



# SUNNICA ENERGY FARM

EN010106

Volume 8

8.63 Applicant's Response to Other Parties' Deadline 2, 3 and 3A  
Submissions

Planning Act 2008

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



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

**Sunnica Energy Farm  
Development Consent Order 202[x]**

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Submissions**

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# 1 Introduction

## 1.1 Purpose of this document

1.1.1 This report responds to other parties' deadline 2, 3 and 3A submissions. The Applicant has responded to these submissions thematically in section 2, under the following themes:

- Framework Construction Traffic Management Plan (CTMP)
- Framework Construction Environmental Management Plan (CEMP)
- Framework Decommissioning Environmental Management Plan (DEMP)
- Development Consent Order (DCO)
- Horse Racing
- Compulsory Acquisition
- Public Rights of Way (PRoWs)
- Trees
- Scheme Design
- Drainage
- Deliverability

## 1.2 List of parties whose Deadline 2, 3 and 3A submissions are responded to via thematic responses in Section 2:

Reference	Party
REP3A-068	Nicole Langstaff
REP3A-040	Eversheds Sutherland on behalf of National Grid Electricity Transmission PLC (NGET)
REP3A-066	Godolphin Management Company Limited
REP3A-058	Garry Chapman
REP3A-050	Freckenham Parish Council
REP3A-065	Forestry Commission
REP2-090	Natural England
REP2-094 (with ref. to REP2-255)	Bidwells on behalf of the Mitcham family

## 2 Interested parties' Deadline 2, 3 and 3A submissions and the Applicant's themed responses

Party name	Theme	Summary of issue raised	Applicant's response
Nicola Langstaff	CTMP	<p>Sunnica states West Site access points B on Chippenham Road and D on Fordham Road are 'existing access routes' – they are actually rarely used field (primarily pedestrian) entrances. A further access point is omitted (see red square on image). This access will also be used within construction, operational and decommissioning phases. Although shown as a relatively straight line on the map, it is actually a blind bend when approaching from Chippenham. This is not an existing access; it is a field verge without hedging.</p>	<p>Sunnica West Site A: Site Access B on Chippenham Road and Sunnica West Site B: Site Access D on Fordham Road are both existing access points into the land and both are gated. These access points are shown in Annex C of the Framework Construction Traffic Management Plan and Travel Plan [REP3A-004]. It is acknowledged that their existing use is infrequent. There are vehicle tracks along the land which is internal to the Scheme. Both access points form T-junctions with either Chippenham Road or Fordham Road. It is therefore factually accurate that these are existing access routes.</p> <p>The suggested omitted access point referred to are the Grid Connection Route Accesses M and N, as shown in Figure 11 in the F-CTMP [REP3A-004], with drawings of these access points shown in Annex C of the F-CTMP. It is therefore fully documented and not an omission.</p> <p>Temporary traffic management, in the form of temporary traffic signals and temporary speed limit reductions, are proposed to be used during the construction phase to provide safe entry and egress. This is set out in the Framework Construction Traffic Management Plan and Travel Plan [REP3A-004].</p>
		<p>'Grid Connection Route A crosses the Chippenham footpath 49/7 before passing approximately 20m west of the Chippenham Gravel Pit CWS and crossing the B1085. No PRow's are situated within the boundary of Sunnica West Site A or Sunnica West Site B. Snailwell 5 bridleway (PRow) runs along the south-west boundary of Sunnica West Site A'. The underlined is factually incorrect.</p>	<p>The extent of PRow's was determined by Cambridgeshire County Council and mapped by the Applicant. The Applicant has not previously been made aware of any inconsistencies with the mapped location of Snailwell 5 PRow and therefore maintains that the statement "<i>no PRow's are situated within the boundary of Sunnica West Site A or Sunnica West Site B</i>" remains correct.</p>

