



13 January 2023 – Deadline 5

Application by Sunnica Ltd for an Order Granting Development Consent for the Sunnica Energy Farm Project EN010106

This document sets out the comments on the Applicant's Deadline 4 (D4) submissions by West Suffolk Council (WSC). The tables below set out the document in question that the Council is commenting on, together with the relevant paragraph or reference number.

Except where expressly stated otherwise below, the Council reiterates and relies on its comments submitted to the ExA at previous deadlines.

3.1 Draft Development Consent Order (Tracked) - Rev: 03 [REP4-005 and REP4-006]

Topic	Paragraph Number	Council's Comment
Felling or lopping of trees and removal of hedgerows	Article 36 (2)	The changes made in relation to the standard of tree works and compliance with legislation to protect wildlife are welcomed. However, these changes do not overcome the Council's fundamental objection as set out in the LIR [REP1-024] 10.223 and in 10,224 that 'due to the lack of clear tree information it is not possible to assess if the retained trees have been suitably considered in relation the future maintenance of and operation of the sites. The sites should be designed in relation to the existing trees on site making suitable allowances for the future growth potential and associated impact of the retained trees'.

Trees subject to tree preservation orders	Article 37 p29	The Council maintain their objection as set out in the LIR [REP1-024] 10.222, 10.224, 10.225, 10.226.	
Fees	Pg 137	The Council proposes the following fee schedule:	
		<i>Requirement</i>	<i>Fee</i>
		<p>Category 1: reserved matters (major)</p> <p>Requirement 6: Detailed design approval</p>	<p>In accordance With subparagraphs (2), (3) and (4)</p>
		<p>Category 2: minor reserved matter and other details</p> <p>Requirement 11: Fencing and other means of enclosure Requirement 12: Surface and foul water drainage Requirement 21: Permissive paths Requirement 22: Decommissioning and restoration</p>	<p>£2,028</p>
<p>Category 3: re-approvals</p> <p>(i) In respect of any Category 1 or Category 2 requirement where an application is made for discharge in respect of which an application has been made previously; and</p> <p>(ii) Requirement 5: Approved details and amendments to them</p>	<p>£462</p>		

		<p>Category 4: Other</p> <p>Requirement 3: Phasing of the authorised development and date of final commissioning</p> <p>Requirement 7: Fire safety management</p> <p>Requirement 8: Landscape and ecology management plan</p> <p>Requirement 10: Stone curlew</p> <p>Requirement 13: Archaeology</p> <p>Requirement 14: Construction environment management plan</p> <p>Requirement 15: Operational environment management plan</p> <p>Requirement 16: Construction traffic management plan</p> <p>Requirement 17: Operational noise</p> <p>Requirement 18: Ground conditions</p> <p>Requirement 19: Water management plan</p> <p>Requirement 20: Skills, supply chain and employment</p>	£116	
		<p><i>Calculation of Category 1 fees</i></p> <p>(2) Subject to sub-paragraph (3) and (4) below, applications for discharge of requirement 6 shall be calculated as follows –</p> <p>(a) where the area of gross floor space / gross site area to be created by the development does not exceed 40 metres, £234;</p>		

