nesting stone curlews. It should also be remembered that these fields are in crop rotation, meaning that currently there is no guarantee that the field will be suitable for stone curlew from one year to the next. The Scheme, on the other hand, would make provision for suitable stone curlew habitat for decades to come.

Post-hearing note: The creation of Stone Curlew nesting plots is based on the 2ha recommended by the RSPB. The Stone Curlew breeding population is up to 5 pairs. In providing ten 2 ha plots the Scheme will offset any net loss of nesting sites, whilst allowing for potential expansion.

3.3.8 Mr Turney also emphasised that the statutory body for nature conservation, Natural England, has been through these matters in detail with the Applicant and has reached a position where they do not feel they need to attend the examination in person. Natural England are seeking clarification on certain points at this stage.

Post-hearing note: Further updates on the Natural England position on stone curlews can be found in the Statement of Common Ground with Natural England, also submitted at Deadline 4.

- 3.3.9 In response to a subsequent question from the ExA regarding how the further survey work would be secured, Mr Turney on behalf of the Applicant explained that there is provision in the LEMP.

Post-hearing Note: This is secured via the Framework CEMP, rather than the OLEMP for walk over surveys to take place, with the outcome of those surveys to be reported back to the Ecological Clerk of Works [Table3-3 REP3-015].

- 3.3.10 The ExA queried what impacts there might be if deer are excluded from the Order limits in terms of movements or grazing patterns.
- 3.3.11 Professor Wade noted that the impacts will be different depending on the particular species of deer, but generally there is considerable agricultural land resource in the wider area around the Order limits where deer will have access to alternative grazing.

Bats

- 3.3.12 In relation to bats, the ExA noted that the Local Authorities have made detailed comments regarding impacts on trees and hedgerows used by bats for roosting and foraging, and asked the Applicant whether it will be revisiting the assessment of impacts on bats in light of the Arboricultural Impact Assessment (AIA).
- 3.3.13 Professor Wade confirmed that the ecological team has been working with the arboriculturalists throughout the assessment and examination process and there is nothing new in the AIA that would alter the conclusions of the existing assessment.

Post-hearing note: The Applicant can confirm that this is the case for all aspects of the ecological and LVIA assessments in the ES. This is discussed further below.

- 3.3.14 Professor Wade highlighted that extensive and detailed surveys, including trapping, have been undertaken of bat use of trees and hedgerows in the Scheme area.
- 3.3.15 The overall impact on bats will be limited as the main features, the hedgerows and field margins, will be retained. There will also be more foraging available for bats as a result of the grassland habitats proposed as part of the Scheme. Natural England has also agreed that, based on current evidence, the Applicant does not need to apply for licences in respect of bats.
- 3.3.16 The ExA asked whether measures relating to bats will be reflected in the LEMP. Professor Wade confirmed this is secured through the Framework Construction Environment Management Plan (CEMP), rather than the OLEMP.

Arable flora

- 3.3.17 The ExA asked the Local Authorities to expand on the point raised in the LIR that the compensation habitat provided by the Scheme needs to be redesigned and relocated to form functional and connected areas.
- 3.3.18 Mr Grant on behalf of WSC set out four points relating to impacts on arable flora that were raised in the LIR:

- a. Quantification of proposed habitat and comparison with loss – WSC understands that quantification and comparison are yet to be done, expected at Deadline 5.
- b. Concern about small size of habitats and lack of connectivity, which has not yet been addressed by the Applicant.
- c. Local authorities are unclear which aspects of construction activities the Applicant considers will give rise to benefits in respect of arable flora.
- d. Areas for scarce arable flora need to be created in a joined-up way in field margins around solar fields – the Applicant has not yet provided a material response on this issue.

Post-hearing note: The responses to the four points relating to impacts on arable flora that were raised in the LIR as raised by Mr Grant are:

- a. Quantification of proposed habitat relative to loss was addressed in the workshop with the Local Authorities on 1st December 2022 and the outcomes will be updated in the revised OLEMP to be submitted at Deadline 5.
- b. The areas for habitat creation and how enhanced connectivity will be achieved in the Scheme were addressed in the workshop with the Local Authorities on 1st December 2022, including the Applicant welcoming the Interim Nature Recovery Network and its value with respect to connectivity. The outcomes are being included in the in the OLEMP.
- c. The aspects of construction activities that will give rise to benefits in respect of arable flora will be updated in the revised OLEMP to be submitted at Deadline 5.
- d. As discussed in the workshop with Local Authorities on 1st December 2022, areas for scarce arable flora will be created in a joined-up way including in field margins around fields with solar panels and potentially Stone Curlew mitigation habitat. This will be made clearer in the updates to the OLEMP to be submitted at Deadline 5.

3.3.19 Ms Deborah Ahmed on behalf of CCC and ECDC raised concerns about the amount of detail provided by the Applicant regarding the extent of arable flora that will be brought forward by the Scheme, with detail apparently to be provided in final LEMP. Mr Woodfield on behalf of SNTS raised similar concerns regarding perceived gaps in the surveys, noting his view that the total compensation for arable land is too small given the size and scale of the Scheme.

3.3.20 In respect of the LEMP, Mr Turney noted that it would be inappropriate and unusual to provide details of fully specified and designed mitigation measures at this stage, and that such details would be provided in the final detailed LEMP post-consent with input from Local Authorities as appropriate. Mr Turney also highlighted that further survey work is going to be submitted at Deadline 5, alongside other matters including an updated biodiversity net gain (BNG) calculation. He also emphasised that the gaps identified by Mr Woodfield in terms of un-surveyed land are located entirely within the cable corridor only, the use of which for the Scheme is of an

entirely different nature to the main sites. The land within the cable corridor will be restored to its current use following completion of installing the underground cable.

- 3.3.21 Professor Wade noted, for the benefit of the ExA, that a number of the matters raised by Local Authorities were discussed at an ecology workshop in the week prior to the hearing. There was a productive discussion with a number of matters subject to ongoing discussion that the Applicant is considering in an effort to overcome the concerns raised.

Post-hearing note: This is discussed further in the updated Statement of Common Ground with the LPAs, also submitted at Deadline 4.

- 3.3.22 Professor Wade also highlighted the fact that arable flora is restricted to field margins and relies on regular disturbance. In addition to the areas specifically provided for arable flora within the Scheme, there is further scope within margins of fields to create or mimic the disturbance that maintains arable flora. Stone curlew plots will also have scope for arable flora.

- 3.3.23 The ExA asked if a revised map showing where arable flora is proposed to be located. Professor Wade confirmed that this is something the Applicant will take away and look at further, with additional detail looked to be provided in the updated LEMP to be submitted at Deadline 5.