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NGET	DCO	<p>Still concerned that NGET continue to have the benefit of Work No.5 (which includes Work No.5B and Work No.5C) under Article 32 of the Order.</p> <p>Consider that description of Work 5B is incorrect when describing the works as an 'extension to the substation' when the works will actually be a separate asset.</p>	<p>The Applicant has been engaging with NGET and the parties have agreed to update article 32 of the draft DCO submitted at Deadline 4 so that NGET will no longer have the benefit of Work No.5.</p>
Godolphin	Horse Racing	<p>It totally misrepresenting Godolphin's position to suggest that it is in a fundamentally different position to the representations made by other HIR representatives and implying that its objection is confined to that of insufficient mitigation for Snailwell Gallops.</p>	<p>The Godolphin representations also respond to the Lichfields report, alleging that the report misinterprets Godolphin's original representation. We disagree; the Lichfields report (para Pg 33/34 26112187v3 6.16) simply stated what the Godolphin representation had said, and, importantly, what it did not say. Godolphin's November representations reiterate its 'in principle' objection to the Sunnica scheme, however again it does not provide any supporting evidence (or point to any technical documentation) to support its position.</p>
Garry Chapman	Compulsory Acquisition	<p>Concerned about the cable route negotiations undertaken by Sunnica:</p> <ul style="list-style-type: none"> <li>• Felt pressured to accept a deal in the face of compulsory acquisition powers.</li> <li>• Were told that others had accepted the deal when that has turned out not be true.</li> <li>• Size of the cable has been increased significantly and we remain seriously concerned about the possible health effects to humans and animals by any cable buried in the ground</li> </ul>	<p>The HOTs correspondence requests that the landowner enters into negotiations on a voluntary basis. Not once has there been reference to the use of compulsory acquisition powers other than in the various Application documents and briefly in the Section 56 notification.</p> <p>There is no record of anything of this nature being disclosed to the landowner. Negotiations have progressed with other landowners and further information is always available in the Schedule of Negotiations.</p> <p>It is correct that the load size of the cable has increased but the trench and easement dimensions remain the same.</p>
Freckenham PC	PRoWs	<p>The Parish Council query the methodology applied and thus the sensitivity given to users of the U6006 Badlingham Lane</p>	<p>Users of U6006 have been assigned a high sensitivity to changes in their views and visual amenity with reference to the criteria set out in Appendix 10C of the ES [APP-102]. This is the highest level of sensitivity.</p>

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Forestry Commission	Trees	<p>Note that some of the trees affected by the Scheme are subject to grant funding under the English Woodland Grant Scheme, Farm Woodland Payments and Farm Woodland Premium Schemes; and that Sunnica may take on liabilities in the terms and conditions of those schemes.</p> <p>Also expressed concern that change in use could fall under the EIA (Forestry) Regulations 1999.</p>	<p>The Applicant notes the Forestry Commission's submission in respect of grant funding schemes. The Applicant will be discussing this with the landowners as the issue here is purely a financial one in terms of whether or not the Applicant or the landowners will be liable for repayment of previous grant funding (whether that is because the trees in question are outside of their 'obligation' period to be retained or because of the different terms and conditions that apply to each funding scheme). This is a purely financial matter between the parties and is therefore not relevant to planning considerations of the Scheme.</p> <p>The Applicant considers that it is not entirely clear at this point in time as to whether parts of the Scheme works would be caught by the EIA Forestry Regulations 1999 (as amended) for the following reasons:</p> <p>Regulation 2 of those Regulations states that they apply for a relevant project that involves: "deforestation for the purposes of conversion to another type of land use". What is not defined is whether or not 'deforestation' incorporates loss of individual trees, trees in hedges, trees in small groups or trees on the edges of small wooded areas, which are the types of trees affected by the Scheme. Case law on the Regulations has focussed more on the question of whether there is a 'change of use' (which the Applicant accepts is the case here).</p> <p>This question is also relevant as Regulation 3 goes on to indicate that the Regulations do not apply to works that are considered to not cause a likely significant effect. Schedule 2 then goes on to define size parameters for projects that are considered to not cause a likely significant effect (and thus not caught by the Regulations). This includes a parameter of 'deforestation' of less than 1 hectares.</p> <p>At the time of writing and based on a reasonable worst case set out in the AIA, the Applicant estimates that circa 1.76ha of tree cover is proposed for removal to facilitate the Scheme. Of the total area of trees subject to detailed BS5837 tree survey (which does not include all trees to be removed) only 0.42ha of tree cover described as 'woodland' is proposed to be removed. It is considered</p>

