

Fordham (Cambs) Walking Group



Deadline 6 Representation January 2023

**Planning Inspectorate Reference EN010106 Sunnica Energy Farm
Registered party 20030564**

**Comments on Additional Submissions, Questions and Information
submitted at Deadline 5**

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1 INTRODUCTION

1.1 Fordham (Cambs) Walking Group (FCWG) welcome the opportunity to respond to the 6th deadline with our comments on the responses to answers Inspectorate's questions and information submitted to the fifth deadline.

1.2 We have perused many documents with no guide to locate those relevant to our area of interest. Drawings are included that when zoomed, even the key can't be read. In the context of PROWs and permissive paths, all previous requests for a clearer presentation including relation to the highway network have been ignored by Sunnica and continue to be ignored or deferred. We find this unhelpful to the process.

1.3 We apologise insofar as we find a need to repeat some of our group's questions raised before that have either not been answered at all, or insufficiently.

2 BACKGROUND

2.1 The FCWG Written Statement of November 2022 (Registered party 20030564 document EN010106-003889) remains the main plank of this group's case.

2.2 It is supplemented by a question, and request for information by email dated 4th November 2022 following a request at ASI on 3rd November 2022, that I put my question in writing (Document EN010106-004531). No substantive response has been received from to my question regarding Sunnica's discussions with landowners: *"Is there any reason why these discussions cannot include the creation of permissive footpaths or bridleways along the cabling route?"*

2.3 There has been no cooperation from Sunnica on my request (Document EN010106-004531), to look at the network of routes for non-motorised users (NMUs) across the wider area - *"There are missing links considering availability of attractive linear and circular routes. Since it is the case that non-vehicular users favour safe, attractive, PROWs and class C or unclassified roads; it would assist consideration of this issue if you were to generate a drawing highlighting these and your "potential" permissive routes. I guess that would simply involve a matter of switching on layers in your CAD system"*.

2.4 FCWG had scoped settlements within 3 miles of the extensive DCO area. All 15 of them, offer scope for improved circular, or linear routes for walking and cycling between them.

The settlements included are Burwell, Wicken, Soham, Exning, Newmarket, Isleham, Fordham, Snailwell, Chippenham, Freckenham, West Row, Worlington, Mildenhall, Barton Mills and Red Lodge.

2.5 In the same document Document EN010106-004531, we re-emphasised Sunnica's failure to properly address NPPF policies relevant to walking and cycling, nor analyse in detail, nor respond to, the specific policy requirements of the NPPF and the relevant development plan documents. Once again, no substantive response has been forthcoming from Sunnica in response to our position that the very limited permissive routes they propose are minimal and less than is warranted by the scale of the project.

2.6 Whilst some response was given by Sunnica in REP2-137 Deadline 3A Submission - 8.50 Applicant's 12 responses to Written Representations, we pointed out that our group's objection relates principally to the absence of adequate permissive routes during the operational phase of 40 years. Sunnica's responses refer to their assessment of the existing PROWs and need for mitigation during the construction phase not operational. The FCWG request is for longer term sustainable

benefits for our local communities, including significant permissive routes, over the full operational phase of 40 years.

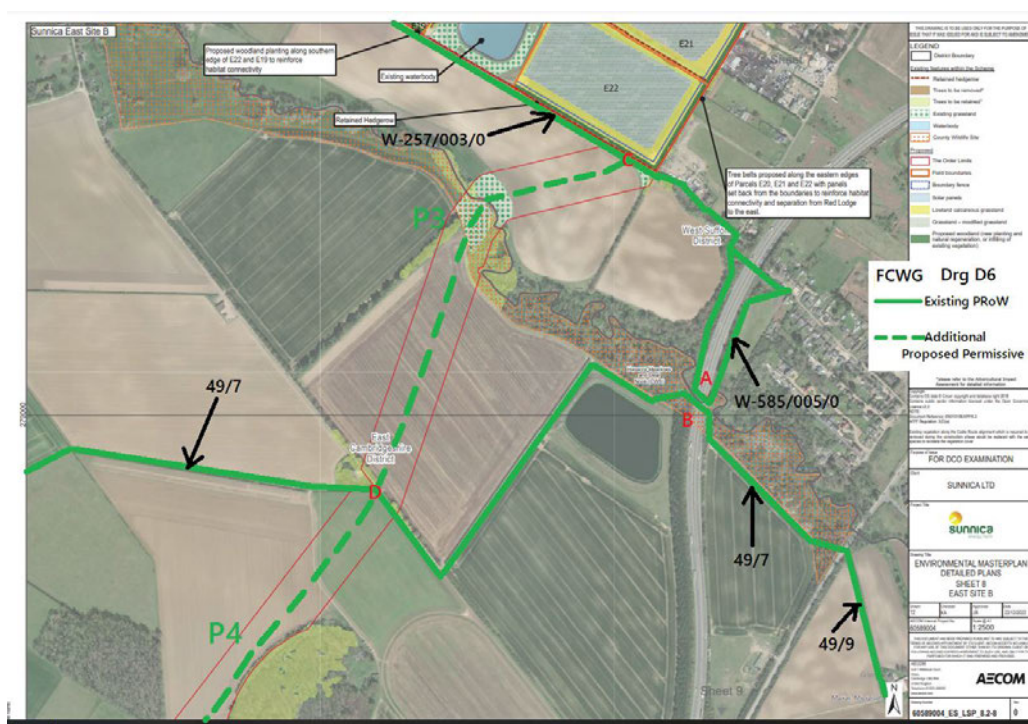
2.6 I represented the group at ISH3 and clarified the group's wish to be included in any future discussions on permissive routes (Post Hearing Document EN010106-004596). Whilst all the local authorities that have commented support FCWG's inclusion, Sunnica are blocking it (please see applicant's response to Inspectorate Q2.9.18).

2.7 FCWG members attended pre-application events and were led to believe that Sunnica would provide permissive routes. What we did not anticipate was the paucity of that provision. Since submission of the formal DCO, a pattern emerges that includes disregarding FCWG comments and we would conclude from the chronology, blatant stalling tactics. Also, Sunnica have made public assurances that they would respond to FCWG and then have failed to do so. They have made a mockery of public consultation, inclusive design and front loading. It is already a difficult enough process for 3rd parties considering the Rochdale Envelope "Outline Design Principles".

2.8 At an early stage FCWG were keen to engage with Sunnica to reach solutions. We find that our trust in the process and Sunnica has dissolved where they have reneged on their preparedness to engage. Whilst Sunnica have made some changes, they still lack the proper strategic approach and show too little too late and the FCWG urge a recommendation of refusal of the DCO on that basis.