- 3.3.24 Mr Woodfield stated that SNTS still maintains that impacts on declining bird species have not been adequately assessed. According to Mr Woodfield, SNTS have provided information in their written representation that demonstrates that these birds tend to be displaced from solar sites. Mr Woodfield also asserted that the Applicant's baseline is inadequate, and the statement in the Environment Statement that no bird population within the Order limits is above 1% of the county level is incorrect when compared against the latest council reports. **Post-hearing note:** *The Applicant has provided a written response to SNTS's ecological reports submitted at Deadlines 2 and 3A in its other submissions at Deadline 4.*

- 3.3.25 Dr Alistair Burn noted that recent survey work by councils shows quite large populations of yellow wagtails and corn buntings in the area, but none of the mitigation habitat will provide equivalent nesting opportunities for those species as these are distinct from those of stone curlew.

Post-hearing note: In response to this point, the corn bunting is a bird of open country with trees, such as farmland and weedy wasteland, the UK population of which fell by 89 per cent between 1970 and 2003 due to intensive agricultural practices depriving it of its food supply of weed seeds and insects, the latter especially vital when feeding the young. Also, because corn buntings are a late nesting species, their nests can be destroyed during harvesting or cutting. Yellow Wagtail is an insectivorous bird of open country near water, such as wet meadows that nests in tussocks in wet grassland and hay meadows well away from tall trees and tall boundaries. Key points that the RSPB include in its advice to farmers to conserve both species are to maintain areas of unimproved grassland or managed grassland with low-inputs for nesting habitat and to boost insect food including buffer strips, conservation headlands, and grassland riparian to ditches and other watercourses. All of these points are provided for within the Scheme such that the expectation is that these and other bird species with a similar ecology will thrive in

the Scheme. This is an example of where biodiversity gain is achieved but would not contribute to the Defra metric 3.1 calculated BNG.

- 3.3.26 Mr Turney highlighted that there is a broader point around what is actually being proposed through the Scheme. The Applicant is proposing a change of land that is currently in arable crop rotation but, in doing so, will deliver substantial BNG. Clearly there is a habitat change, but it is from one that is predominantly very poor species mix and diversity to one that is better. Arable crop rotation has not been good for ecology and biodiversity in East Anglia.
- 3.3.27 Mr Masefield noted that the Defra metric for BNG does not recognise species level impacts, and that it is important for these to be treated separately from overall BNG calculations. He stated that SWT would like to see impacts on nesting skylark being addressed with specific measures.

Post-hearing note: The Applicant has recognised from the outset that there is a need to both integrate species enhancement as part of the Defra metric for BNG, e.g. grassland insects and other invertebrates benefiting from grassland habitats, and incorporate enhancement for specific species or groups of species into the Scheme which are independent of the Defra BNG assessment, e.g. Badger through a significant increase in foraging resources, and specific bird species including Skylark, the latter having grassland areas managed specifically for this and other ground nesting species.

3.4 Impact on Chippenham Fen & Snailwell Poor's Fen and potential mitigation

- 3.4.1 The ExA asked the Applicant to clarify whether they are proposing to withdraw the mitigation and ecological enhancement land from Sunnica West B as part of the change application.
- 3.4.2 Mr Turney on behalf of the Applicant confirmed that this is correct.
- 3.4.3 The ExA queried to what extent the Applicant has relied on this land in terms of its contribution to the wider mitigation and enhancement proposed for the Scheme, and what impact its removal will have on overall mitigation levels.
- 3.4.4 Professor Wade on behalf of the Applicant confirmed the removal of this land will be taken into account in the Applicant's updated BNG assessment to be provided at Deadline 5. Professor Wade indicated that it is not expected to register a significant impact on these calculations.
- 3.4.5 Professor Wade also confirmed that the rest of the Application did not rely on the mitigation and enhancement proposals at Sunnica West B to mitigate its impacts; and that there will not be a reduction in mitigation and enhancement for Scheme impacts overall.

3.5 Impacts on other designated sites and adequacy of proposed mitigation

- 3.5.1 The ExA asked the Local Authorities if they had any matters to raise in relation to other designated sites and the adequacy of proposed mitigation.

- 3.5.2 Mr Bedford KC on behalf of SCC asked how the County Wildlife Sites (CWS) at Baldingham Lane and Worlington East are proposed to be treated in the CEMP, and stated SCC's view that measures to offset any potential effects need to be site based rather than construction needs based. Mr Bedford also noted that whilst the Framework CEMP contains generic measures to protect CWSs, it sought that there should be measures specific to each CWS.
- 3.5.3 Mr Turney on behalf of the Applicant noted Mr Bedford's point as something the Applicant will take on board and consider when updating the Framework CEMP. An updated Framework CEMP is to be provided at Deadline 5.
- 3.5.4 Mr Masefield on behalf of SWT raised a concern regarding horizontal directional drilling at Havacre Meadows and Deal Nook CWS, namely that if this technique proves unsuccessful then the Applicant will instead use open cut trenching methods to cross the watercourse, with far greater impacts. In his view, the CEMP needs to provide for this contingency in terms of mitigation and compensation for the potential impacts.
- 3.5.5 Mr Turney indicated the Applicant will take this point away and consider updating the Framework CEMP in light of the concerns raised. Further information on this point is included in the SoCG with SWT also submitted at Deadline 4.

3.6 Adequacy of mitigation measures in general; connectivity

- 3.6.1 The ExA asked whether the Applicant considers that, in mitigating measures on ecology and biodiversity, they have followed the principles set out in the Morten review in terms of making things bigger, better and more joined up.
- 3.6.2 Professor Wade, on behalf of the Applicant, confirmed that the Applicant considers these principles and the vision for the Scheme have been followed from the outset. The area on which the Scheme is proposed to be developed is a farmed landscape at an industrial level, inflicting significant damage to local biodiversity and ecology. There is an opportunity through the mitigation and enhancement measures proposed by the Scheme to substantially enhance biodiversity and wildlife in terms of habitat creation. There are recognised biodiversity benefits for solar schemes. Over 1,000 hectares of land will also not be subject to any treatment by pesticides or fertilisers, nor will there be any crop irrigation. These are major improvements to a damaged landscape that will be felt well beyond the confines of the Scheme, in the local rivers for example. The updated BNG assessment will demonstrate a significant calculated BNG.
- 3.6.3 Mr Turney, on behalf of the Applicant, went on to re-emphasise that the Scheme's impact on ecology should be considered in its totality. Whilst there may be small impacts to some species (which in any event the Applicant considers are mitigated), the overall picture is that the Scheme will provide an overwhelming biodiversity enhancement from what *currently exists*. The Scheme's beneficial biodiversity impacts must therefore be considered as a positive in the planning balance for the Scheme.
- 3.6.4 Ms Ahmed on behalf of CCC and ECDC queried what happens to the Order limits after the 40-year lifespan of the Scheme, as there is no commitment in the Application to retain the habitats after the land is returned to landowners. This

means that the measures are only temporary. Mr Bedford KC on behalf of SCC raised a similar query regarding the Applicant's intentions after the 40-year operational period.

