



SUNNICA ENERGY FARM

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Volume 8

8.86 Applicant's Response to other parties Deadline 5 Submissions

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010



30 January 2023
Revision 00

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

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

8.86 Applicant's Response to other parties Deadline 5 Submissions

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1. Introduction

1.1 Purpose of this document

1.1.1 This report responds to other parties' Deadline 5 submissions. The Applicant has responded to these submissions thematically in Section 2, under the following sections:

- Other parties' responses to ExQ2. The Applicant has commented in this section on other Interested Parties responses to the ExA's second written question where it was considered the Applicant had a comment on the response.
- DCO amendments. The Applicant has responded to the comments of Interested Parties on the DCO.
- Other parties' submissions at Deadline 5. The Applicant has responded to other submissions made by Interested Parties at Deadline 5.
- HPUT. The Applicant has responded separately to the submission by HPUT.

1.2 List of parties whose Deadline 5 submissions are responded to via thematic response in Section 2:

Reference	Party
Other parties' responses to ExQ2	
REP5-078	Andrew Munro
REP5-079	Cambridgeshire County Council
REP5-080 and REP5-081	East Cambridgeshire District Council
REP5-084	Suffolk County Council
REP5-085	West Suffolk Council
DCO amendments	
REP5-073	East Cambridgeshire District Council
REP5-075	Cambridgeshire County Council
REP5-076	Suffolk County Council
REP5-101	West Suffolk Council
Other parties' submissions at Deadline 5	
REP5-077 and REP5-091	Cambridgeshire County Council
REP5-086 and REP5-093	Dr Edmund Fordham
REP5-088	Alan B Smith
REP5-089	Anne Noble
REP5-090	AG Wright & Son (Farms) Ltd
REP5-095	Environment Agency
REP5-096	Natural England
REP5-098	Say No To Sunnica Action Group Ltd
REP5-100	Suffolk County Council
REP5-101	West Suffolk Council
HPUT	
REP5-102 and REP5-103	HPUT A Limited and HPUT B Limited

2. Comments on other parties' responses to ExQ2

Topic – Other parties' responses to ExQ2

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
Landscape, Ecology & Design	REP5-079 and REP5-084 CCC and SCC joint response to Q2.0.9	The ExA asked, if they were to recommend that parcels E12, E13 and E05 should remain, what extent of the PV solar panels in those parcels would effectively mitigate impacts.	<p>Sunnica East Site B: Parcel E12</p> <p>The Applicant disagrees that to effectively mitigate impacts E12 should be omitted from the Scheme. The Councils have proposed some additional changes or measures which they consider would reduce the likely impacts of the Scheme to some degree. The Applicant responds as follows to the specific suggestions:</p> <ol style="list-style-type: none"> 1) <i>Provide an appropriate set back from U6006 to reduce the visual impact of having panels on both sides of the route</i> – The Scheme has been designed to make use of the existing, dense vegetation which lines U6006 in screening views of people using the route. Due to the density of this vegetation, the focus of views is along the route in this section and moving panels further back from this vegetation would not further reduce the effects reported in the ES, which will have reduced to not significant by year 15 of operation. 2) <i>Allow further screen planting along the boundary of E12, including with ECO3, which should be limited to a hedge</i> – This additional planting has been added to the Environmental Masterplan submitted at Deadline 5 [REP5-061 to REP5-064]. 3) <i>Require cable crossings across the U6006 to be drilled rather than trenched to retain existing trees and minimise effects</i> – The Applicant agrees that cable crossings can be installed via trenchless techniques. This will result in no loss of trees for the cable corridor crossing of U6006 in E12 which will be installed from either side of the tree line. This will be detailed in an update to the Arboricultural Impact Assessment to be submitted at Deadline 7 and secured in an update to the CEMP to also be submitted at that deadline.