3 ACCOMPANIED SITE INSPECTIONS

3.1 In the first round we put forward a suggested ASI location to serve as just one example of the failed connectivity in the local network. The suggested location was alongside the River Kennet on public bridleway W- 585/005/0, grid 52°18.139'N, 0°28.628'E and public footpath 49/7, 52°18.126'N, 0°28.613'E. These locations A&B on FCWG Drg6 are very close together and currently, there is no way for pedestrians to cross the river without a mile long detour. The point of the site inspection would be to evaluate the pedestrian problem and scope any opportunity for the nearby cabling route to be over the water at this point, combined with a permissive bridge. Alternatively, Sunnica could fund a bridge between points A&B.



3.2 In the second round of ASIs, we would also suggest that the Inspectorate may wish to visit Badlingham Road grid 52°18.823'N, 0°27.860'E to gauge whether this route raises safety concerns for NMUs. Sunnica have claimed that it is hazardous in responding to this group's suggestion that their parallel route through E19 is hardly needed, and relatively low on the list of priorities for better routes across the wide area of the DCO. FCWG regard Badlingham Road, with its minimal vehicular traffic and generous verges, a safe and pleasant walking route. Also, the Sunnica route along the edge of a large field of solar panels is markedly less attractive. With that in mind, a more effective investment could be made in permissive routes elsewhere across the expanse of the DCO site.



Badlingham Road – a safe and attractive route for non-motorised users

4 COMMENTS ON THE PROCESS SO FAR

4.1 We are concluding that Sunnica seek to gain an advantage by failing to, or postponing response to questions raised by FCWG. This appears to have been part of plan to avoid or delay a debate on what constitutes a reasonable provision of permissive routes. We see Sunnica initially postponing a decision and latterly, resisting a negotiation outright.

4.2 There should have been a holistic approach to including permissive routes at an early stage of scheme design. In practice, it looks like Sunnica are proposing the minimum as an afterthought.

4.3 The latest Sunnica position of the 'possibility' of some future undefined level of contribution to permissive routes is felt to be unacceptable. The absence of a finite and proportionate response remains a potential ground for recommending refusal of the DCO should the Inspectorate be so minded.

4.4 FCWG would like greater certainty by including significantly more permissive routes within the DCO site itself. This would provide a more solid foundation to ensure that delivery is specific, measurable, achievable, realistic, and timely as provision would be integrated with the construction phase.

4.5 It is the case that Sunnica originally regarded their 'potential' permissive routes totalling 2.0 miles to be adequate. Whilst that length has since been marginally added to, the proposals include routes in and around the perimeter of individual DCO cells. These routes are of no use at all in healing missing links in the local network.

4.6 FCWG suggested a long 'spine' through the DCO site which would heal major gaps the local network, roughly linking Isleham, Red Lodge and Burwell. It would also open up circular routes from most of the 15 villages identified as the zone of influence. The suggested route is shown green on the drawing at Appendix D6.1 of this document.

4.7 The DCO boundary stretches 12.0 miles through the site from west to east and 6.8 miles through the site north to south. A level of provision of permissive routes should be commensurate with the scale of the DCO. We disagree with Sunnica's view that the scheme will have a positive impact on mental health during operation, and with their view that the negative impacts on footpaths are transient. If permitted, it is rumoured that this would be the largest solar farm in Europe. As such, the current proposal falls well short of an inclusive design exemplar, where many components, including permissive paths, are inadequately dealt with as an afterthought.

4.8 Sunnica are now suggesting (ISH3) a late option of possible contributions to the local authorities to fund permissive paths off site. FCWG have several concerns regarding this course of action:

- There is a lack of specific information regarding what, when and where is being proposed together with the level of financial contribution.
- Uncertainty of delivery – reluctant landowners, many things that may frustrate timing or prevent delivery.
- S106 chargeback if the contribution has not been spent or committed for expenditure within a period. Some LPAs will refuse to reimburse unspent funds but will instead recommit these for other purposes. All the achievements of the LPAs as detailed in their RoW improvement plans are located away from the DCO area and there are no specific proposals for the DCO environs. We are concerned at any further relative loss of funding for areas on this Suffolk/Cambridgeshire county fringe.
- Sunnica reluctance to carry out an adequate assessment.
- Sunnica reluctance to deliver an adequate contribution / provision commensurate with the scale of the development proposed.
- Sunnica resistance to include FCWG as a stakeholder in the ongoing discussions.

4.9 The Sunnica approach lacks due diligence in relation to permissive paths over the 15 villages identified in SCWG's written statement (Deadline 2 document EN010106-003889). The very limited permissive routes proposed only benefit a small part of the area impacted by the DCO site. The current limited provision is focused on just 3 villages – Isleham, Freckenham and Worlington.

4.10 To give an example of the approach Sunnica might have used if they were more favourably disposed to working with NMUs. Members of FCWG have for some years been seeking improvements to local routes. The local councils have subsequently taken note of suggestions put forward and have undertaken surveys to inform action. An example of such is the **East Cambridgeshire Cycling and Walking Routes Strategy adopted in November 2021**. A copy of that document is submitted separately as an appendix. It is regretted that there is no evidence that Sunnica have carried out their own analysis or drawn upon the good work carried out by others to date.

4.11 Taking just one further example of the Fordham to Burwell link, Sustrans have published a **Feasibility Study - Burwell, Fordham and wider links (11 April 2022)** which looks at the constraints and opportunities in considerable detail. This document is submitted as a separate appendix. Once again, there is no evidence that Sunnica have carried out their own analysis or drawn upon the work carried out by others to date or acted on any of the network shortfalls identified.

4.12 It appears that the Sunnica approach has failed to look at any locally identified schemes to improve active travel. Nor has Sunnica demonstrated any significant assessment of local needs or

that they have attended any significant detail. FCWG's written statement (document EN010106-003889) has largely been ignored by Sunnica with no acknowledgement of the example given illustrating the problem of crossing the River Kennet at Red Lodge. In that example the opportunity exists to save a 0.9-mile detour between points A and B on FCWG drawing D6. These points are just 4 metres apart but with no means of crossing the river. This compromises the value of circular routes from Chippenham, Badlingham, Freckenham and Red Lodge.

4.13 Where Sunnica have responded to FCWG's Written Statement (document EN010106-003889) the points raised have been inadequately answered and are found lacking in reasoned justification. Towards the end of ISH3 Sunnica's Barrister Richard Turney claimed that legally Sunnica are not able to provide permissive paths within the DCO. FCWG are finding this hard to grasp and would request a more detailed explanation from Sunnica. Their position doesn't sit well with the fact that Sunnica are proposing some permissive routes within the DCO, albeit on a very small scale.