- 3.6.5 The ExA asked Mr Bedford whether he had any specific proposals as to how the post 40-year situation might be addressed in terms of a mechanism in the DCO.
- 3.6.6 Mr Bedford suggested that the compulsory acquisition powers being sought by the Applicant through the DCO could be required by the DCO to be exercised in such a way that land is handed back to landowners subject to restrictions that would ensure the continuation of ecological and landscape management regimes, or at least to provide for a local authority review as to whether these regimes should be maintained or varied.
- 3.6.7 The ExA requested Mr Bedford to provide detail as to what such a mechanism might look like and whether it is feasible for the DCO and in the wider context of the law relating to exercise of compulsory acquisition powers. Mr Bedford confirmed this would be provided in SCC's post-hearing submission.
- 3.6.8 Mr Turney on behalf of the Applicant noted that the Applicant would respond to those submissions, but noted that from the outset, the decision maker needs to be cognisant of the scale of impacts and the nature and scale of compensation proposed for the Scheme. It is evident that the Scheme can produce BNG over its lifetime – that proposition is not contestable.
- 3.6.9 In terms of the question of what will happen to mitigation and enhancement measures after 40 years, Mr Turney noted that, when applying for a planning permission for permanent development of land, it is for a period of 30 years for which any BNG is required to be secured by the Environment Act 2021. The Applicant is offering a longer period of secured BNG, 40 years, for a Scheme that is temporary in nature. It is not reasonable to impose a DCO obligation on the Applicant requiring the Scheme to continue to provide for or mitigate effects after it has been decommissioned when the effects will no longer exist. It would also not be appropriate for this approach to be taken for a development that is temporary and for a period longer than is required by statute.
- 3.6.10 Considering the policy tests for the imposition of DCO requirements and development consent obligations, it is considered that requiring the maintenance of the mitigation and enhancement proposals is not necessary, relevant to planning or the development in question (as the impacts will no longer arise) or reasonable in all other respects.
- 3.6.11 As for the issue of compulsory acquisition powers, Mr Turney stated that Mr Bedford's proposition is an unreasonable one. It would not be reasonable to require the Applicant to rely on compulsory acquisition powers to take land for the duration of the Scheme's life if it is able to secure use or access to the land for the Scheme's lifetime by private agreement with the landowners.
- 3.6.12 Furthermore, in light of the statutory tests for compulsory acquisition powers, it is not considered acceptable that compulsory acquisition powers would be required to be used only to retain control over compensatory habitat after the Scheme is no

longer there (if, for example, landowners did not accept an on-going voluntary commitment where it was required by the DCO), as:

- a. the land would not be required for 'development to which the development consent relates' or facilitate or incidental to it, as that development (i.e. the solar farm) will no longer be in place; and
- b. at this stage, the full physical extent of landscaping and habitat creation is not known and may change depending on the detail of the final detailed LEMPs. It would not be acceptable for compulsory acquisition to be required now for an extent of land which is at this stage a parameter within which the detailed design will take place.

Post-hearing note: The Applicant considers that the arguments put forward by Mr Turney at the Hearing similarly apply to mitigation required for LVIA and heritage purposes.

- 3.6.13 Mr Woodfield for SNTS queried how the measures provided for in the LEMP and CEMP are going to be resourced, noting by way of example that there is reference throughout the LEMP to an Ecological Clerk of Works in the singular. Mr Turney noted that an updated OLEMP and Framework CEMP are going to be submitted at Deadline 5 which will consider this issue.
- 3.6.14 Dr Edmund Fordham raised a question regarding the potential effects of the Scheme on the local microclimate due to the presence of solar panels, relying on literature stating that solar farms increase local temperatures and impact carbon cycling.
- 3.6.15 The ExA asked Mr Fordham to submit the relevant literature to the examination.
- 3.6.16 Mr Turney noted that the Applicant would review the materials relied upon by Dr Fordham and respond as necessary.

4 Agenda Item 3 – Historic environment

4.1 Heritage assessment

- 4.1.1 The ExA asked the Applicant why the table of criteria for determining the value of heritage assets includes 'high' as the highest level of significance and 'very low' as the lowest level and why 'very high' was not included as the highest value.
- 4.1.2 Amy Jones on behalf of the Applicant explained that there is no accepted methodology or standard matrix for ascribing criteria of heritage value, but the matrix that has been created for the assessment has been properly applied. The 'high' and 'medium' criteria are used as the differentiators.
- 4.1.3 The ExA asked if any interested parties wished to respond.
- 4.1.4 Christopher Partridge on behalf of CCC and ECDC agreed with Ms Jones that there is no established matrix for differentiating harms that are less than substantial.

4.1.5 Richard Hogget on behalf of SNTS also acknowledged that there is no established matrix but asserted that the Applicant has attempted to use a matrix that is weighted towards a lower score.

4.1.6 Ms Jones noted her disagreement with Mr Hogget, highlighting that the matrix used for the assessment still uses 'high' as the highest value marker.

4.2 Impacts on Snailwell Fen historic landscape and proposed mitigation

4.2.1 The ExA deferred this issue in light of the implications of the Applicant's prospective change request.

4.3 Impacts on Chippenham Park Registered Park & Garden and adequacy of proposed mitigation measures

4.3.1 The ExA requested that the Applicant provide any mapping and research used to determine the historic extent and design of Chippenham Park.

4.3.2 Amy Jones on behalf of the Applicant explained that document research was undertaken, and a limited number of plans found. These have not been submitted as part of the Application but were referenced. Ms Jones confirmed a copy can be provided to the ExA at Deadline 4.

Post-hearing note: These are provided at Appendix A to this Summary.

4.3.3 The ExA requested any existing map-based evidence the Applicant has following the site visit referred to in the response to the ExA's First Written Question (FWQ) 1.4.4 in terms of the surviving heritage features of the Park and the Scheme's impact upon them.