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			<p>4) <i>Enable the reduction of visual impacts in landscape terms on users of the U6006 road without increasing the impacts on ecology – visual impacts will reduce to not significant by year 15 of operation.</i></p> <p>In summary, the Scheme has been designed to retain and reinforce the existing landscape pattern through vegetation management and planting. The legibility of key landscape features such as the wooded skyline and characteristic pine lines will remain. The same principles apply to parcel E13 below.</p> <p>The Councils consider that the following residual issues would persist:</p> <ol style="list-style-type: none"> 1) <i>One crossing across U6006 would remain, with unacceptable impacts on TPO trees which form part of a pine line – The Applicant will not need access through U6006 within E12, the cable route will be installed underneath the trees via trenchless techniques and insertion and retrieval points will be accessed from either side with no requirement for access through the tree line at this point. This will be detailed in an update to the Arboricultural Impact Assessment to be submitted at Deadline 7 and secured in an update to the CEMP to also be submitted at that deadline.</i> 2) <i>The residual panels within E12 would continue to impact on Stone Curlew that have regularly nested in ECO3 and E12 and potentially on the offsetting land in ECO3 – As set out in previous representations and detailed in the HRA [REP5-045] and Stone-curlew habitat specification [REP5-046], both updated at Deadline 5, sufficient areas of land have been incorporated into the Scheme design to offset any loss in arable farmland, including that in E12, which may provide nesting habitat, in any given year.</i> <p>Sunnica East Site B: Parcel E13</p> <p>The Applicant disagrees that to effectively mitigate impacts E13 should be omitted from the Scheme. The Councils have proposed some additional changes or measures which they consider would reduce the likely impacts of the Scheme to some degree. The Applicant responds as follows:</p>

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			<p>1) <i>Implementation of the above changes to E12</i> – see above.</p> <p>2) <i>Set back of the solar panels and all other infrastructure from the veteran trees (T216 and T218, TCP sheet 14 AIA REP3-021) on the southern boundary of E13</i> – All infrastructure (including cable route and any solar panels) will be set back from the RPA of the veteran trees T216 and T218 (including the trees' mature shading arc). This has already been captured via the spot note on the Tree Protection and Removal Plan and is secured pursuant to the amendments to Requirement 6 that have been made for Deadline 6.</p> <p>3) <i>Set back of the panels to retain the acid grassland in E13</i> – The area of acid grassland within E13 where panels are proposed will be translocated to within ECO3 as described in the Ecology and Nature Conservation chapter of the ES [APP-040] to form part of a larger new area of acid grassland.</p> <p>The Councils consider that the following residual issues would persist:</p> <p>1) <i>One crossing across U6006 would remain, with unacceptable impacts on TPO trees</i> – The cable route would be installed via trenchless techniques to minimise tree loss but access is unavoidable at this location (although it will be avoided at E12). This access route would be micro-sited to minimise any tree impact and would utilise a 3D cellular confinement system (or equivalent) installed using no dig techniques to protect roots and soil structure. A minimum width access corridor of 5.5m would be required. This will be detailed in an update to the Arboricultural Impact Assessment to be submitted at Deadline 7 and secured in an update to the CEMP to also be submitted at that deadline.</p> <p>2) <i>Residual panels within E13 would continue to impact on stone curlew that have nested E13</i> – As set out in previous representations and detailed in the HRA [REP5-045] and Stone-curlew habitat specification [REP5-046], both updated at Deadline 5, sufficient areas of land have been incorporated into the Scheme design to offset any loss in arable</p>

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			<p>farmland, including that in E13, which may provide nesting habitat, in any given year.</p> <p>Sunnica East Site A: Parcel E05</p> <p>The Applicant disagrees that to effectively mitigate impacts E05 should be omitted from the Scheme. The Councils have proposed some additional changes or measures which they consider would reduce the likely impacts of the Scheme to some degree. The Applicant responds as follows:</p> <ol style="list-style-type: none"> 1) <i>Reduce the north-western extent of E05 to an existing field boundary or the break in solar panels as indicated in Figure 2, outside the plane crash site</i> – The Applicant has assessed the sensitivity of LLCA 11: East Fen Chalklands as medium and the effects of construction and operation in year 1 as significant. The Applicant considers that the proposed planting will be effective in reducing effects to not significant by year 15 of operation and that omitting a substantial part of E05 is therefore not justified. As shown on the Environmental Masterplan submitted at Deadline 5 [REP5-054], the Applicant has also committed to creating a new memorial area to the B50 crash site, linked to Beck Road and Shelricks Road by self-biding gravel paths. A gap in the woodland planting south of E05 will allow views towards the crash site with the skyline of RAF Mildenhall, which is an important part of the story of the tragedy, across the background. 2) <i>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</i> – The Scheme already includes a substantial set back from Lee Brook at the south eastern corner of E05. The Environmental Masterplan submitted at Deadline 5 [REP5-061 to REP5-064] has been updated to introduce further habitat variety, including rush pasture. The section of Lee Brook will therefore remain legible in the landscape and its setting will be enhanced. A permissive path will be introduced around the perimeter of E05. Views along Beck