4.14 Our understanding is that an agreement may be made under section 106 of the Town and Country Planning Act 1990, containing covenants from one or more parties (who must have a legal interest in the land) to another party (usually the local planning authority). Under section 106(1) of the Act, any person interested in the land may enter into a planning obligation. Persons can only bind their own interest and any successors in title to that interest. Normally all persons with an interest in land affected by a planning obligation – including freeholders, leaseholders, holders of any estate contracts and any mortgagees – may and should sign the obligation. Where a developer has only an option to purchase the land, the current landowners will need to be party to any obligation binding the land. The FCWG cannot currently see any reason in principle why the owner, and any other party with an interest, cannot enter into such agreement to achieve permissive route on the DCO land. There may be impediments that we are not aware of and that is the reason for seeking further information. Dialogue is the key to understanding on both sides and Sunnica are resisting that.

5 COMMENTS ON RESPONSES TO THE INSPECTORATE'S QUESTIONS FROM DEADLINE 5

5.1 Inspectorate Q 2.0.9 to SCC Land parcels E12, E13, E05 *"If the ExA were to recommend that parcels E12, E13 and E05 should remain, please identify the extent of the PV solar panels in those parcels that would effectively mitigate impacts".*

5.2 SCC response includes reference to the following *"Reduce the south-eastern extent of the solar panels to create a set back from Lee Brook and provide a riparian planting scheme so that the watercourse becomes more legible in the landscape, without truncating views along Beck Road, and to facilitate a walking route outside the flood zone. and Reduce the eastern extent of the solar panels to facilitate a walking route outside the flood zone."*... also to *"Provide the proposed permissive footpath along Beck Road, locating it within the 100m strip away from the road. The greater distance between the road and the footpath would benefit users and also reduce any disturbance to ECO1 and ECO2. • Provide an additional recreational footpath route around E05 to reduce the potential for recreational access into ECO1 and ECO2. And to Facilitate connection of the permissive footpath and any other route with Isleham (along Beck Road and/or Sheldrick Road).*

5.3 FCWG RESPONSE - The group agrees with and supports the SCC response. This is considered a necessary improvement to achieve a more acceptable environment for NMUs. If provided, it would be acceptable to FCWG as an alternative to our suggested permissive routes P1 and P2 of our written statement document EN010106-004531.

5.4 Inspectorate Q 2.0.10 to SCC Rights of Way *What rights of way improvements are proposed as an offsetting measure if avoidance or mitigation were not possible?*

5.5 SCC Response *"The County Councils, as Highway Authorities, are working with local communities on a Public Access mitigation package. The Councils are currently in consultation with local communities regarding access improvements but not in a position to provide a finalised package at present. The Councils will provide a fuller update at Deadline 6, reflecting their engagement with local communities. There has not yet been engagement from the Applicant regarding specific public access mitigation measures, but the Councils acknowledge the Applicant's willingness to contribute to funding such measures (as indicated at paras 7.9.4 and 7.9.5 of REP4-032).*

5.6 FCWG RESPONSE - Our group covers Suffolk and Cambridgeshire. We have had no consultation from the County Councils in relation to any access improvements or package of public access mitigation measures related to the Sunnica proposals.

5.7 Inspectorate Q2.9.9 to the applicant Public rights of way (PRoW) *"In light of concerns raised by the authorities with responsibilities for the PRoW network within their respective boundaries and others about visual and noise impacts of aspects of the scheme on users of public rights of way, please would the Applicant explain how these concerns have been taken into account, whether the Applicant will now treat NMUs as sensitive receptors in the Environmental Assessment, and indicate what permanent enhancement to the PRoW network will be offered in mitigation therefor?"*

5.8 Sunnica response includes the following: *"In terms of permanent enhancements to PRoW network, the Applicant is in discussions with the Councils concerning entering into a s106 agreement, which would provide funds to the councils to create new, or to improve existing, PRoWs in the vicinity of the Scheme".*

5.9 FCWG RESPONSE - In responding to this question relating to mitigation, Sunnica's answer implies acceptance that new and improved RoWs are a form of mitigation. The creation of an industrial type landscape in this rural area would have a negative impact on mental health and may restrict potential demand for active travel, wellbeing walking and NMUs in general. Sunnica's response is at odds with their response to Inspectorate Q Q2.9.18 to the Applicant and CCC regarding Fordham walking group concerns wherein Sunnica state that *"The Permissive Routes proposed within the Scheme are not mitigation"*.

5.10 Inspectorate Q2.9.13 to the applicant PRoW plans *Please amend the Access & Rights of Way Plans (1) to include permissive paths, showing clearly their connectivity and position within the wider routes network, and (2) to show clearly whether or not any of the roads affected by the proposed development are maintainable at the public expense".*

5.11 **Sunnica response** *"(1) The Applicant has submitted relevant updated sheets of the Access and Rights of Way Plans at Deadline 5 for the purpose of the Changes Application submitted at the same time. To the extent that any permissive paths are on those relevant sheets, they are presented on the plans. The Applicant intends to produce and submit to the Examination in due course a consolidated set of Access and Rights of Way Plans, pending acceptance of the application and further discussion with the LPAs regarding the detail of the permissive paths. For the avoidance of doubt, the Applicant confirms that it will be adding permissive paths to these plans. (2) The relevant roads which are maintainable at the public expense are listed in column (2) of Schedule 5 to the dDCO.*

5.12 FCWG RESPONSE - Our group still does not consider that Sunnica's response is adequate. We requested a full and better representation of NMU routes in our Deadline 2 Submission - Written

Representation EN010106-003889, and an email dated 4th November 2022 (Document EN010106-004531). The FCWG email drew attention to missing links considering the shortage of attractive linear and circular routes across the wider area of 15 villages considered to be the area of influence. Since it is the case that non-vehicular users favour safe, attractive, PROWs and class C or unclassified roads, Sunnica were asked if they could generate a drawing highlighting these and their “potential” permissive routes to aid understanding. The Sunnica drawings continue to show roads greyed out and nowhere is there a map clearly showing the web of roads and RoWs across the whole area to enable gaps in the NMU network to be identified and addressed. No response from Sunnica to the email on these points raised has been forthcoming.

5.13 The wider routes network over the whole DCO zone of influence is important, including routes between Red Lodge and Burwell, and Isleham and Snailwell. The stated project life of 40 years means it would outlive most of our members. It is hard to imagine another project of this scale coming up within such period that would offer the opportunity to improve walking routes over such a wide area.

5.14 Inspectorate Q2.9.14 to the applicant PRow improvement plan – “How would the adverse impact of the scheme on local communities be mitigated by addressing the requirements of the Council’s statutory Rights of Way Improvement Plan as discussed with CCC at ISH3 and referred to in CCC D4 submission (REP4-137)?