4.3.4 Ms Jones noted the Applicant does not possess any maps showing the information requested by the ExA but stated these could be produced as new plans for Deadline 5 alongside a description of the Scheme's impact upon the surviving heritage features of the Park.

Post-hearing note: The Applicant can confirm that this will be produced for Deadline 5 and, in doing so, it will seek to deal with the matters raised by Interested Parties at the Hearing, including impacts to trees, consideration of agricultural uses in comparison to the Scheme, and whether any further mitigation or enhancement proposals can be brought forward.

4.3.5 The ExA asked whether the Applicant considered whether the Scheme actually gives opportunity to go further than basic mitigation towards restoration.

4.3.6 Ms Jones confirmed that the Applicant has looked at mitigation planting through offsets to the Avenue, clearance of vegetation and enhanced planting. In so doing it has sought to balance mitigating the impact of the Scheme without impinging on the setting of the heritage asset. The Scheme seeks to strengthen the importance of the Avenue in this way.

4.3.7 The ExA queried whether the enhancement would be specific to the features of the Registered Park and Garden, or general native species.

- 4.3.8 Ms Jones confirmed the planting would be specific.
- 4.3.9 The ExA asked if any of the Local Authorities wished to raise any matters in relation to Chippenham Park.
- 4.3.10 Hashi Mohamed on behalf of CCC and ECDC asked for clarification from the Applicant regarding the loss of trees around the Avenue.
- 4.3.11 Christopher Partridge stated that CCC and ECDC are of the view that there is a conflict between the scale of the Scheme and its proximity to the Park. Accepting that mitigation planting can afford screening, Mr Partridge explained his view that this does not address the fundamental conflict between the two land uses. Richard Hogget on behalf of SNTS raised a similar concern regarding the shift from the agricultural setting around the Park to a more enclosed, segregated landscape.
- 4.3.12 The ExA asked the Applicant to explain in more detail how the conflict between the open agricultural landscape and the presence of modern infrastructure will be managed or resolved through the Scheme in terms of mitigation.
- 4.3.13 Richard Turney on behalf of the Applicant highlighted that the Avenue falls within the Registered Park and Garden but the land on which the Scheme is to be developed does not. The conflict is with the current use of the landscape setting for the designated asset, not the asset itself.
- 4.3.14 Ms Jones noted that the Applicant has recognised there will be a significant effect on this designated asset through the change in setting from modern agricultural land to a more infrastructure-based character. However, Ms Jones emphasised the importance of remembering that the modern agricultural setting of the Park is not the same as the historic setting that existed when the Park was built. The mitigation proposed will balance the screening of the new infrastructure against the intent of the Park as an open landscape. The Applicant has deliberately not provided screening in some locations to preserve the sense of openness.
- 4.3.15 Mr Hogget asked whether the trees that the Applicant is proposing to fell are within the designated area or within the wider setting.
- 4.3.16 Mr Turney stated the Applicant will provide a plan showing an overlay of the area identified for construction of the cable crossing over the top of the designated area to confirm whether any protected trees may be lost (it is the Applicant's intention that no tree that is part of the original Avenue is to be lost). This will be submitted at Deadline 5.

Post-hearing note: The Applicant notes its submissions made at ISH3 in relating to the severability of parts of the Scheme which are set out in its Deadline 4 submissions – Mr Turney's statements in that hearing would equally apply to consideration of any contemplation of reducing or removing development within Sunnica West Site A as a result of the heritage impacts discussed under this item.

4.4 Isleham plane crash site – impacts and potential for mitigation

- 4.4.1 The ExA asked when the Applicant expects to receive a decision from the Joint Casualty and Compassionate Centre Committee (JCCCC), and whether consent is in fact needed.

- 4.4.2 Andy Mayes on behalf of the Applicant stated that the JCCCC has indicated that it could take up to three months for a decision to be issued. Mr Mayes also confirmed that the JCCCC has said that consent is required.
- 4.4.3 The ExA noted that it would be useful to get a clearer picture of what the Applicant's prospective change application is likely to mean.
- 4.4.4 Nicholas Grant on behalf of the Applicant confirmed that clearer plans will be provided as part of the impending change request (and the notification of it).
- 4.4.5 The ExA queried what will happen if the Applicant does not receive consent from the JCCCC.
- 4.4.6 Mr Grant explained that if consent is not granted, the Scheme will be developed around a 100m radius around the crash site. However, regardless of whether the consent is granted, the Applicant has committed to a 50m by 50m block of land surrounding the crash site where no development occurs.
- 4.4.7 The ExA then invited Local Authorities and any interested parties to comment.
- 4.4.8 Richard Hogget on behalf of SNTS stated his view that a 50m by 50m box is too small for an exclusion area around the crash site.
- 4.4.9 Mr Grant noted that if the Applicant receives a licence, it could theoretically build up to and on top of the site but is instead choosing to preserve an exclusion area around it.
- 4.4.10 Mr Mayes also noted that the official report on the crash and the geophysical anomaly detected a close match for the crash site, meaning there is a clear picture of the area that was impacted.

4.5 Impacts on conservation areas and their settings

- 4.5.1 Referring to the conclusion in the LIR that the potential impacts on the settings of conservation areas and listed buildings are considered to be neutral, the ExA asked WSC to clarify how they assessed the setting of conservation areas and listed buildings and whether they took into account views into and between villages, in terms of historic features such as church towers.
- 4.5.2 Mr Grant on behalf of WSC stated their concern that the Applicant did not assess non-designated assets when it should have done so, if only to reach the conclusion that there are none that would be affected by the Scheme.
- 4.5.3 Will Fletcher on behalf of Historic England sought clarification from the Applicant as to whether the management of assets will change over the lifetime of the Scheme. He emphasised in particular Historic England's concern about the management of the area around the Barrows both during the Scheme; and after decommissioning – noting that the current landowner benefits from a 'class consent' under the Ancient Monuments (Class Consents) Order 1994.
- 4.5.4 Richard Hogget on behalf of SNTS noted SNTS's view that there are some assets affected by the Scheme that are heritage assets but not designated, including the Lodge House at the end of the Avenue and the Limekilns Gallops. Christopher

Partridge on behalf of CCC and ECDC made similar observations regarding non-designated assets that should be considered.

- 4.5.5 Nicholas Grant on behalf of the Applicant noted that the Applicant looked at non-designated assets, particularly buildings, but because most of these fell within Conservation Areas they were assessed as part of the relevant Conservation Area. As for the Lodge House, this was noted in the desk-based assessment but not taken through to the Environmental Statement (ES) [APP-032] to [APP-050] as it was not considered to be a likely significant effect.