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			<p>Road will be preserved, as shown in the photomontage in Figure 10.91 [APP-221].</p> <p>3) <i>Provide an additional recreational footpath route around E05 to reduce the potential for recreational access into ECO1 and ECO2</i> – This has been added to the Environmental Masterplan submitted at Deadline 5 [REP5-061 to REP5-064].</p> <p>4) <i>Facilitate connection of the permissive footpath and any other route with Isleham (along Beck Road and/or Sheldrick Road)</i> – A further connection to the permissive path around E05 has been added to join with Sheldricks Road, as shown on the Environmental Masterplan submitted at Deadline 5 [REP5-054].</p> <p>In summary, the Applicant has taken on board comments received from the Councils and other stakeholders and has reviewed the environmental mitigation and enhancements proposed in relation to E05. The addition of further permissive routes, the upgrade of the proposed connection between Beck Road and Sheldricks Road to a self-binding gravel path, the introduction of a new memorial to the B50 crash site and further detail regarding the proposed habits substantially enhance the setting and amenity of E05. Whilst some effects reported in the ES remain, these changes respond positively to the landscape and create new opportunities for biodiversity and informal recreation away from the ECO areas to the south.</p> <p>The Councils consider that the following residual issues would persist:</p> <p>1) <i>Views across the open, 'empty' landscape would be truncated, albeit to a lesser degree</i> – Solar farm development and proposed planting would reduce the extent of views across open fields locally in the vicinity of Beck Road and Sheldricks Road. In views east from the more elevated land in Isleham the wooded skyline and distant landmarks, such as the towers of churches within Mildenhall and Freckenham would be retained.</p> <p>2) <i>E05 would be lost as potential nesting habitat for Stone Curlew</i> – The loss of potential nesting habitat in arable farmland in E05 is offset by the creation of managed Stone-curlew plots and grassland in ECO1,</p>

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			ECO2 and ECO3. This is more than sufficient to ensure that there is no net loss in nesting opportunities for Stone-curlew.
Landscape, Ecology and Transport	REP5-079 and REP5-084 CCC and SCC response to Q2.9.11	CCC has requested specific wording be added to the OLEMP regarding the reinstatement of hedgerow sections removed to facilitate construction. CCC proposed wording to include within the DCO to ensure disruption to PRow users is mitigated through agreement as to reinstatement works and inspection and certification by the LHA, and restoration of boundary features agreed with CCC, as discussed in CCC D4 Submission – Comments on the Applicant's D3 and D3A submissions [REP4-137].	The following wording will be added to the OLEMP as requested, to be submitted prior to the next round of hearings: <i>"1.6.35 Certain species poor hedgerows will be crossed by the Scheme and may need to be wholly or partially removed to facilitate construction works."</i> <i>1.6.36 On completion of construction, the affected hedgerow sections will be reinstated in full (respecting the legal extent of any public rights of way) and a diversity of native woody species of local provenance will be used to improve their biodiversity value. Species will include Hawthorn (Crataegus monogyna), Blackthorn (Prunus spinosa), Hazel (Corylus avellana), Holly (Ilex aquifolium) and Field Maple (Acer campestre)."</i> This builds on the changes that were made to the Framework CEMP at Deadline 5 [REP5-043] in respect of impacts to hedgerows, including those adjacent to public rights of way. The CCC response references a proposed amendment to the CTMP, but it is noted that none is proposed. The Applicant notes that condition surveys explicitly include PRowWs, and the commitment is set out at 7.2.15 and 7.2.16 of the F-CTMP/TP [REP5-015].
Ecology	REP5-079, REP5-084_and REP5-085 CCC, SCC and WSC joint response to Q2.2.6	The ExA requested that the Local Authorities explain what they consider to be the potential conflicts between management of archaeological areas and Stone-curlew offsetting areas.	The Applicant has provided details of the creation and management of Stone-curlew offsetting areas, including the provision of bare ground nesting plots, in areas containing buried archaeology in the updated Stone-curlew habitat specification [REP5-046], submitted at Deadline 5.
Air Quality	REP5-081 ECDC response to Q2.1.2	The ExA requested that ECDC comment on the precise legal authority (if any) on which one might rely to exclude the scope of the COMAH and P(HS) Regulations 2015 from application to BESS.	The Applicant responded itself to this question at Deadline 5 in the Applicant's response to the ExA's Second Written Questions [REP5-056]. The Applicant does not consider that it would be helpful to the ExA to respond to the points made in the response submitted by ECDC. Please note that a fuller response on the operation of COMAH and the P(HS) Regulations 2015 is set out below in response to Dr Fordham. However, the Applicant wishes to highlight two overarching points in response to ECDC's submission:

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			<ol style="list-style-type: none"> 1) The thrust of the ECDC's response is that the Applicant is trying to exclude the application of the COMAH Regulations and the P(HS) Regulations 2015 to the Scheme. As set out in the Applicant's response to the ExA's Second Written Questions [REP5-056], this is inaccurate and so the premise of the submission is incorrect. The Applicant is not seeking to exclude the scope of the COMAH or P(HS) Regulations. 2) ECDC asserts that the potential application of the COMAH and PH(S) Regulations needs to be resolved prior to development consent being granted. The Applicant agrees that the terms of the DCO, and in particular (in the context of this question) Article 6, do need to be considered during the examination. The Applicant has clarified that Article 6 will not seek to disapply the COMAH regulations or the P(HS) Regulations. As explained in the Applicant's response to Q2.1.2 submitted at Deadline 5 [REP5-056], whether the COMAH and/or the P(HS) Regulations will apply to the Scheme is not capable of being determined until the detailed design of the BESS has been confirmed, which will be after any development consent is granted. So far as the Applicant is aware, this is the approach adopted in respect of other solar schemes with BESS for which development consent has previously been granted, including Cleve Hill and Little Crow. This same point is also made by Dr Fordham and a fuller response is included below.
Air Quality	REP5-079 and REP5-084 CCC and SCC response to Q2.1.13	Noting that a further revision of the OBFSMP is being submitted at deadline 5, the Fire and Rescue Services do not believe there is sufficient consideration to hazardous substances brought about by deflagration of the units and subsequent intervention by the services. This is due to not having a confirmed battery technology until detailed design stage. It is challenging to confirm that there will be no impact to receptors when we have noted issues in the LIR	The Applicant reiterates that detailed consequence modelling will be secured by condition. The results will be shared with the emergency services in order to fully inform the disaster response. This will be captured in the ERP in the Battery Fire Safety Management Plan to be approved by the Local Planning Authorities. ES Appendix 16D: Unplanned Atmospheric Emissions from BESS [APP-124] considers the potential impacts possible in the event of unplanned emissions to air from a fire at the BESS. The assessment includes worst-case modelling of the potential impact of hydrogen fluoride (HF) emissions (as the pollutant of greatest concern and most likely to be present at measurable concentrations).

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		<p>[REP1-024] (see para 15.2 and Appendix 26 [REP1-024a]) regarding the modelling and placement of the plume prediction in relation to the final plan layouts of the BESS locations.</p>	<p>The modelled source of emissions is a 2m-by-2m area at the centre of the BESS enclosure. The modelling assumed no temperature to the release in order to produce the highest concentrations (as dispersion and dilution in the atmosphere is more limited with no heat) with the worst-case meteorological data (lowest rates of dilution and dispersion for all directions achievable under real world conditions). The plume itself has not been modelled as this would vary with the precise meteorological conditions at the time of a fire.</p> <p>The modelling concluded that concentrations of HF will be below the AEGL-1 value before reaching any sensitive receptors. As such, there is not expected to be any adverse effects from HF, and exposure is expected to be avoided rather than mitigated.</p>
Planning	<p>REP5-078</p> <p>Andrew Munro response to Q2.0.3</p>	<p>Mr Munro has submitted the decisions referenced in his D4 submission [REP4-076]</p>	<p>The Applicant notes the submission of the decisions referenced in the D4 submission of Mr Munro [REP4-076].</p> <p>The Applicant's response to ExAQ2 Question 2.0.2 in [REP5-056] sets out that the Applicant considers the appeal decisions identified by Mr Munro to be of limited, if any, importance and relevance to consideration of the weight that should be attributed to temporary nature and reversibility of the Scheme in the SoS' decision. This is because the documents relate to decisions that have been made under different legislative, regulatory and policy contexts. In the case of planning applications under the TCPA 1990, the decision-making framework is designed to deal with the impacts of small-scale projects that are of local scale and benefit. In relation to the DNS decision, this relates to a much smaller (30MW) development proposal in a different county (Wales).</p> <p>For the same reasons, the Applicant also considers that the appeal decisions identified by Mr Munro are of limited, if any, importance and relevance in general to the SoS's consideration of the Scheme.</p>
Transport	<p>REP5-079, REP5-084</p>	<p>CCC, SCC response to the ExQ2.</p>	<p>General: It should be noted that whilst SCC and CCC have submitted separate response documents, in the main these cross refer to and support each other. For clarity, and ease of reference for the Examining Authority, the Applicant submits a combined response.</p>
Transport	<p>REP5-079</p>	<p>CCC would add that the LHAs seek section 106 contributions for (amongst other additions) the creation of a definitive path linking the proposed E05</p>	<p>The Applicant notes CCC's comment that LHAs are seeking section 106 contributions for enhancements to the PRoW network and that this will include seeking such a contribution for the creation of a definitive path linking the proposed E05 perimeter path with Isleham village. Section 106 discussions</p>