5.15 Sunnica Response *“Whilst the Applicant has not identified any adverse impacts from the Scheme during the operational phase in relation to PROWs, the Applicant recognises the comments made by interested parties and the Councils in their representations and at the hearings in December 2022. The Applicant is therefore willing to enter into a s106 agreement with Cambridgeshire County Council and Suffolk County Council to create new and/or improve existing PROWs within the vicinity of the Scheme, following the Hearing in December 2022. A HoT on this aspect has been issued to both councils in January 2023 for further discussion”.*

5.16 FCWG RESPONSE – We would favour greater certainty by including significantly more permissive routes within the DCO site itself. This would provide a more solid foundation to ensure that delivery is specific, measurable, achievable, realistic, and timely as provision would be integrated with the construction phase. Our concerns are set out more detail at paragraph 4.8 of this statement. In the absence of any certainty of what is proposed and the need for an appropriate level of mitigation to be defined, and to fully address the policies and advice, this group feels that there is a potential ground for recommending refusal of the DCO should the Inspectorate be so minded.

5.17 Inspectorate Q2.9.15 To the Applicant, Public access strategy – “How would the Applicant’s proposals contribute to a more extensive public access strategy said to be integral to the Stone Curlew mitigation, given its potential to help manage the recreational pressure by diverting people away from Beck Road and providing an alternative to the existing PRow that goes along EC02?”

Sunnica Response – Noted.

5.18 CCC Response: The Council appreciates that this question is for the Applicant. In order to assist the ExA, CCC refers to SCC’s response to Q2.0.9, which has been prepared by SCC and CCC as a joint response because parcel E05 is within Cambridgeshire. CCC would add that the LHAs seek section 106 contributions for (amongst other additions) the creation of a definitive path linking the proposed E05 perimeter path with Isleham village. Both authorities are considering their position on Public Access mitigation strategies in readiness of discussions with the Applicant.

5.19 FCWG RESPONSE - The group agrees with and supports the SCC response albeit with some reservations. This is a necessary improvement to achieve an acceptable route for NMUs provided it would fully link to Isleham avoiding the main carriageway of Sheldrick's Road. If provided, it might be an acceptable alternative to FCWG suggested permissive routes P1 and P2 of our written statement document EN010106-004531. FCWG still have the concerns expressed at paragraph 4.8 of this statement. Overall, the E05 proposal makes a relatively small improvement considering routes are warranted over a much wider area. The circular route within E05 would serve no strategic purpose and its amenity value limited by the proximity of solar panels and fencing. That is not to say that the public access within that cell is without value where it could form part of a commemorative tribute walk around the crash site. Our group covers Suffolk and Cambridgeshire but we have had no consultation from Sunnica or the County Councils in relation to any access improvements or package of public access mitigation measures related to the Sunnica proposals on this, or any other part, in or near the DCO site. It is however noted and welcomed that CCC consider that FCWG should be consulted and be part of the discussions.

5.20 Inspectorate Q2.9.16 to the applicant - Permissive access: *"The permissive access offered in Cambridgeshire at the E05 site does not appear to connect to any existing PRoW. Therefore, what proposals does the Applicant have that would increase and/or enhance walking opportunities from Isleham?"*

5.21 Sunnica Response – *"As outlined in the response to Q2.9.14 the Applicant is willing to enter into a s106 agreement with Cambridgeshire County Council and Suffolk County Council to create new and/or improve existing PRoWs within the vicinity of the Scheme. A HoT on this aspect has been issued to both councils in January 2023 for further discussion.*

5.22 FCWG RESPONSE - This is felt to be a necessary improvement to achieve an acceptable route for NMUs provided it would fully link to the built edge of Isleham avoiding the main carriageway of Sheldrick's Road. If provided, it might be an acceptable alternative to FCWG suggested permissive routes P1 and P2 of our written statement document EN010106-004531. FCWG still have the reservations expressed in paragraph 4.8 however and that overall, this makes a relatively small improvement considering routes warranted over a much wider area. Our group covers Suffolk and Cambridgeshire but we have had no consultation from Sunnica or the County Councils in relation to any access improvements or package of public access mitigation measures related to the Sunnica proposals on this, or any other part, in or near the DCO site. It is however noted and welcomed that CCC consider that FCWG should be consulted and be part of the discussions.

5.23 Inspectorate Q2.9.17 to the applicant - Permissive path within E05 *"• If E05 is retained, does the Applicant agree that the proposed open space and car park facilities (referred to by CCC in its comments on D3 and D3A submissions [REP4- 137]) would improve amenity access and please explain your reasoning? • How would this proposal and the suggested pushing back of the permissive path in the southern section of E05 be incorporated as part of the proposed development?"*

5.24 Sunnica Response *"The permissive route within E05 has been re-designed to provide a circular route around the solar panels in parcel E05 and running parallel with Beck Road within Sunnica East Site A. This will provide a connection between Isleham to the west and Freckenham to the south via bridleway W-257. It will also provide opportunities for shorter circular routes and will connect with a new space to the west of E05 where a memorial to the B50 crash site will be constructed. This is shown on the updated Environmental Master Plans which are being submitted at Deadline 5 [8.47]. Car parking spaces have not been provided as part of the design; however, the area can be accessed from Freckenham via the W-257 and the Councils will have opportunities through the s106*

agreement to provide walking access to the area from Isleham. This will encourage walking from the two villages and surrounding area rather than driving and parking at this location. The proposal to push the permissive path back from Beck Road has been integrated into the Environmental Master Plan and described within the OLEMP both of which are being re-submitted at Deadline 5."

5.25 FCWG Response – We agree with the desirability of fully linking Isleham and Freckenham via bridleway W-257. A similar suggested link was contained in FCWG suggested permissive routes P1 and P2 of our written statement document EN010106-004531. FCWG still have the reservations expressed in paragraph 4.8 and that overall, this possible addition via S106 makes a relatively small improvement considering routes needed over a much wider area. Our group covers Suffolk and Cambridgeshire but we have had no consultation from Sunnica or the County Councils in relation to any access improvements or package of public access mitigation measures related to the Sunnica proposals on this, or any other part, in or near the DCO site. It is however noted and welcomed that CCC consider that FCWG should be consulted and be part of the discussions.