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			<p>unlikely that the total tree cover of 'woodland' to be lost would breach that 1ha parameter.</p> <p>As such, it is not clear to what extent the Scheme works involve 'de-forestation' and whether they meet the parameters that would require assessment under the Regulations.</p> <p>The Applicant also notes that a large number of DCOs to date have necessitated tree removals and is not aware that any ES produced for those projects have referenced the Forestry Regulations.</p> <p>However, even if the precautionary approach was taken to say that the Regulations apply, the Applicant considers that the requirements for what should be included in an ES under the Forestry Regulations are the same as that apply under the Infrastructure Planning Regulations; and that therefore whilst the Scheme ES does not specifically refer to the former, it has done what is required under them. Furthermore, Regulation 4 of the Forestry Regulations notes that applications for consent for 'deforestation' projects can be determined by the 'Secretary of State', meaning there is no requirement for the Forestry Commission to separately consent to the works pursuant to the Forestry Regulations.</p>
Natural England	Framework CEMP	<p>Natural England advises that the Plastic Limit test described on page 16C-39 should be updated from 3.2mm to 3mm, as per the Supplementary Note 4 of the Good Practice Guide for Handling Soils in Mineral Workings.</p> <p>The pre-work condition section on page 16C-40 references the use of cultivation to reduce soil compaction. It is Natural England's advice that cultivation provided only a temporary alleviation to soil compaction and can cause further soil structural damage.</p>	<p>The Applicant is content to update 3.2mm to 3mm for plastic test, which will be included in the updated Framework Construction Environmental Management Plan, to be submitted at a later deadline.</p> <p>Cultivation to relieve compaction can cause further soil structural degradation, but this is primarily an issue for arable land management where the opportunity to cultivate is limited to narrow windows in autumn and spring. On decommissioning, any areas of compaction that would benefit from deep cultivation (subsoiling) could be cultivated in optimally dry and friable conditions mid summer when an arable crop would be damaged by any such operation.</p>



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		<p>Soil stockpile maintenance and seeding should be included within the general principles outlined in table 3-7.</p> <p>The updates to table 3-7 include the statement "No mixing of topsoil with subsoil, or of soil with other materials". This is inconsistent with previous application documents such as the Landscape and Ecology Management Plan [APP-108] which states "chalk is to be mixed with topsoil stripped from elsewhere". Natural England requests clarification on whether the Applicant proposes to mix topsoil with other substances, and how soil grade can be restored after the decommissioning of the development.</p> <p>Natural England advises that the monitoring requirements included in table 3-7 should also include: Soil stockpile plans, including location, soil type and volume; and any corrective actions undertaken</p>	<p>The Applicant is content to add soil stockpile maintenance and seeding to the outline CEMP, OEMP and DEMP, all to be agreed in final environmental management plans, which will be submitted at examination deadline 5.</p> <p>The Landscape and Ecological Management Plan <b>[REP3-011]</b> requires that chalky material is spread on the surface to provide a low nutrient soil for plant diversity. This chalky material will significantly weather over 40 years and will not be deleterious. Low nutrient status can be rapidly nullified through the routine application of mineral fertiliser on resumption of arable cropping.</p> <p>The Applicant is content to add topsoil stockpile monitoring to outline OEMP, which will be submitted at examination deadline 5.</p>