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	CCC additional comment in response to Q2.0.9	perimeter path with Isleham village. Both authorities are considering their position on Public Access mitigation strategies in readiness for discussions with the Applicant.	between the Councils and the Applicant are ongoing. The Applicant does not propose a footpath between the E05 perimeter path and the village Isleham, but CCC could use the proposed contribution which is being discussed to assist in the delivery of a footpath. The Applicant notes that the proposed E05 perimeter path will be a permissive path and will be removed on decommissioning of the Scheme.
Transport	REP5-079 and REP5-084 CCC and SCC response to Q2.9.10	2.9.10. Proposed revisions to Articles in the dDCO. Article 11(1) – reference to temporary closures of public rights of way being only as a “last resort” in accordance with the CTMP. Article 11(3) addition of a reference inspection and certification in accordance with a legal agreement.	The Applicant notes that SCC has reserved its position in relation to these matters and will comment on any drafting proposed by CCC at Deadline 6. The Applicant understands the Council's underlying concern which relates to minimising temporary closures to public rights of way. The Applicant's concern with the suggested drafting is that “last resort” is not generally accepted and understood terminology that is used in the drafting and interpretation of statutory instruments and is, so far as the Applicant is aware, unprecedented. The Applicant is concerned that “last resort”, without qualification, lacks the level of clarity and certainty required in a statutory instrument. The Applicant considers this concern can be more effectively addressed through other means, such as through provisions in the CTMP [REP5-015] and has sought to do so with paragraph 6.3.10 of that document, which makes provision for the use of managed crossings for public rights of way users while the public rights of way are affected by the works, where it is safe to do so. The Applicant understands the underlying concern which is to ensure that public rights of way temporarily closed are reinstated. The Applicant notes that paragraphs 7.2.15 and 7.2.16 of the Outline Construction Traffic Management Plan and Travel Plan [REP5-015] includes a requirement to carry out pre-construction conditional surveys and to carry out reinstatement works. The suggested amendment to article 11(3) doesn't ‘work’ from a drafting perspective as the power to which it relates does not authorise alterations to public rights of way. Notwithstanding these drafting points, the Applicant and SCC have recently discussed the terms of an appropriate side agreement and agreed a programme of regular meetings to progress its negotiation. While it is disappointing that CCC were not available to attend that meeting, a further meeting with CCC is being arranged. The Applicant is confident that terms can

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		<p>Amendment to article 9(1)(b) to include reference to temporary stopping up of public rights of way</p> <p>Amendment to requirement 16(3) to make reference to crossing of highways for construction purposes</p>	<p>be agreed with the LHAs which would avoid the need to make unprecedented amendments to the operative provisions of the draft DCO. The Applicant is mindful that the examination is due to complete by the end of March 2023 and therefore it would be sensible to discuss a backstop position should the side agreement not be complete by the end of the examination. The Applicant therefore intends to submit draft protective provisions for the protection of the local highway authorities by the 8 February so that they can be discussed in the hearings.</p> <p>Again, the Applicant understand CCC's underlying concern and the Applicant seeks to address it by means of paragraphs 7.2.15 and 7.2.16 of the CTMP. The suggested drafting amendment again does not 'work' in the way that the Applicant understand CCC to intend. The addition of Schedule 6 to article 9(1)(b) would simply expand the scope of the power to authorise alterations where none were previously intended.</p> <p>In a similar vein, the Applicant understands the intention of CCC's suggested amendment is to ensure that the exercise of the power to authorise the crossing by motor vehicles of public rights of way in relation to permitted preliminary works is considered in the wider context of the provisions of the CTMP that apply to such works. However, the suggested amendment to requirement 16(3) through the addition of the words "<i>(including public rights of way) and the crossing of highways (including public rights of way) for construction purposes</i>" is problematic. Firstly, it is well established that at law a public right of way is a highway and so the addition (twice) of the words in parenthesis is wholly unnecessary. Secondly, and more critically the phrase "<i>the crossing of highways for construction purposes</i>" extends too far and would, for example, be triggered by a person engaged on the construction of the authorised development crossing a road on foot. It therefore lacks the precision necessary for the imposition of a requirement, especially in view of the criminal liability arising from breach. Nonetheless, the Applicant recognises CCC's concern and will give consideration to an appropriate mechanism to address that concern in submissions at a future deadline.</p>