5.26 Inspectorate Q2.9.18 to the applicant and CCC - Fordham walking group concerns – *"Fordham Cambs Walking Group (FCWG) has over 200 active members, including members from neighbouring villages. They have expressed strong concerns regarding the inadequacy of mitigation relating to permissive routes (see FPC submission at D4). Please confirm that the discussions between the Applicant and CCC relating to permissive routes will include the FCWG as requested in that organisation's D4 post hearing submission [REP4-097]."*

5.27 CCC Response - *CCC is of the view that Fordham (Cambs) Walking Group (FCWG) should be consulted by the local highway authorities and the Applicant in order to help inform a representative view of local needs.*

Not only is FCWG an interested party but they are effectively the pedestrian representation, in lieu of the Ramblers' Association (RA) who do not have a representative in this area. The RA would normally be the statutory consultee and the LHA is content that the FCWG are a reasonable alternative. CCC would not expect FCWG to be a party to the s106 discussions, but we would expect them to be consulted in order to help inform those negotiations. CCC also considers that the local parish councils should be consulted, as it is critical that any public access mitigation strategy takes account of local knowledge and needs, and parish councils are usually well placed to provide this. The purpose of the public access mitigation strategy is fundamentally to address the adverse impact of the scheme on the local communities through seeking improvements to the existing limited network and the associated landscape and cultural heritage experience. Should s106 monies be agreed to create additional paths outside of the redline boundary of the scheme during the life of the scheme, and paths within the redline boundary once the plant is decommissioned, the parish councils would, under the terms of a section 26 creation order, be a statutory consultee. Therefore, it is sensible that their views are canvassed in the creation of any proposed mitigation strategy. The Councils welcomed the Applicant's verbal statement at ISH3 that they were willing to engage with the Councils to agree an appropriate s106 agreement and compensation for PROW mitigation. CCC is of the view that permissive paths other than those currently proposed are feasible, not only around parcel E05 but also around E19-E22 near Worlington, as was discussed at a meeting between SCC, CCC and other authorities on 1 December 2022 with AECOM (representing the Applicant). The actions agreed at this meeting, for AECOM to provide revised plans for the permissive paths discussed, are still awaited. The Councils are of the view that there is also merit in FCWG's suggestions for providing access along at least some of the cable corridors. This is a jointly agreed position between CCC and SCC, because, as with other PROW matters, the same issues exist for both administrative areas and thus need to be considered holistically. Rights of Way users are not concerned with county

boundaries; they use the network according to their needs. Therefore, it is vital that the stakeholders work together to agree solutions to the concerns raised.

5.28 Sunnica Response – *“The Permissive Routes proposed within the Scheme are not mitigation, i.e. they have not been proposed to mitigate an impact, but rather have been proposed as an enhancement to the existing Public Rights of Way Network within the vicinity of the Scheme. The Applicant does not consider that FCWG should form part of the discussions on the permissive paths within the Scheme, as from the Applicant’s perspective, apart from the changes to the permissive path around E05 in Sunnica East Site A, no other changes to Permissive Paths are feasible or practicable. However, the Applicant is willing to enter into a s106 agreement with Cambridgeshire County Council to create new and/or improve existing PROWs within the vicinity of the Scheme, and the Applicant would suggest that FCWG are a consultee to that process.*

5.29 FCWG RESPONSE –

The fact that the Applicant does not consider that FCWG should form part of the discussions on permissive paths is symptomatic of their early failure to listen to and address the needs of the local community. The involvement of FCWG is supported by the local authorities at Parish, District and County levels. The Ramblers Association deadline 2 email dated 8th November 2022 raises similar concerns that Sunnica have not addressed or responded to their suggestions. The absence of a significant response to policies and local needs remains a potential ground for recommending refusal of the DCO should the Inspectorate be so minded.

Sunnica’s statement that permissive routes proposed within the scheme are not mitigation contradicts their apparent acceptance of that word without challenge in relation to IxQ Q2.9.9 and Q2.9.14. Whilst ‘mitigation’ has a particular meaning for EIA, irrespective of that, the need for a meaningful proportionate response to the relevant planning policies for permissive routes stands irrespective of the noun used.

6 COMMENTS ON APPLICANT’S RESPONSES TO OTHER PARTIES FROM DEADLINE 5 SUBMISSIONS

Applicant’s Deadline 5 response to LPA Deadline 4 Submissions Impact on NMUs

6.1 LPA Q (Saturdays 14.49) *“The Council does not accept the exclusion of NMUs as sensitive receptors in the Environmental Assessment. It is commonly accepted within local authority health and wellbeing strategies that there is a strong link between behaviours and health and wellbeing. Guidance published by NICE2 identifies the importance of providing infrastructure to capture and retain positive behaviours, and the Government’s A Green Future: Our 25 Year Plan to Improve the Environment3 has identified, within Chapter 3, the Covid pandemic as underlining the important role of nature for our health and wellbeing, particularly for those living in disadvantaged areas. The pandemic has provided a wealth of evidence that many people changed their behaviours as a result of prolonged conditions. As cited at 10.161 below, evidence given at the Open Floor Hearing on 6th December and at ISH3 is that local residents enjoy walking, cycling and riding through the existing landscape because of its intrinsic historic and open rural character. They particularly appreciate the very quiet, peaceful character and it is the reason that some people moved to the area. Users fear that the solar farm will vastly change their enjoyment of the landscape. The Council considers that the construction works could have a significant adverse impact on the behaviour of NMUs, because it will create a less pleasant environment to walk, ride or cycle through. This may or may not be users’ perceptions, but the works still have the potential to create a negative impact on behaviours, affecting physical and mental health and wellbeing. The Council therefore submits that the Applicant needs to appropriately mitigate the adverse impact of the scheme on local communities through a more comprehensive public access strategy, suggestions for which are expanded upon at 10.161*

below. Such a strategy should include mitigation during the construction phase. This would help address the requirements of the Council's statutory Rights of Way Improvement Plan Statements of Action 2 A safer and health-enhancing activity, SoA3: New development should not damage the countryside provision and should contribute to the provision of new links and improvement of the existing PROW network; and SoA5 Filling the gaps: countryside provision should build on the platform of the historical network to meet the needs of today's users".

6.2 Sunnica Deadline 5 Response

"The Landscape and Visual Impact Assessment (LVIA) summarised in Chapter 10 of the Environmental Statement [APP-042] includes a detailed assessment of the likely effects on the views and visual amenity of people using existing public rights of way. The assessment concludes that there will be a range of significant visual effects on people's views from PROW during construction but that these will be short term and reversible. These effects relate mostly to where PROW intersect the cables routes. A section of the U6006 unclassified road passes through Sunnica East Site B. There are also some sections of existing PROW which are parallel to parts of the Scheme. The Scheme has avoided or minimised effects on users of these routes by making use of existing vegetation and additional proposed planting, such that by year 15 of operation visual effects on users of the PROW network will be not significant."

6.3 FCWG RESPONSE – We agree entirely with the LPA assessment which mirrors our experience over the Covid pandemic and fuel crisis period during which our membership has grown. Also, we have regular health walks where participants enjoy mental and physical benefits as promoted by Government initiatives. The Sunnica response once again focuses on existing PROWs and the construction phase effects. The need for significant mitigation in the form of additional permissive routes to compensate the industrial nature of the impact during the operational phase is overlooked.