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	Framework DEMP	<p>The monitoring requirements included should also include restoration conditions relative to the restoration criteria (ALC grade) for the full site</p> <p>Natural England advises that the risk of compaction during decommissioning as a result of trafficking should warrant an aftercare plan to ensure the soils are not damaged. This could include the proposed three year grass cover following decommissioning.</p> <p>The DEMP states "Where problematic compaction is found the area would be subsoiled prior to any reestablishment of arable production" (pg 16E-23), however, the CEMP states: "Subsoil compaction rapidly becomes more difficult to alleviate through cultivation with increasing depth" (pg 16C-40). Therefore, Natural England advises that compaction should be avoided as far as possible, as subsoil compaction alleviation may not be possible.</p>	<p>The Framework DEMP <b>[REP2-028]</b> requires the Sites to be inspected following completion of decommissioning works by a soil scientist to check for the presence of subsoil compaction. The Framework DEMP, also requires the land to be returned to the land owner in a condition where the previous farming activities, those undertaken prior to construction, could be undertaken. The Applicant considers these measures suitable to ensure the land is restored to its previous condition and ALC grade.</p> <p>Please also note that large areas of the site are thin soils over chalk with no risk of deep soil compaction occurring.</p> <p>Compaction risk from decommissioning work should be lower than the current business as usual of annual arable land management (ballasted tractors drawing cultivators, high axle load grain trailers, combines and specialist harvesters often having to work in unfavourable conditions following rainfall). Decommissioning work can prioritise any necessary trafficking off the access tracks to summer months with work suspended following rainfall until subsoils has dried sufficiently. This requirement is specified in the DEMP <b>[REP2-028]</b>.</p> <p>The DEMP includes maintenance of the grass cover (established for the solar farm) for up to three years, with this period ending sooner for fields where a suitably experienced soil scientist determines that there is no compaction problem.</p> <p>The outline DEMP covers the potential that subsoil (where present) may become compacted below temporary access tracks. When temporary access tracks are removed towards the end of the decommissioning process, areas of subsoil below the removed track would be assessed for compaction. Should any subsoil compaction be located, this material should be loosened before the reinstatement of the topsoil above it.</p>

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	DCO	Requirement 10 should be updated to cover the decommissioning period.	The Applicant has updated Requirement 10 at Deadline 4 to provide that the requirement to maintain the stone curlew offsetting area will apply during the carrying out of the decommissioning works. However, the obligation cannot be continued after this period, as the land will be handed back to landowners once the decommissioning works are complete.
Bidwells on behalf of the Mitcham family	Scheme Design	The impact of two years of disrupted activities to the farming operations is not reasonable. We request that further detail is provided on the cable laying (including in particular cable lengths), its programming, and the likely timeline for the Mitcham family. Their landholdings are crossed multiple times by the cable across a wide linear span of the countryside.	<p>ES Chapter 3 states that the decision on construction will be taken post consent and post the final investment decision. The construction programme will depend on the final scheme design and the potential environmental constraints on the timing of construction activities.</p> <p>The Applicant's intention is to build without any gap in construction but this can't be confirmed until the main contractor is appointed. The power is subject to a right of compensation and so the Applicant would be incentivised to keep the periods of possession to the minimum period necessary. Art 27 (11) allows for the taking of temporary possession on more than one occasion therefore the Applicant could give back the land to the owner during any gap in construction, however for each period of returning the land to the owner would result in the Applicant paying compensation under Art 27(6). This would be a disincentive for the Applicant to have gaps in construction leading to higher compensation payments.</p> <p>Once temporary possession of land is taken then the Applicant is liable for any losses incurred by the landowner and will have to reinstate land if it is given back on a temporary basis only to be taken again later. This would increase the overall construction costs for the Applicant which they would wish to avoid wherever possible and look to keep compensation in these circumstances to a minimum.</p> <p>Whilst the Applicant had already anticipated continuing its activities to engage with landowners, the framework CEMP has been updated to include a commitment to specifically engage with landowners in respect of construction programming and the use of their land, so that they can plan the use of the rest of their land around the Scheme's construction. This will be submitted at Deadline 5.</p>