		<p>(b) where the area of the gross floor space / gross site area to be created by the development exceeds 40 square metres, but does not exceed 75 square metres, £462;</p> <p>(c) where the area of the gross floor space / gross site area to be created by the development exceeds 75 square metres, but does not exceed 3750 square metres, £462 for each 75 square metres of that area;</p> <p>(d) where the area of gross floor space /gross site area to be created by the development exceeds 3750 square metres, £19,049; and an additional £115 for each 75 square metres.</p> <p>(3) For the purpose of the calculation of fees pursuant to paragraph 5(2)—</p> <p>(a) the gross site area shall be taken as consisting of the area of land to which the application relates;</p> <p>(b) the area of gross floor space created by the development shall be ascertained by external measurement of the floor space, whether or not it is bounded (wholly or partly) by external walls of a building;</p> <p>(c) the gross floor space / gross site area to be created by the development exceeds 75 square metres and is not an exact multiple of 75 square metres, the area remaining after division of the total number of square metres of gross floor space by the figure of 75 shall be treated as being 75 metres.</p> <p>(4) The maximum total fee payable to each local planning authority for discharge of requirement 6 shall be £300,000.</p> <p><i>Refund of fees</i></p> <p>(5) Any fee paid under this Schedule shall be refunded to the undertaker within 8 weeks of—</p> <p>(a) the application being rejected as invalidly made</p> <p>[Note: this fee schedule is adapted from the Sizewell C DCO. Where relevant, it has been modified to make it appropriate for the purposes of Sunnica with deletions and additions as necessary. Further changes to ensure compatibility with the Sunnica DCO may be necessary].</p> <p>In addition the Council is seeking:</p> <ul style="list-style-type: none"> • £35,000 towards enforcement monitoring during the lifetime of the application, to be paid prior to commencement and
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		<ul style="list-style-type: none"> The Applicant's use of a pre-application process for the discharge of Requirements to be secured through a Planning Performance Agreement.
Landscape and Ecology management plan - content	Schedule 2 requirement 8(b)	<p>The Council considers that this document should also provide information on how the relevant landscape and ecological areas, including grassland and woodland, will be established during the construction period, prior to operation of the scheme.</p> <p>In addition, if the LEMP is not in place when decommissioning of the project occurs, the detailed DEMP should include details of any habitat restoration that will be required.</p>
Requirement 10 - Stone Curlew	10 (4)	The Council welcomes that the Stone Curlew offsetting habitat must be maintained throughout the decommissioning works. However, the Council is unclear why 'Requirement 10' cannot also include maintenance of stone curlew offsetting areas for a period of time beyond the decommissioning works. Please refer to the Response by Suffolk County Council to Action Point No. 8 Consequent Upon ISH2 on Environmental Matters [REP4-143].
Requirement 10 - Stone Curlew	10 (1) - (4)	Requirement 10 should be updated to include a contingency fund to address the Council's concerns that there is currently no contingency plan in place to deal with the situation that the Stone Curlew offsetting land is not effective. As discussed at ISH2 and set out at item 2b(6), pages 7-8 of West Suffolk District Council's post-hearing submission [REP4-131].
Requirement 14 CEMP	14(1)	WSC consider that Natural England should be consulted in connection with the discharge of Requirement 14.
Requirement 15 OEMP	15(1)	WSC consider that Natural England should be consulted in connection with the discharge of Requirement 15.

8.13 Draft Statement of Common Ground with Cambridgeshire County Council, Suffolk County Council, East Cambridgeshire District Council and West Suffolk Council [REP4-015]

Topic	Paragraph Number	Council's Comment
Ecology and Nature Conservation - Stone Curlew	Row 4, Page 12	The Council does not agree that the "Scheme provides nesting and higher quality grassland foraging habitats located close to nesting sites for in excess of five pairs of Stone Curlew" given that the scheme will provide sub-optimal, not optimal, habitat for these species. This matter is still under discussion.

8.15 Draft Statement of Common Ground with Natural England - Rev: 01 [REP4-017]

Topic	Paragraph Number	Council's Comment
Habitat Regulations Assessment	Table 2, p7, Row 2 – stage 1 screening	The Council welcomes that the Applicant will be updating the HRA at a future Examination deadline and seek an opportunity to comment, when it is submitted to the Examination.
Habitat Regulations Assessment: Measures to offset impacts to Stone-curlew, a qualifying species of Breckland SPA.	Row 2, table 3, page 15	The Council notes that Natural England is not yet satisfied that that the proposed offsetting land is sufficient to rule out impacts to Stone Curlew. The Applicant is going to provide further information and update the HRA.
Assessment findings: Presentation of results and	Row 2, page 16	The Council notes that Natural England has requested further information with respect to the air quality assessment, specifically Breckland SAC, Devil's Dyke SAC and Rex Graham Reserve SAC.