Post-hearing note: The Applicant can confirm that non-designated above ground assets were considered as part of the assessment. In accordance with the methodology as set out in desk-based assessment reports [APP-059] to [APP-061], all assets within a 1km were identified. Non-designated assets assessed include those noted on the Historic Environment Records for both Suffolk and Cambridgeshire. At present, no local lists of significant historic buildings are held for the study areas. As no formal recognition exists, those assets noted were identified during site visits, where access allowed. In recognition of the importance of group value, those non-designated assets within settlements were considered together, particularly within conservation areas. This includes consideration of assets associated with Chippenham Hall Registered Park and Garden, notably High Lodge (referred to as Bury Road Lodge). Those assets considered to have the potential to be significantly affected by the Scheme were taken through for consideration within the ES. No isolated non-designated assets were identified with this potential.

- 4.5.6 Mr Grant confirmed on behalf of the Applicant that in respect of Historic England's concern about impacts to the Barrows during the lifetime of the Scheme, this will be managed through a HEMP, which is to be provided as part of an updated OLEMP. The Applicant is working with the Local Authorities to develop that HEMP (noting there was discussion at the Hearing as to the timescales for this).

Post-hearing note: The Applicant has also considered the position under the Ancient Monuments (Class Consents) Order 1994 which provides that agricultural activities do not require Scheduled Monument Consent, only where such activities have taken place in the same location within the period of six years preceding the carrying out of such activities. In light of the 40-year period of the Scheme, this six year time period would not take place before the land surrounding the Barrows is handed back to landowners, meaning that they would be in breach of the Ancient Monuments and Archaeological Areas Act 1979 if they proceeded with undertaking agricultural activities in that location. This will therefore be the position once the Scheme is decommissioned, as such no further action is required by the Applicant. Should the landowners wish to resume agricultural activities around the Barrows post decommissioning of the Scheme, then they would need to apply for consent.

5 Agenda Item 4 – Landscape and visual impact

5.1 General points and methodology

- 5.1.1 The ExA noted that in the LIR the Local Authorities stated their disagreement with the methodology adopted by the Applicant to determine impacts on the landscape surrounding the Scheme and asked the Local Authorities to explain their position.

5.1.2 Isolde Cutting on behalf of CCC, EDC and SCC clarified the Local Authorities' position regarding methodology as agreeing to disagree with the Applicant, and that the Local Authorities are more inclined to move on from this particular issue and focus more on the conclusions regarding landscape impacts and their mitigation. Michael Bedford KC on behalf of SCC noted that, in the face of diverging opinions from different landscape architects regarding the appropriateness and robustness of the Applicant's assessment methodology, it is for the ExA to form their own view as to which position is to be preferred.

5.1.3 Jon Rooney on behalf of the Applicant highlighted that the LVIA clearly sets out the assessment criteria used and provides full justification for assessment of each receptor following the selected approach.

Post-hearing note: The Applicant's response to the queries in relation to site selection methodology are set out in **Appendix B** to this submission.

5.1.4 In response to Mr Jeffcock's (on behalf of SNTS) concern regarding winter assessment, Mr Rooney noted that it is not typical for photomontages for winter planting to be prepared and assessed at year 15 for a Scheme such as this, and that such an assessment was not raised in the scoping opinion and neither requested nor discussed with any Local Authorities in the preparation of the LVIA. The Applicant has considered a worst-case scenario for year 1, including for example a winter photomontage along Beck Road that clearly shows how the Scheme will ensure views are retained.

5.1.5 As set out in Chapter 10 of the ES [APP-042], the LVIA has considered the likely effects of the Scheme during construction (winter), year 1 of operation (winter), year 15 of operation (summer) and in decommissioning (winter). This allows distinctions to be drawn between the temporary effects of construction and decommissioning and the longer term effects of operation, including the effectiveness of the proposed mitigation. Whilst it was not possible to include winter photographs for all viewpoints, an assessment has been made for all receptors in winter supported by fieldwork across the site and wider study area. As stated in paragraph 8.9 of the Guidelines for Landscape and Visual Impact Assessment, 3rd Edition, "*much of the detailed material about landscape and visual effects will be presented as written text supported by maps, illustrations and photographs.*" The written text is therefore primary in explaining the effects with reference to the different assessment scenarios and the visual material has supported this assessment.

5.1.6 The ExA noted the recent submission by the Forestry Commission at Deadline 3 and queried whether the Applicant will be responding to it.

5.1.7 Richard Turney on behalf of the Applicant confirmed that the Applicant has seen this submission and will be responding to it in due course.

Post-hearing note: This response is set out in the Applicant's Response to Other Parties' Deadline 3 and 3A Responses also submitted at Deadline 4.

5.1.8 Kevin Drane on behalf of CCC and EDC stated that the councils still have some issues with the AIA, namely the perceived omission of two trees along Chippenham Road that are subject to a tree preservation order. Mr Drane also raised concerns regarding the clarity of some of the plans provided in the AIA.

- 5.1.9 The ExA asked the Applicant whether, in light of Mr Drane's comments, the Applicant is continuing discussions with the Local Authorities and if an amended version of the AIA will be submitted.
- 5.1.10 Andy Wakefield on behalf of the Applicant confirmed that the Applicant is intending to provide the Local Authorities with further information regarding arboricultural matters and potentially update the AIA and accompanying plans to address the comments that have been received. This is to be provided at Deadline 5.
- 5.1.11 Dominic Woodfield on behalf of SNTS asked if the ExA will be requiring the Applicant to revise the ES in light of the new information provided in the AIA.
- 5.1.12 Mr Turney explained that the AIA is a document that was produced in response to representations received from the Local Authorities, as the assessments undertaken and measures set out within it would have occurred in any event as they were secured through the relevant management plans. The Applicant brought some of this work forward to address concerns raised by the Local Authorities, with detailed issues such as individual trees that may be lost through construction to be considered at the detailed design stage. It would not be possible to address these matters with certainty at this stage of the DCO process, as is the case with any Nationally Significant Infrastructure Project (NSIP) and is in accordance with the EIA Regulations.
- 5.1.13 Mr Turney went on to note that there has not been any material change to the assessment provided in the ES requiring revision, and that if any further clarification is needed this can be provided. Regardless, any potential impacts will be appropriately and effectively managed through the CEMP and LEMP.

Post-hearing note: The ecological team has been working with the arboriculturalists throughout the assessment and examination process and there is nothing new in the AIA that would alter the conclusions of the existing ES. This includes any implications with respect to potential bat roost locations and foraging. The Applicant can confirm that this is the case for all aspects of the ecological and LVIA assessments in the ES.