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	Area of Rights Acquired	<p>The discrepancy between the area Sunnica require for an easement, and the land they are trying to acquire powers over, must be resolved.</p> <p>A particular area of concern for the Mitcham family is Fordham House, where the proposed easement is 55m wide. Not only is this excessive, but on a review by our mapping team, it would appear the plans included within the DCO are actually over 65m wide (Appendix 3).</p> <p>Bidwells are involved in the North Sea wind farm cables, acting for impacted landowners. These cables carry 1.4GW of energy. Easements of maximum 20m are being agreed. It is hard to understand why Sunnica require such wide areas.</p> <p>The Mitcham family is content with the principle of a 10m wide easement and a reasonable working area around this, as appropriate for the maximum 132kV cable. However, the significant areas enclosed within the scheme boundary and the discrepancy between areas actually needed versus included is not reasonable.</p>	<p>Appendix A of the Statement of Reasons explains the requirements for additional widths in the land where rights are being acquired on the cable corridor. The land requirements on the Land Plans have been drawn up in line with the explanation provided in that Appendix and the consequential limits of deviation shown on the Works Plans. It is not intended that the final easement itself would be of a width of 55m, but powers are required over that area to deal with the constraints on the Mitcham Family land. Constraints affecting the Mitcham Family plots are set out below:</p>		
			<b>Plot</b>	<b>RLB Width</b>	<b>Rationale</b>
			19-03	50m	<p>A working width of up to 50m is required for constrained land. The additional width, beyond the 30m identified for unconstrained land is required due to a specific constraint or potential combination of constraints that have been identified following survey works that were undertaken. These constraints typically result in challenging engineering works/solutions that fall within one of the following categories:</p> <p>Access Issues: There are sections of the Sunnica route where site access onto the cable route corridor from either the public highway or onto the cable route corridor from internal roads or tracks is extremely limited. This means that plant machinery and materials will need to travel along sections of the cable route corridor in order to reach the work site. As such, a wider construction width is required at these locations to provide lateral separation between transport movements and ongoing excavation and cable laying works. Additional space will also be required for the stockpiling of both materials and spoil.</p> <p>Horizontal Directional Drilling (HDD) Required:</p>

Party name	Theme	Summary of issue raised	Applicant's response		
					<p>A number of sections requiring HDD have been identified during survey works. An increased construction width is required at these locations for reasons that include a. To allow spacing of the bores; b. To allow for the excavation of the launch and receive pits; Sunnica Energy Farm Statement of Reasons Planning Inspectorate Scheme Ref: EN010106 Application Document Ref: EN010106/APP/4.1 Page 76 c. To allow space for the additional heavy plant required; d. To allow space for the materials required at hand (e.g., water tanks, bentonite, duct); or e. To allow for the safe movement and turning of vehicles</p>
			18-18	<20m	<p>Directional drilling will be required in order to cross drainage and field boundaries. There is limited access available across this section of the cable route and in order to accommodate the necessary equipment and materials required it may be necessary to utilise part of this plot for the laying of the cable This will be determined at detailed design</p>
			18-10	30m / 100m	<p>Directional drilling will be required in order to cross drainage and field boundaries. There is limited access available across this section of the cable route and in order to accommodate the necessary equipment and materials required, a wider cable route corridor width of circa 100m is necessary.</p>
			18-09	100m	<p>The corridor width has been widened in this location as geophysical survey was incomplete and adequate space is required to allow micro siting of the cable at the detailed design stage. In addition, there are challenges crossing the two gas pipes either side of Ness Road</p>

Party name	Theme	Summary of issue raised	Applicant's response		
			18-01	70m	The geophysical survey identified potential archaeological features within plot 18-01, therefore the cable width is required in order to microsite the cable during detailed design. In addition, there are challenges crossing the two gas pipes either side of Ness Road
			17-03	35m / 70m	The geophysical survey identified potential archaeological features within plot 17-03, adjacent to Plot 18-01, therefore the cable width is required in order to microsite the cable during detailed design. Narrow to follow the track as far as possible and minimise the impact on the extent of the proposed Breach Solar Farm. There are challenges crossing the two gas pipes either side of Ness Road
			16-14	60m	<p>Network Rail crossing and Specific pinch point</p> <p>This section of the route is subject to a number of constraints and engineering challenges.</p> <ul style="list-style-type: none"> <li>i. Directional drilling will be required to pass beneath the A142 and the adjacent railway line;</li> <li>ii. There is limited access for labour, plant and materials throughout this section; Up to circa 100m wide Sunnica Energy Farm Statement of Reasons Planning Inspectorate Scheme Ref: EN010106 Application Document Ref: EN010106/APP/4.1 Page 77</li> <li>iii. A requirement to cross an existing high pressure gas main running approximately north – south in the vicinity of Newmarket Road;</li> </ul>