6.4 Applicant's response to LPA Deadline 4 Submissions Landscape

LPA – PROW as historic and living features (14.40 and 14.47) *"It is noted that the Applicant considers that the integration of existing PROW and new permissive routes to enhance public access to the countryside have been key considerations through the Design and Access Statement [REP3A-032]. The Council does not agree with this assessment. The permissive access offered in Cambridgeshire at the E05 site does not connect to any existing PROW, or to Isleham. It leaves users on a fast rural road with little safe verge to walk back to Isleham. Further, the D&AS [REP3A-032] does not make the cross reference to PROW as green infrastructure in the ES, or with health and wellbeing of local communities. It takes no obvious account of the Council's statutory Rights of Way Improvement Plan⁴ ; of NPPF paragraph 100; or of Defra's 25 year Environment Plan⁵ , or the Cambridgeshire & Peterborough Joint Health and Wellbeing Strategy⁶ . Also see comments to the CTMP and TP (10.161 and 10.176) above. Further, the Council considers that a more extensive public access strategy is integral to the Stone Curlew mitigation because it has the potential to help manage the recreational pressure by diverting people away from Beck Road and give an alternative to the existing PROW (that goes along ECO2). Increasing walking opportunities from Isleham, rather than people having to park by the existing PROW because it is unsafe to walk along the road, would further support this objective. An integrated, more extensive public access strategy would enable the development to help address the generally low socio-economic deprivation of the area through providing increased health and active travel opportunities. The Council would welcome further discussions with the Applicant to address these issues, and to agree more appropriate mitigation for those impacts that will be experienced by local communities."*

6.5 Sunnica Response *“The permissive routes around E05 have been reviewed as part of the update of the OLEMP and Environmental Masterplans at Deadline 5. The revised routes will provide a connection between Isleham to the west and Freckenham to the south via bridleway W-257. It will also provide opportunities for shorter circular routes and will connect with a new space to the west of E05 where a memorial to the B50 crash site will be constructed. The permissive routes will be set back from Beck Road. The Applicant confirms that there are ongoing discussions regarding an agreement under section 106 of the Town and Country Planning Act 1990 which would see the Applicant make a contribution to Cambridgeshire County Council (and Suffolk County Council) for the purpose of them making improvements to existing PRoWs, and/or creating new PRoWs, to be delivered by the local authorities and has sent Heads of Terms to the LPA on this matter.”*

6.6 FCWG RESPONSE – **We agree entirely with the LPA assessment which mirrors our assessment of a much more thoroughgoing response to the applicable policies in the form of delivery over a wider area. We agree with the desirability of fully linking Isleham and Freckenham via bridleway W-257. This is felt to be a necessary improvement to achieve an acceptable route for NMUs provided it would fully link to the built edge of Isleham avoiding the main carriageway of Sheldrick’s Road. If provided, it might be an acceptable alternative to FCWG suggested permissive routes P1 and P2 of our written statement document EN010106-004531. FCWG still have the reservations expressed in paragraph 4.8 and that overall, this makes a relatively small improvement considering routes warranted over a much wider area. The circular route offered within E05 would serve no strategic purpose and its amenity value limited by the proximity of solar panels and fencing. That is not to say that the public access within that cell is without value where it could form part of a commemorative tribute walk around the crash site. Our group covers Suffolk and Cambridgeshire but we have had no consultation from Sunnica or the County Councils in relation to any access improvements or package of public access mitigation measures related to the Sunnica proposals on this, or any other part, in or near the DCO site. It is however noted and welcomed that CCC consider that FCWG should be consulted and be part of the discussions.**

6.7 LPA Q Landscaping 10.161 and 10.176 *“The Applicant has not adequately addressed the negative impact of the scheme on users in the community of the public rights of way network. Please see response under 14.40-14.47. Evidence given at the Open Floor Hearing on 6th December and at ISH3 is that local residents enjoy walking, cycling and riding through the existing landscape because of its intrinsic historic and open rural character. Users fear that the solar farm will vastly change their enjoyment of the landscape, resulting in an urbanised and closed-in feel, such that they do not wish to continue using the existing rights of way. This is a direct adverse impact of the scheme, which will affect the health and wellbeing of the local population. For many people, the 40-year life of the scheme will mean that this negative impact is for the rest of their lifetime. For others it would be impact all of their childhood, when good and healthy lifestyle habits are first learned. Those with the ability to do so may use the car to drive elsewhere to achieve the same high-quality experience they currently have, which would have negative impacts in respect of increased carbon emissions. Unless the Sunnica West Site A E05 is removed from the scheme, it is unlikely to be possible to completely remove this negative impact. It could, however, be offset by the provision of a significantly more extensive and imaginative scheme of public access around the principal sites that encourages people to explore the area by foot, bicycle or on horseback, with commitment secured for long term permanent additional access. This could include educational and heritage elements. Safe, direct off-road NMU links between villages are also much needed. These measures would help create a much more positive outreach to the local communities who currently have very little being offered to them in mitigation for the negative impacts of the scheme. This would address the requirements of the Council’s statutory Rights of Way Improvement Plan Statements of Action 2 A safer and health-*

enhancing activity, SoA3: New development should not damage the countryside provision and should contribute to the provision of new links and improvement of the existing PROW network; and SoA5 Filling the gaps: countryside provision should build on the platform of the historical network to meet the needs of today's users. Further, the Council considers that a more extensive public access strategy is integral to the Stone Curlew mitigation because it has the potential to help manage the recreational pressure by diverting people away from Beck Road, providing an alternative to the existing PROW (that goes along ECO2). Chapter 3 of the government's Green Future: 25 year Environment Plan emphasises the importance of enabling opportunities enhance landscapes, to support native species and to protect biodiversity. Increasing walking opportunities from Isleham, rather than people having to park by the existing PROW because it is unsafe to walk along the road, would further support this objective.

6.8 Sunnica Response The updated OLEMP issued at D5 provides further detail on the proposed mitigation and improvements to the public access network in the vicinity of the Scheme. This includes the following objectives: • Restore the character and condition of existing PROW affected by construction. • Retain and enhance existing vegetation to screen built elements of the Scheme, including from glint and glare effects. • Retain longer distance views which contribute to sense of place and wayfinding. • Provide new permissive routes which connect with the existing PROW network and enhance access to the countryside with a choice of longer and shorter routes. • Encourage use of existing PROW and new permissive routes and discourage incursions into ECO areas through signage and fencing. • Contribute to enhancement of the wider PROW beyond the Scheme through s106 contributions. The Scheme will implement new permissive routes during the lifetime of the Scheme as described in the OLEMP and illustrated on the Environmental Masterplan. This includes: • Around the solar panels in parcel E05 and running parallel with Beck Road within Sunnica East Site A. This will provide a connection between Isleham to the west and Freckenham to the south via bridleway W-257. It will also provide opportunities for shorter circular routes and will connect with a new space to the west of E05 where a memorial to the B50 crash site will be constructed. • Along the southern edge of Sunnica East Site B and adjacent to Elms Road; to connect existing routes from Red Lodge with U6006; and • Along the north part of Sunnica East Site B, between U6006 and Golf Links Road. The Applicant will also provide a technical note on the interaction of the Scheme with the experience of the users of public rights of way in the area at Deadline 6.