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		Proposed revisions to the CTMP	<p>With regards to the proposed changes to the CTMP, the Applicant notes that the proposed amendments as presented may be confusing as CCC has deleted text from 6.3.4 without showing deletions in strikethrough. Deletions have simply been removed from the paragraph.</p> <p>As noted above, the Applicant understands the underlying concern and wishes to address it appropriately. However, the precise form of words proposed by CCC is problematic given that "last resort" requires some form of qualification (as noted above) and the cross reference to "consultation" under article 11 is problematic, given that article 11 does not provide for consultation. The Applicant has noted the concerns and will seek to address them in submissions at a future deadline.</p>
Transport	<p>REP5-079 and REP5-084</p> <p>CCC and SCC response to Q2.9.12</p>	<p>2.9.12 CCC/SCC proposes an additional provision (j) to be added to Schedule 2 Requirement 6, detailed design approval.</p> <p>(j) the pre-commencement condition survey of all PROW affected by haul road/cable route crossings has been completed in accordance with 5.2.11 of the Construction and Traffic Management Plan, and a reinstatement plan of the PROW surfaces and widths agreed.</p>	<p>The Applicant has committed to this measure and will comply with the intent of the provision. As stated, it is included in paragraphs 5.2.11, 7.2.15 and 7.2.16 of the Outline Construction Traffic Management Plan and Travel Plan [REP5-015], compliance with which is secured through requirement 16. It is therefore unnecessary to duplicate this provision in a different requirement.</p>
Transport	<p>REP5-079</p> <p>CCC and SCC joint response to Q2.9.18</p>	<p>2.9.18 Consult with the Fordham (Cambs) Walking Group with regards to permissive routes.</p>	<p>The Applicant does not disagree with the CCC's 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. Please see the Applicant's response to 2.9.18 [REP5-056].</p> <p>The Applicant does not consider that FCWG should form part of the discussions on the permissive paths within the Scheme. The Applicant has reviewed the additional permissive paths suggested at the meeting between the Councils and the Applicant on 1 December 2022. This review has determined that, apart from the changes to the permissive path around E05 in Sunnica East Site A, no other changes to Permissive Paths are feasible or</p>

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			<p>practicable due to space and operational constraints and the need to protect existing and proposed areas for ecology. 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. This appears to align with CCC's views in their response to Q2.9.18</p> <p>Furthermore, the FCWG is referenced in 8.72 The Applicant's Response to the LPAs [REP05-057], (page 62) at points 14.41 and 14.48. The Councils recommend keeping a range of groups informed through the construction process. This includes FCWG. The Applicant agrees with this and <i>"intends that a future communications strategy incorporates a wide geography and range of groups, as suggested. This will be developed and approved through 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."</i></p> <p>Thus, whilst the Applicant does not consider that the specific role for FCWG requested by CCC in relation to the permissive paths is appropriate, it has set out effective and proactive ways that FCWG could be involved as a consultee.</p>
Transport	REP5-079 CCC response to 2.10.5	2.10.5 Suitability of passing places on La Hogue Road. Highway extent Feasibility of safe AIL access routes	<p>The principal of providing passing places on La Hogue Road to mitigate the occasional occurrence of two HGVs meeting was first discussed at a meeting with the LHAs on 26 April 22. Drawings were shown to the LHAs at subsequent meetings and submitted to the Examination at Deadline 2 as part of the Transportation Technical Note [REP2-041]. The drawings demonstrate through Swept Path Analysis that two HGVs can pass at the proposed passing places, and that there is good forward visibility between these points. Thus it has been demonstrated that safe and suitable access can be physically achieved. The Applicant makes the point at 5.2.7 in 8.72 The Applicant's Response to the LPAs [REP05-057], that HGV drivers are required to carry appropriate licences for their vehicles, and that the majority of HGV drivers will be Sunnica Contractors. HGV drivers will be suitably skilled and familiar with the road that it is unlikely that they will misjudge carriageway widths. On a rural lane with no centre line, it is highly unlikely that two HGVs would approach each other at anything other than cautionary speed, and unlikely that HGVs</p>