- 5.1.14 Ed Grant on behalf of WSC raised a concern regarding further information requested by the Local Authorities relating to hedgerow surveys and which hedgerows had been scoped out of the assessment.
- 5.1.15 Mr Turney confirmed that the Applicant will come back to WSC on this issue as part of updating the AIA.

5.2 Snailwell Fen – combined impacts on landscape and adequacy of proposed mitigation measures

- 5.2.1 The ExA deferred this issue in light of the implications of the Applicant's prospective change request.

5.3 Impacts on views from the Limekilns and Waterhall Gallops and impact on the landscape character of the area; potential for mitigation

- 5.3.1 The ExA asked the Applicant why moderate adverse and significant visual impacts of Sunnica West Site A, impacts which the ES recognises would not be reduced by year 15 and which have been raised by various parties as a concern, can be considered to be acceptable.
- 5.3.2 Richard Turney on behalf of the Applicant explained that the Scheme has no direct impact on the value of the relevant landscape receptors, for example the Limekilns, rather it is the view which is perceived by those at the relevant location. Mr Turney noted that many of those who frequent the Limekilns are not there for the purposes of recreation or to take in the views of the landscape, rather they are there for the purposes of employment and business. It is also important to bear in mind the distance between the Scheme and the elevated part of the Limekilns, which is over 1km with two of East Anglia's major roads and a railway line intervening between the two locations. The Applicant accepts that some solar panels will be visible in views from the Limekilns, but these will be against a wooded backdrop and below the skyline, resulting in an impact that is acceptable.
- 5.3.3 Mr Turney also emphasised the need to distinguish between impacts on views of the landscape and the landscape resource itself. The Limekilns is not recognised as a landscape or feature of particular interest or a site in need of preservation in published studies or local policy. The key characteristics of the gallops will also not be altered by the Scheme – a view of a solar farm is not going to diminish enjoyment of the Limekilns.
- 5.3.4 The ExA asked whether any Local Authorities or interested parties wished to comment on this issue.
- 5.3.5 Isolde Cutting on behalf of CCC, ECDC and SCC raised concerns regarding impacts on views from the Limekilns, particularly of Ely Cathedral, resulting from a change from an equine agricultural landscape to one that is characterised by energy and light industry. Michael Bedford KC on behalf of SCC also noted SCC's agreement with the Applicant that, due to the topography and elevated position of the Limekilns there is no further mitigation the Applicant could practicably provide to address residual impacts.

Post-hearing note: The Applicant has recognised that Ely Cathedral is visible in views from the elevated parts of the Limekilns Gallops in the Landscape and Visual Impact Assessment summarised in Chapter 10 of the ES [APP-042]. It is located approximately 20km to the north east, such that it is barely perceptible and easily missed with the naked eye. There are no interpretation materials such as maps or photographs within the Limekilns which aid in locating the Cathedral in the view or understanding its relationship with the wider landscape. The Applicant has tested the intervisibility between Ely Cathedral and the Scheme, including the Limekilns, in its response to the ExA's first written questions (Q1.7.1). This was supported by an annotated photograph in Appendix I [REP2-038], which clearly shows that the Limekilns Gallops are barely visible in the background from the West Tower of Ely Cathedral.

- 5.3.6 Daniel Kozelko on behalf of SNTS asserted that the Limekilns is an especially valuable area due to its use as a showcase for the best in the horseracing industry, and that it is particularly affected by the Scheme due to the visibility of both sites. John Jeffcock on behalf of SNTS went on to state that the surrounding landscape is celebrated and important historically in terms of the setting of the Limekilns.
- 5.3.7 Mr Turney emphasised that the acceptability of any visual impacts on the Limekilns must be assessed in terms of the relevant planning policy. Neither the Local Authorities nor SNTS has provided an answer to the issue of visual impacts from the Scheme as assessed against policy considerations. For example, the draft National Policy Statement EN-1 expressly sets out that effects on local landscapes cannot be a reason to decline an NSIP (paragraph 5.9.14). The Limekilns is also not identified or designated in any national or local policy as a feature in need of protection in terms of its setting, and it falls below the threshold of NPS EN-1 in terms of being a relevant impact on local landscape. When considered through this lens, it is clear that the level of impact, on a non-designated landscape and non-designated asset, at a distance of 1km, with intervening major roads and a railway line, is well below the threshold required to justify refusal of the Scheme.
- 5.3.8 In terms of mitigation, Mr Turney noted that there is no suggestion from either Local Authorities or SNTS that further mitigation could reasonably be provided. Mr Turney stated that, in light of these circumstances, the ExA is bound to conclude that the level of impact is acceptable in terms of national energy policy, as the Scheme will deliver extensive benefits in renewable energy.
- 5.3.9 Mr Turney also highlighted the need for caution when considering the conflation of issues underlying SNTS's arguments regarding impacts on the Limekilns. The value of a particular landscape to the economic interests of the horseracing industry does not translate to heritage or landscape value, especially where the land in question is not designated as having such value.

Post-hearing note: The Limekilns are not a designated heritage asset and fall outside the Newmarket Conservation Area. They are acknowledged to have historic interest as part of the wider racing heritage of the town. Notwithstanding any potential perception of the Scheme from the Limekilns, this will not harm the ability to understand and appreciate the historic interest of the Limekilns and does not go against heritage policy contained within the draft National Policy Statement EN-1.

5.4 General impacts on the landscape of the area; potential for mitigation and impact of mitigation proposals on the landscape

- 5.4.1 The ExA deferred this issue in light of the implications of the Applicant's prospective change request, with the relevant matters to be address through further written questions.

5.5 Specific impacts on visual amenity around land parcels E19, E20, E21 and E22 (south of Elms Road) and potential for mitigation

- 5.5.1 The ExA deferred this issue in light of the implications of the Applicant's prospective change request.

Post-hearing note: During the Hearing, Mr Turney noted that the Applicant had a matter it wished to raise under this item and would provide further information on this point in its summary of oral submissions submitted at Deadline 4.

Parcels E20, E21 and E22 are located between Elms Road to the north and footpath W257/003/0 to the south. The closest viewpoints to the eastern edge of these parcels are VP19 and VP20. There are several land uses to the east, including a small travellers site adjacent to E20, which was visited on ASI3 and historical aerial photography demonstrates has developed in recent years. A belt of trees and shrubs is proposed along the field boundary to provide visual screening. The Applicant is considering whether a wider belt of planting can be accommodated in this location and whether a solid fence would be appropriate in addition to the fencing already proposed to enclose the panels.