Party name	Theme	Summary of issue raised	Applicant's response	
				<ul style="list-style-type: none"> <li>iv. There are significant areas of potential archaeological interest located on each side of the A142 / rail crossing;</li> <li>v. Significant alignment changes are required in both plan and section. The combination of constraints across this section means that an increased corridor width of circa 100m will need to be retained in order to complete the works</li> </ul>
			<p>Regarding the land at Fordham House this is an area where HDD will be required in order to route the cable underneath the adjoining A142 and the railway. An increased construction width is required for reasons that include allowing the spacing of the bores, to allow for excavation of the launch and receive pits, to allow space for the additional heavy plant required, to allow space for the materials required at hand, to allow for the safe movement and turning of vehicles.</p> <p>The exact width of permanent easement required is not yet known in this location as detailed design has not taken place.</p>	
	Compulsory acquisition	The Mitcham family would prefer the use of notice to treat, rather than GVD.	<p>The Applicant's response (in its Response to Written Representations [REP3A-035]) to REP2-094 explains how temporary possession would first be taken, with the service of notice to treat or the making of a general vesting declaration to follow.</p> <p>Whether a notice of entry will be served or a general vesting declaration made will depend on which legislative route Sunnica uses to actually implement its compulsory acquisition powers and the circumstances that prevailed at the time, should it be necessary to exercise powers of compulsory acquisition. The Applicant requires the option to acquire the land via the vesting process set out in the 1981 Act rather than the notice to treat procedure. Vesting declarations allow title in the land concerned to pass to the acquiring authority more quickly than using the notice to treat method. They also enable several parcels of land</p>	

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			to be acquired under the same legal instrument and therefore more efficiently than under the notice to treat procedure.
	Drainage	<p>The engineering works required for the cable laying will affect the drainage routes of the landholdings and intercept the natural and man-made drainage. We could find very limited detail on remedial drainage works, or an assessment of impacts to agricultural land drainage throughout the DCO submission by Sunnica.</p> <p>A review of this issue needs to be considered to ensure that the existing surface water natural water flow paths and agricultural drainage systems are catered for accordingly and will not cause a detrimental effect to any landowner</p>	<p>Safeguarding and protection of existing land drainage will be encapsulated within the CEMP, secured through Requirement 14 of the DCO. Amendments to the Framework CEMP will be made at Deadline 5 to set out the principles of the measures to be put in place.</p> <p>Any land / field drainage encountered during excavations will be reinstated or controlled to ensure no detriment to land drainage flows.</p>
	Negotiations	It is not true to say that negotiations have stalled because of Mitcham inaction. While documents have been exchanged, no substantive negotiations have taken place. There is a lack of detail in Sunnica's application and until the scheme is completely defined, there is limited value in evaluating and negotiating, given this incurs costs for the Mitcham family	It is hoped that further negotiations will take place and agreement can be reached. The Applicant is committed to providing any further information required and providing assurances where it can regarding drainage issues as outlined above.
	Deliverability	The Vicarage Field CPO decision highlights that the likelihood of the scheme actually being delivered is a key question. It showed the high bar that must be achieved, in order to be granted the privilege of compulsory powers. Bidwells do not believe this bar has been met by Sunnica.	The Applicant has explained in its response to Written Representation REP2-094 [REP3A-035] that the CPO decision cited by the landowner related to a decision not to make a CPO for a regeneration scheme due to doubts (due to lack of evidence / updated viability assessment) as to the viability of the proposed scheme and consequently the likelihood of it being delivered. The viability and delivery of the Applicant's Scheme are not in doubt and the Applicant disagrees that the CPO decision referred to has relevance in this case.





Party name	Theme	Summary of issue raised	Applicant's response
			The Applicant considers it has responded to matters which have been raised by the Mitcham's or their agents and is continuing to engage with them following the Compulsory Acquisition Hearing.