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			<p>would collide, rather than reversing to a point where they can pass without collision.</p> <p>The feasibility of safe and suitable access has been proved, suitable to the stage of the application. A Road Safety Audit can therefore be undertaken as part of the detailed design process. In the unlikely event that the Road Safety Audit raised an issue and recommended more extensive widening along La Hogue Road, such land required for this is within the DCO Order limits, and therefore within the Applicant's gift to deliver.</p> <p>Furthermore, the Applicant has committed to a condition survey which would require it to remedy damage arising from over-running in the unlikely event that it occurs.</p> <p>The LHA's comments on the request for inclusion of the highways boundary information on drawings are noted. The Applicant has advised the LHAs of its intention to do this. However, the key point with regards the ability of the Applicant to carry out required work is inclusion within the DCO Order limits. The DCO affords the powers required by the applicant to undertake necessary works within both the highway and on private land, where it is included within the Order limits.</p> <p>The Applicant notes that the LHA agrees that the principal of amendment to final AIL routes would be acceptable. This concurs with the Applicant's response to Q2.10.13 [REP5-056]. CCC's comment that the Applicant has not demonstrated the feasibility of providing a safe access route is noted. The Applicant disagrees that this has not been demonstrated, as set out in response to Q2.10.13 [REP5-056]. Notwithstanding this, in order to progress the matter, the Applicant agrees to engage the services of a haulier in order to inform ongoing discussions with the LHAs.</p>
Transport	REP5-084 SCC response to 2.10.5	2.10.5 SCC Details of AIL Access Elms Road Temporary traffic management Site Accesses in the operational phase Visibility at Access I	<p>The blue line shown in Figure 27 of the Framework Construction Traffic Management Plan and Travel Plan [REP5-015] indicates the path of the vehicle body. The vehicle tracking indicates that the wheels of the AIL and the load will not overrun the central island at the junction. The body will marginally over-sail the central island and a minor trimming of branches may be required, as is described in the F-CTMP.</p> <p>As referenced in response to CCC on 2.10.5, the Applicant agrees to engage the services of a haulier in order to inform ongoing discussions with the LHAs.</p>

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			<p>The Applicant notes and appreciates that SCC agrees the principal of passing places on Elms Road providing safe and suitable access.</p> <p>The Applicant notes SCC's concerns in relation to temporary traffic management, detailed design of operational site accesses and in relation to Access I. The concerns are documented, along with the Applicant's responses to the matters, throughout 8.72 The Applicant's Response to the LPAs [REP05-057]. This was submitted at Deadline 5, which is the same deadline at which SCC/CCC has responded to ExQ2. The Applicant has set out that it is working towards addressing the issues raised. The outcomes of the work and discussions will be documented in the examination process through the Statement of Common Ground (SoCG).</p> <p>Notwithstanding this, the Applicant considers that the issues raised are resolvable through detailed design, and that appropriate provisions will be in place through the DCO, and control documents such as the CTMP such that the LHAs concerns can be addressed.</p>
Transport	<p>REP5-084, REP5-079, REP5-085_and REP5-080</p> <p>SCC response to 2.10.6, supported by CCC, WSC and ECDC</p>	<p>Saturday Assessment. Greater proportional increase in construction traffic, and potentially higher levels of usage of PRowWs on a Saturday. For example in terms of fear and anxiety, severance and amenity.</p>	<p>The potential requirement for a Saturday assessment was raised by the LHAs through their Relevant Representations, and discussed in further meetings. The LHAs concern was whether there was a scenario where construction flows and baseline flows combined were likely to be higher than in the weekday assessment, and not whether there would be a higher proportionate impact. It has been established that the combination of construction flows and baseline flows on a Saturday would not have a greater level of effect than on a weekday, as total traffic flows is lower.</p> <p>It has therefore been established to the satisfaction of the LHAs that a Saturday assessment would not yield a worse case impact in terms of driver delay. The Examining Authority refers to impact more on peaceful enjoyment. SCC refers to impacts other than delay, such as that on the recreational use of the highway and PRowW, as their use for recreation at weekend is likely to be greater and the proportional increase in construction traffic higher than in a weekday.</p> <p>Traffic is not an impact in itself, it is the effect of traffic which results in environmental impact, in terms of severance, driver delay, fear and intimidation, and pedestrian and cycle amenity. The potential impact will be a</p>