6 Agenda Item 5 – In-combination impacts

- 6.1.1 The ExA deferred this issue in light of the implications of the Applicant's prospective change request.

7 Agenda Item 6 – Next steps

7.1 Actions for parties arising out of Hearing

- 7.1.1 The ExA read out its list of actions from the Hearing which were published on the PINS website following the hearing.
- 7.1.2 The Applicant can confirm the position in respect of the Deadline 4 actions (i.e. where they can be found within the Applicant's Deadline 4 submissions) in the table below:

ExA Action	Response in Deadline 4 Submissions
Historical data on stone curlew populations in land parcels E05 and E13 to be supplied.	Position on this is set out in this note – due to restrictions in how the data was shared with the Applicant, it cannot be shared with the LPAs.
Respond to WSC's six detailed points on stone curlew mitigation.	See paragraph 3.3.4 of this Summary.
Confirm proposed arable flora mitigation measures in updated LEMP (WSC's four issues).	See paragraph 3.3.18 of this Summary.
Submit Chippenham Park historic map.	Appendix A to this Summary.
Agree with Local Authorities the extent of assessment of non-designated heritage assets.	See paragraph 4.5.5 of this Summary.

Advise Examination Library reference of desk-based assessment of heritage assets.	[APP-059] to [APP-061]
Respond to Forestry Commission submission	This has been done in the Applicant's Response to Other Parties' Deadline 2, 3 and 3A submissions also submitted at Deadline 4.
Provide update following discussions with Local Authorities and interested parties regarding impacts on visual amenity around land parcels E19, E20, E21 and E22.	See paragraph 5.5.1 of this submission. Further submissions will be made at Deadline 5 in the updated LEMP.

7.2 Other matters

- 7.2.1 There was some discussion of the Applicant's proposed Changes Application at this point, however this was then superseded by discussions in ISH3 the next day.

8 Agenda Item 7 – Close of the Hearing

- 8.1.1 The ExA closed the hearing at 17:15pm.

Appendix A Chippenham Park Historical Mapping (Redacted)

Appendix B LVIA and the Site Selection Process

The purpose of the Applicant's site selection process and the information presented in ES Chapter 4, Alternatives and Design Evolution [APP-036] and ES Appendix 4A, Alternative Sites Assessment [APP-054] was to identify a suitable site for the Scheme and to explain the options considered and the reasons for the Applicant's decision, as per the requirements of NPS EN-1 and of Schedule 4(2) of the Infrastructure Planning (Environmental Impact Assessment Regulations) 2017 (the EIA Regulations).

There is no standard or approved methodology for an alternative sites assessment. The Alternative Sites Assessment [APP-054] explains the rationale behind the selection of the Sites and represents a reasonable and proportionate approach to explaining the alternatives considered by the Applicant and the reasons for the Applicant's selection.

As there is no standard or approved methodology for an alternative sites assessment, the Alternative Sites Assessment [APP-054] explains the rationale for the approach it has taken, and how it has been informed by planning policy, throughout the document.

Stage 2, described in Section 2.3 of the Alternative Sites Assessment [APP-054], excluded land that was subject to the main designations or characteristics that planning policy sees to guide development away from.

This comprised:

- Designated and proposed national and international ecological and geological sites;
- Best and Most Versatile agricultural land;
- Greenbelt; and
- Nationally designated landscapes.

With regard to the landscape and visual criteria, this meant that land within nationally designated landscapes comprising National Parks and Areas of Outstanding Natural Beauty (AONB) was excluded at Stage 2 (or would have been had such areas been present in the area of search), as explained at paragraph 2.3.2 of the Alternative Sites Assessment [APP-054]. This approach fulfils the purpose of Stage 2 of the Alternative Sites Assessment [APP-054] and is consistent with important and relevant planning policy. Paragraphs 5.9.9 of NPS EN-1 and 5.10.11 of Draft NPS EN-1 set out that National Parks and AONB "*have been confirmed by the government as having the highest status of protection in relation to landscape and scenic beauty*". The second bullet points of paragraphs 5.9.10 of NPS EN-1 and 5.10.12 of Draft NPS EN-1 then introduce a requirement to consider alternatives where a development is proposed in a National Park or an AONB. This requirement to consider alternatives does not exist for locally designated landscapes or for landscapes that are not designated. As such, there would have been no justification for including locally designated landscapes at Stage 2 of the Alternative Sites Assessment [APP-054]. In any case, even if locally designated landscapes had been considered at Stage 2, this would not have affected the output in relation to the Sites, as none of the land within the Order limits is part of a local landscape designation.

Point 'b' of paragraph 2.3.1 of the Alternative Sites Assessment **[APP-054]** explains the reason that some land not shown as 'unconstrained' following Stage 2 was considered in Stages 3 and 4. This is because local knowledge was available that the agricultural land classification (ALC) of these areas was likely to be grade 3b or below. This has subsequently been confirmed by and the ALC survey reported in the Agricultural Baseline Report **[APP-115]**. Since national policy seeks to direct development away from land that is classified as ALC Grades 1, 2 and 3a and that NPS EN-1 paragraph 5.10.5 and Draft NPS EN-1 paragraph 5.11.14 set out that the decision maker should give little weight to the loss of ALC grade 3b, 4 and 5 land, the exclusion of land the Applicant knew was likely to be ALC grade 3b or lower would not have assisted the Applicant in identifying sites that meet the relevant planning policy test in relation to agricultural land quality. None of the land within the Sites was identified as within any Stage 2 exclusionary area in relation to landscape, ecology, or Greenbelt. This is illustrated by Figure 11, submitted as **Appendix C** of this post hearing submission.