6.9 FCWG Response - We agree with the LPA that there will be a widespread negative impact of the scheme on people in the community who enjoy walking, cycling, and riding through the existing landscape because of its intrinsic historic and open rural character. We do feel that the solar farm will significantly change the character and our enjoyment of the landscape where an industrial element is introduced. It is true to say that our communities feel threatened, isolated, and alienated by the extent of impact associated with the proposals.

6.10 Sunnica's claim to "Provide new permissive routes which connect with the existing PROW network and enhance access to the countryside with a choice of longer and shorter routes" is not supported by the evidence considering what has been submitted. There are very few links proposed across the 15 villages in the zone of influence, and the longest link would only be 0.7 mile. There would simply be no enhanced access to the countryside over most of the DCO area.

6.11 Cambridgeshire County Council Q PROW 6.3.10 The Council welcomes the amendment to the CTMP that temporary closure of PROW is a worst-case scenario and that the Applicant will seek to ensure that PROW remain open through the use of banksmen. The Council reiterates that the PROW network is sparse in this area and there are few, if any, alternatives. Therefore, it is vitally important that the paths do remain open for reasons cited in the Council's WR [REP2-112] and LIR [REP1-024].

The Council appreciates the concern around health and safety, but objects to the contractor having the final say in the decision as this should be the responsibility of the LHA. This will ensure that the contractor will abide by the terms of the CTMP and will ensure paths are not closed simply because it is the easiest option. If the contractor considers that the only option is to close a route, then they must liaise with the LHA to agree an alternative route, such as one that can be delivered by the developer within the redline boundary. The Council requires that the CTMP states that the contractor may only close a PROW as a last resort after thorough discussion with the LHA and once it has been agreed that there is no other alternative. The CTMP should include the requirement that, should it be agreed that any temporary closures are appropriate, the contractor must agree the signage of any such closures and alternative routes with the local highway authority. This is to ensure that appropriate alternatives are put in place, and that the signage is placed in locations where users can make informed decisions. The Council agrees with Suffolk County Council's position on this matter, which was stated to the Examination at ISH2. Proposed closures should be in a clear communications strategy. The Strategy should recognise that people walk between villages and other routes that do not take into account county boundaries. Therefore, it is important to ensure the communication is wide. include all parish councils in the area, all PROW statutory user groups, and the Fordham (Cambs) Walking Group. It would be helpful within the CTMP for cross reference to be made to the CEMP [REP3-015] to ensure that contractors are aware of the environmental reasons for minimising temporary closures of PROW.

6.12 Sunnica Response *The Applicant acknowledges that the issues raised are important hence the consideration of temporary PROW closures in the Framework Construction Traffic Management and Travel Plan [REP3A-004]. The Contractor will be best placed to fully identify the risks and health and safety implications of proposed activities, and whether they can be adequately mitigated by the use of marshals or other such measures. As such, the principle of utilising methods that avoid the need for closure is accepted and that reasonable alternatives to closure should be explored. The Applicant will work with CCC to agree some appropriate wording for inclusion in an updated version of the Framework Construction Traffic Management Plan and Travel Plan [REP3A-004]. The Applicant has committed to a Communications Strategy, and agrees that it is important to ensure that communication is wide. As part of the Communication Strategy local interested parties such as local parish councils, statutory user groups and the Fordham (Cambs) Walking Group will be kept informed regarding the scheduling of construction activities. The Communication Strategy will form part of the final CTMP/TP, which is required to be produced in accordance with the Framework Construction Traffic Management Plan and Travel Plan. Requirement 16 contained in Schedule 2 to the draft DCO requires the relevant county authority's approval of the CTMP before the commencement of the development. A competent contractor will be fully aware of the requirements of all Construction Management Plans, including CTMP and CEMP, without the need to cross reference the two.*

6.13 FCWG Response – We agree with the CCC position particularly reiterating that the PROW network is sparse in this area and there are few, if any, alternative routes. The social and recreational pattern in our user group is not limited by Parish, District or County boundaries. People walk or cycle between the villages and this also includes school, work and shopping trips.

6.14 LPA Equality Impacts

LPA Comment *The protected characteristics for an Equality Impact Assessment relevant to NMUs are:*

- *Age — people of different ages generally have different abilities and needs.*
- *Disability — disabilities affect people very differently. Someone may be blind but physically able with excellent hearing and enjoys countryside sounds. Someone with a heart condition may only be able to walk a short distance but that is critical to their recovery and wellbeing.*
- *Maternity and Pregnancy —*

typically people in this category need accessible routes with interest and facilities for children, and seats. Research shows that most people prefer circular routes, and this is particularly so for these protected groups. Socio-economic inequality also affects those able to use PROWs. The area generally suffers from poor multiple deprivation indices. The Applicant states that "The Scheme will result in new NMU facilities during operation connecting communities through active travel routes." However, the Council does not feel that the Applicant has addressed all the particular equality issues as summarised above, or of the Council's statutory Rights of Way Improvement Plan; of NPPF paragraph 100; or of Defra's 25 year Environment Plan', or the Cambridgeshire & Peterborough Joint Health and Wellbeing Strategy. As set out in the Council's response to the Applicant's comments on the Local Impact Report above at 14.40, in Cambridgeshire, there is only one short permissive route, which is located within Sunnica East Site A and does not connect with any footway or public right of way and cannot be stated as being adequate mitigation. It leaves users on a fast rural road to walk back to Isleham.

6.15 Sunnica Response The Equality Impact Assessment has identified a potential positive impact with regards to groups with protected characteristics as a result of new permissive routes as a whole provided during the Scheme's operational phase. The routes will provide new and additional facilities for walking, cycling and horse riding within and around both Sites A and B, which will result in health benefits for those who use them, including those from protected groups, in terms of providing a safe route for use by NMUs in the local area. For example, the routes will improve connectivity between the villages of Worlingham, Isleham and Snailwell, providing a safe route for NMUs to use to travel between the sites without the presence of road traffic. Those from the protected groups listed are likely to benefit from the positive health outcomes associated with walking. The Applicant is willing to enter into a s106 agreement with Cambridgeshire County Council and Suffolk County Council to create new and/or improve existing PROWs within the vicinity of the Scheme, following the Hearing in December 2022. Heads of Terms on this aspect have been issued to both councils in January 2023 for further discussion.

6.16 FCWG Response – FCWG strongly disagree with Sunnica's position where they claim of a potential positive impact because of new permissive routes being provided for the Scheme's operational phase.

The introduction of solar panels over such a wide area can only produce a gross negative impact. The Sunnica assessment lacks proportionality. The creation of a very limited length of path alongside solar panels in a very few locations is relatively unattractive and has questionable offset value. Taken together, it is most difficult to see how what is proposed would offset the loss of 2,800 acres of countryside to provide a net positive impact.