assessment findings: Construction, operation and decommissioning effects: Ecology and Nature Conservation and Air Quality		
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8.57 Written Summary of Applicant's Oral Submissions at the Issue Specific Hearing – Environmental Matters on 7 December 2022 [REP4-030]

Topic	Paragraph Number	Council's Comment
Bird surveys	3.1.7	The post meeting note states that the further surveys prior to commencement of construction to be carried out to reaffirm the baseline for ground nesting birds in particular is "secured through the Framework CEMP [REP3-015]". However the Framework CEMP states that "Pre-construction surveys will be undertaken to validate and, if necessary, update the baseline habitat survey findings and to update on the presence and location of invasive species"(page 16C-17) but doesn't include pre-commencement surveys for protected species. The Council requests the wording of the FCEMP be updated to include update of baseline habitat and protected species.
Impacts on Stone Curlews and adequacy of proposed mitigation	3.2.13	The Council welcomes confirmation that the Applicant will be updating the Offsetting Habitat Provision for Stone-Curlew Specification [APP-258] and OLEMP at Deadline 5.
Bats – AIA	3.3.13 and 5.1.13	The Councils require the applicant to submit further evidence to demonstrate the statement that "there is nothing new in the AIA that would alter the conclusions of the existing [ecological] assessment".

Bats - CEMP	3.3.16	Professor Wade confirmed that measures relating to bats is secured through the Framework Construction Environment Management Plan (CEMP). However, the Councils cannot find any reference within the CEMP to the requirement for pre-commencement surveys for bats. The Councils are particularly concerned given the Applicant has confirmed on page 39 of their response to the Councils' Local Impact Report [REP3-019] that "bat roost surveys (emergence /re-entry) will be necessary" for tree(s) of high potential for roosting bats and "if a bat roost is confirmed at this location a bat mitigation licence (e.g. an EPSML) will be required to be obtained prior to the loss of this roost".
Arable Flora	3.3.18	The Council welcomes confirmation that the Applicant will be updating the OLEMP at Deadline 5 and trusts that the spatial distribution of the arable flora mitigation will be reflected in the Environmental Masterplan and in the BNG calculation.
Non-designated heritage assets	4.5.5	The applicant has confirmed that built NDHAs were identified through site visits and included in the impact assessment. No isolated assets outside conservation areas were identified as affected by the proposals. This confirmation is acknowledged and accepted.

8.61 Applicant's response to East Cambridgeshire District Council, Cambridgeshire County Council, Suffolk County Council and West Suffolk Council Deadline 2, 3 and 3A Submissions [REP4-035]

Topic	Paragraph Number	Council's Comment
Environment – Waste	Hazardous Substances Consent, pg 66	The Council notes the Applicant's response to the Council's request that further information is provided to establish whether Hazardous Substances Consent is required. However, as stated in its Post-Hearing Submission for ISH1 [REP2-086c], the Council maintains its view that the DCO should provide for the granting of HSC in the event that it is required rather than it being subject to a separate consenting process. As previously stated, the DCO process is deliberately designed to provide a streamlined procedure such that any

		<p>necessary relevant consents can be obtained as part of a single decision-making process. This is to ensure speed and fairness, not just for applicants but also for the communities involved in and impacted by such schemes. In this particular case, the need to have certainty on the HSC is especially important given the inherent and considerable risks involved and it would be wholly unsatisfactory to determine the application in the absence of any relevant information on the HSC issue. The Council endorses ECDC's response to ExQ2 Q2.1.2 in this regard.</p>
Legal – Definition of 'maintain'	Pg 76	<p>The Council welcomes the inclusion of the topic of 'maintenance' and 'threshold of maintenance' in the Draft Statement of Common Ground with the Councils [REP4-015] under the 'Matters under discussion section'. The Council awaits the Applicant's proposed form of wording to include in the Framework OEMP to address its concerns.</p>