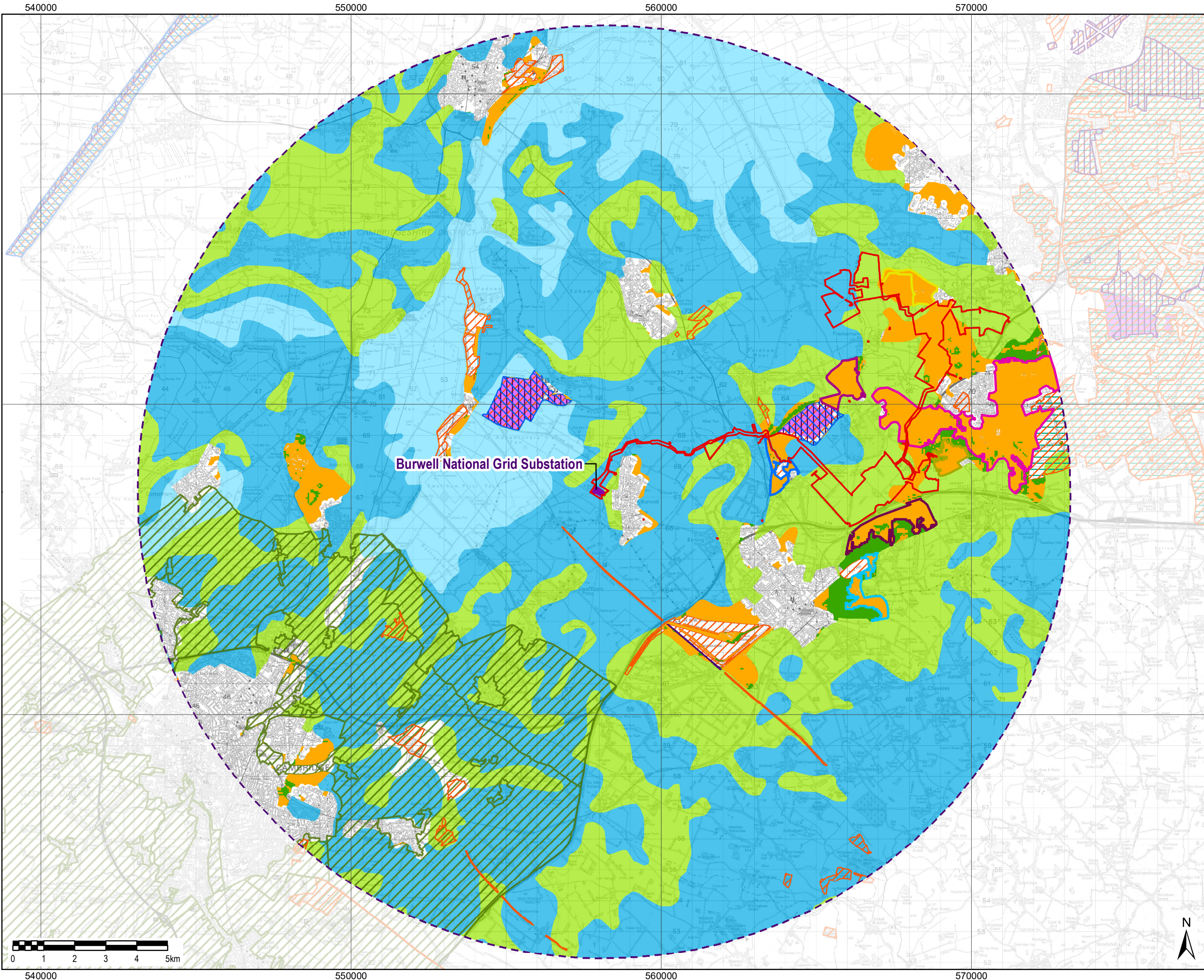
The purpose of Stage 3 of the Alternative Sites Assessment **[APP-054]** was to identify potential solar development areas (PDAs) for further consideration at Stage 4. This was achieved by the application of criteria relating to site size and land assembly and was guided by a topography indicator by which generally flatter land was preferred. In application of the topography indicator, high level topography data was used to guide the selection of PDAs for further consideration towards land parcels that were generally of <3% gradient. This is because the flattest land is considered by the Applicant to be optimal for solar development. The <3% gradient indicator was not applied as an exclusionary criterion, and small pockets of land that the map-based appraisal identified as being ≥3% are therefore present within the Sites (small areas in/near W15, E22 and E25) and also within PDAs 3, 4, 5, and 6. This is illustrated by the dark green areas shown on Figure 11, submitted as **Appendix C** of this post hearing submission. This demonstrates that the land within the Sites was not treated any differently to land within the other PDAs, and that the Alternative Sites Assessment **[APP-054]** does not depart from a consistent application of its methodology and criteria at Stage 3.

A separate and more detailed consideration of topographic data was used to inform consideration of the 'terrain' indicator at Stage 4 of the Alternative Sites Assessment **[APP-054]**.

Overall, the Alternative Sites Assessment **[APP-054]** uses a reasonable and proportionate methodology that is in accordance with, and justified by, important and relevant planning policy. The methodology has been consistently applied including through the application of professional judgement. It explains the options considered and the reasons for the Applicant's decision. As demonstrated by the analysis of the Scheme's compliance with important and relevant matters and specific planning policy tests in the Planning Statement **[APP-261]**, the Applicant's site selection process has achieved its objective of identifying a suitable site for the Scheme.

Appendix C Figure 11

File Name: \\eu.aecom.net\UK\UK03061\ubas\PR-334327_Sunnica_Energy_Farm\400_Technical\434_Technical Disciplines\17_GIS\Layout\Alternatives_Siting\221207_SunnicaEnergyFarm_AlternativesAssessment_Figure13_UnconstrainedLandonFigure2_PDA.mxd



THIS DRAWING IS TO BE USED ONLY FOR THE PURPOSE OF ISSUE THAT IT WAS ISSUED FOR AND IS SUBJECT TO AMENDMENT

LEGEND

- The Order limits
- Burwell National Grid Substation
- 15km Area of Search
- Unconstrained Land from Stage 2
- Output with $\leq 3\%$ Gradient Topography - Figure 5
- Unconstrained Land as a result of Stage 2 Planning and Environmental Constraints - Identified on Figure 3 but not on Figure 5
- Green Belt

International and National Ecological and Geological Designations

- Ramsar
- SAC
- SPA
- SSSI
- National Nature Reserve

Agricultural Land Classification

- Grade 1
- Grade 2
- Grade 3

Potential Development Areas


- PDA 1 - Land West of Worlington
- PDA 2 - Land South of Freckenhams
- PDA 3 - Land East and West of Red Lodge
- PDA 4 - Land at Dane Hill Farm
- PDA 5 - Land at Snailwell
- PDA 6 - Land South of the
- PDA 7 - Land East of Newmarket

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Document Reference: EN010106/APPI/6.3
AFPP Regulation: 5(2)(a)

Purpose of Issue
DCO EXAMINATION

Client
SUNNICA LTD

Project Title


Drawing Title
FIGURE 11
STAGE 2 CONSTRAINTS,
UNCONSTRAINED LAND WITH $\leq 3\%$
GRADIENT, PDAS AND ORDER LIMITS

Drawn LL	Checked MB	Approved NC	Date 13/12/2022
AECOM Internal Project No. 60589004		Scale @ A3 1:110,000	

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FIGURE 11

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