

SUNNICA ENERGY FARM

REF: EN01016 DRAFT DEVELOPMENT CONSENT ORDER

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (APPLICATIONS:

PRESCRIBED FORMS AND PROCEDURE) REGULATIONS 2009

DEADLINE 5 COMMENTS OF EAST CAMBRIDGESHIRE

DISTRICT COUNCIL

ON

REVISED DRAFT DEVELOPMENT CONSENT ORDER

PRELIMINARY

1. Notwithstanding the concerns raised in the Local Impact Report and hearings, East Cambridgeshire District Council (“ECDC”) has made the point that in important respects the information provided in support of the application is deficient. Those concerns remain.

The same two options remain:

- (i) To recommend that the DCO application is refused, or;
- (ii) To include provisions within the DCO to ensure that necessary information is supplied, or that other consenting procedures adequately address the gap.

HAZARDOUS SUBSTANCES CONSENT

2. ECDC has raised the question of the need, or not, for hazardous substances consent. The matter was raised by way of an invitation to the Applicant to provide further detail and a Position Statement to support either the current position that hazardous substances consent is not required, or to indicate that it is.
3. ECDC remains dissatisfied with the current position. It is unsatisfactory for the applicant to hedge its bets. It may proceed reasonably in two ways:
 - (i) Assume a battery type which does require HSC, provide the necessary evidence to the Examination, and obtain HSC;
 - (ii) Agree a requirement in the DCO which limits battery types to those which do not require HSC.
4. In the absence of either of those approaches, the ExA is put in the position where it must consider whether it could (the balance otherwise being in favour of making the DCO) properly recommend that the DCO is made. This is because the ExA will have no material on which to make an assessment of the effects and protective measures which accompany the HSC. It is plainly an important matter on which the ExA has not, to date, been assisted by the

applicant in the way which is normally expected. Rather, most of the relevant evidence has come from Dr Fordham.

MAINTENANCE

5. The definition of “maintenance” in the revised draft DCO is:

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development and “maintenance” and “maintaining” are to be construed accordingly;

6. This definition remains problematic because it fails to distinguish adequately between routine repair or replace of a few panels and works to entirely replace a whole field or phase of panels. There is an attempt to address this concern by in the second half of the definition “,but not remove, reconstruct or replace the whole of,...”. But that definition still makes it possible to replace very large proportions of the whole with all of the attendant impacts and effects. In fact, the effects would be double those of installation because there would be the operation of removing redundant material then the operation of fitting the replacement.
7. There is a further problem with this definition. There are 63 references to ‘maintain’ in the revised DCO. Many of them are references to maintenance of statutory undertaker’s equipment and not to the proposed development at all. The current definition is therefore inappropriately focused on the authorized development to the exclusion of the other parts of the DCO which speak of

maintenance and for which 'replacement of the whole' is likely to be irrelevant.

8. The better approach is as follows. The definition of maintain is simplified to what is genuinely maintenance as opposed to replacement:

"maintain" includes inspect, repair, adjust, alter, and improve any part of the authorised development and "maintenance" and "maintaining" are to be construed accordingly

9. Any work to replace, rather than repair, adjust, alter or improve would require consent, and would trigger the provisions for appropriate management plans. This is consistent with Art 5(3) which makes clear that maintenance does not include work which gives rise to new effects on the environment. Any substantial replacement would give rise to new effects on the environment. It is therefore appropriate to limit the definition of 'maintain' accordingly.

10. It also follows that there is a need for a new requirement to address what happens at the end of the life of the installation:

"Replacement of any Work shall require an application to be made to the local planning authority not less than 6 months before the commencement of any such operation and be agreed in writing. Replacement shall commence in accordance with the approved details."

TEMPORARY USE OF LAND

11. ECDC has previously indicated concerns about the flexibility of the phrase ‘temporary use of land’ which is found throughout the revised draft DCO. Those concerns about the lack of precision remain.

Article Number in the Draft DCO	Commentary
Art 27	<p>At Art 27(1)(a) the undertaker may remove any vegetation. The Council considers that should it be possible for the applicant to provide information prior to determination as to where trees and other vegetation will be required for removal to facilitate access making this clause redundant and unnecessary.</p> <p>The same point arises in respect of Work 10, dealt with below</p>
Art 36 (Trees)	ECDC continue to rely on the points made after ISH 1. The latitude afforded under these provisions remains far too wide.
Schedule 1	
Work 10 (see page 40)	<p>At Work 10 (a)(i) the works include removal of any vegetation. The Council considers that the applicant should provide information prior to determination as to where trees and other vegetation will be required for removal to facilitate access making this clause redundant and unnecessary.</p>
Schedule 2 (Requirements)	
Schedule 13 (Procedure for discharge)	A schedule of fees has been supplied to the applicant. Please see attached sheet

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