6.17 LPA Comments Table 11 Access and Rights of Way Plans - Detail shown on plans All plans

The Access and Rights of Way Plans ('A&ROW Plans') do not indicate whether or not any of the roads affected by the proposed works are highways maintainable at public expense. This is critical to the Council and other stakeholders' understanding of the effect of the proposals on the public highway network. It is requested that the plans are updated to show the extent of publicly maintainable highways that are affected by the dDCO. This information can be obtained from the local highway authority. It should be noted that it is also important for the Applicant to have clarity on the extent of the public highways affected by the dDCO, not least because any street alteration works that do not take place entirely within the pre-existing highway extent will only become highway maintainable at public expense through the appropriate legal processes under the Highways Act 1980, unless provision is made for this within the text of the dDCO.

6.18 Sunnica Response The relevant roads which are maintainable at the public expense are listed in column (2) of Schedule 5 to the draft DCO [REP4-005]. The inclusion of highway extent has been

discussed with CCC. At the meeting on 24/11/22, the Applicant stated its intent to include this data in relevant drawings (although this does not necessarily extend to plans). This data has been requested but has not been received from the LHAs at the time of writing. Meanwhile, the Applicant has submitted relevant updated sheets of the Access and Rights of Way Plans at Deadline 5 for the purpose of the Changes Application [EN010106/APP/8.74] submitted at the same time. To the extent that any permissive paths are on those relevant sheets, they are presented on the plans. The Applicant intends to produce and submit to the Examination in due course a consolidated set of Access and Rights of Way Plans, pending acceptance of the application and further discussion with the LPAs regarding the detail of the permissive paths. For the avoidance of doubt, the Applicant confirms that it will be adding permissive paths to these plans.

6.19 FCWG Response – FCWG note that Sunnica propose to submit a consolidated set of Access and Rights of Way Plans and that they will be adding permissive paths to these plans for deadline 6. Our group consider that this is being done too late in the process and gives us nothing to comment on at this late stage. Additional permissive paths should be informed by a proper assessment of needs across the full DCO area and its margins. There is no indication from Sunnica that they will be doing this.

7 CONCLUSIONS

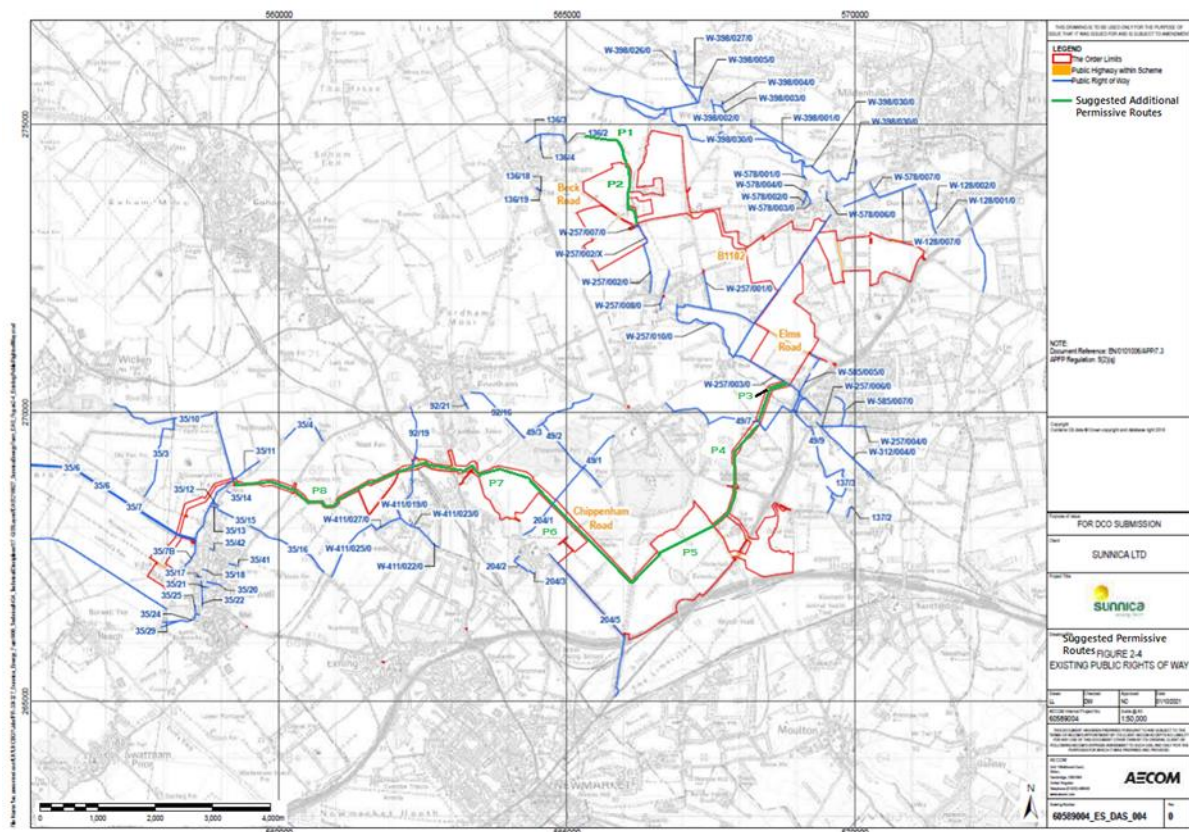
7.1 There is still no evidence from the submitted material that Sunnica have surveyed and made a proportionate response to the need for permissive routes around the whole DCO area. The very limited permissive routes proposed demonstrate the lack of a comprehensive assessment.

7.2 The permissive routes proposed are insignificant in relation to the scale of the project. Their location benefits just three villages of the fifteen in the zone of influence identified by FCWG in our written statement.

7.3 The proposal pays insufficient regard to the applicable planning policies and government advice previously identified in FCWG deadline 2 statement and it is felt that the DCO should be recommended for refusal on that basis.

7.4 The planning policies are referred to in greater detail in Appendix FCWG-1 of FCWG Written Statement document EN010106-004531 provided for the second deadline. Particularly, the proposal fails to adequately comply with paragraphs 92, 104 and 112 of The National Planning Policy Framework 2021. The low level of permissive paths fails to adequately satisfy the following development plan policies: Policy COM 7 of the East Cambridgeshire District Council Local Plan Adopted April 2015; Policy DM2 parts K&L, DM37, DM 44 and DM45 of the Forest Heath and St Edmundsbury Local Plan: Joint Development Management Policies Document (2015); and Policy 10 of the Fordham Neighbourhood Plan 2018.

APPENDIX D6.1 – FCWG Suggested Additional Permissive Routes



APPENDIX D6.2 sent under separate cover - East Cambridgeshire Cycling and Walking Routes Strategy adopted in November 2021

APPENDIX D6.3 sent under separate cover – Sustrans Feasibility Study - Burwell, Fordham and wider links (11 April 2022)