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			<p>function of peak hour construction traffic levels, daily HGV flows, and numbers of Non-Motorised Users.</p> <p>The level of staffing/activities on Saturday will be the same as a weekday. Therefore there will be comparable numbers of staff vehicle movements, and these will be subject to the same controls as for a weekday. However, there will be minimal HGV deliveries occurring on a Saturday, with construction activities predominantly using materials which have already been delivered to site. Thus the traffic impacts on a Saturday will be staff trips arriving 0600-0700 hours, and departing 1900-2000 hours, with minimal traffic levels including HGVs throughout the Saturday itself.</p> <p>In terms of NMUs, a comparison of the Saturday NMU levels, and the weekday average NMU levels has been undertaken for the 2022 PRoW survey locations, as set out in the Transportation Technical Note [REP2-041] where such data is available.</p> <table border="1" data-bbox="1135 751 2085 938"> <thead> <tr> <th>Location (Road where the PRoW Intersects)</th> <th>Monday – Friday Average (Two-Way) 0600-0700</th> <th>Saturday (Two-Way) 0600-0700</th> <th>Monday – Friday Average (Two-Way) 1900-2000</th> <th>Saturday (Two-Way) 1900-2000</th> <th>Monday – Friday Average (Two-Way) Daily</th> <th>Saturday (Two-Way) Daily</th> </tr> </thead> <tbody> <tr> <td>Elms Road</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>8</td> <td>12</td> </tr> <tr> <td>Fordham Road</td> <td>0</td> <td>0</td> <td>1</td> <td>0</td> <td>11</td> <td>14</td> </tr> <tr> <td>First Drove</td> <td>6</td> <td>5</td> <td>5</td> <td>1</td> <td>79</td> <td>74</td> </tr> <tr> <td>A142 Eastbound</td> <td>0</td> <td>0</td> <td>0</td> <td>4</td> <td>0</td> <td>7</td> </tr> <tr> <td>A142 Westbound</td> <td>0</td> <td>0</td> <td>0</td> <td>4</td> <td>0</td> <td>7</td> </tr> </tbody> </table> <p>During the development peak hours when staff will be travelling to/from the site, the PRoW surveys recorded a low number of NMUs using the PRoWs. Peak hour surveyed NMUs on a Saturday were marginally higher in some locations and marginally lower in others, but overall at a comparable level. Peak hour traffic levels will be the same on a Saturday as a weekday, and HGV levels will be significantly reduced. Given the level of peak hour NMUs is comparable on a Saturday to a weekday, it is reasonable to conclude that the impact in terms of severance and peak hour fear and intimidation will be equivalent on a Saturday to that assessed on a weekday.</p> <p>During the survey period, the daily Saturday NMU activity on the PRoWs is higher than the weekday activity. However, the absolute difference is not considered to be significant. HGV levels on a Saturday will be minimal, and substantially lower than on a weekday. Therefore it is reasonable to conclude</p>	Location (Road where the PRoW Intersects)	Monday – Friday Average (Two-Way) 0600-0700	Saturday (Two-Way) 0600-0700	Monday – Friday Average (Two-Way) 1900-2000	Saturday (Two-Way) 1900-2000	Monday – Friday Average (Two-Way) Daily	Saturday (Two-Way) Daily	Elms Road	0	0	0	0	8	12	Fordham Road	0	0	1	0	11	14	First Drove	6	5	5	1	79	74	A142 Eastbound	0	0	0	4	0	7	A142 Westbound	0	0	0	4	0	7
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			that the impact in terms of NMU amenity and fear and intimidation throughout the day, will be lower on a Saturday than on a weekday. Based on this further analysis, it is reasonable to conclude that a Saturday assessment would not result in additional impacts over and above that already identified through the weekday assessment. Therefore an additional Saturday assessment should not be required.
Transport	REP5-084 and REP5-079 SCC response to 2.10.7, supported by CCC	2.10.7 Road safety at A11 NB Off-slip at Elms Road. SCC has proposed that the Applicant monitors road safety incidents, engage with the LHA and commit to highways improvements if scheme related.	The Applicant responds to the point on road safety at the Elms Road/A11 NB offslip at 13.71 in the Applicant's Response to the JLIR [REP3-019] . SCC's concern in the JLIR was that Scheme traffic would result in delay and cause people to take risks. The Applicant has demonstrated through junction modelling that this delay would not be significant. Paragraph 7.2.11 of the F-CTMP/TP [REP5-015] sets out that the Applicant will collect robust data on road safety, review the underlying cause, introduce operational measures if relevant, and raise and discuss any apparent road safety issues with the relevant local highway authority.
Transport	REP5-084 , REP5-079 and REP5-085 SCC response to 2.10.8, supported by CCC and WSC	2.10.8 Link sensitivity.	The Applicant notes that SCC agrees that discussions on link sensitivity have concluded. CCC's response " <i>refers to and supports Suffolk County Council's response to this question in their submission.</i> " It is therefore considered that CCC also considers the matter concluded.
Transport	REP5-084, REP5-085 and REP5-079 SCC response to 2.10.11, supported by WSC. Additional comments made by CCC.	2.10.11 SCC refers to Annex A CCC provides additional comments on the Applicant's Response to the JLIR	To aid the Examining Authority, a response to Annex A and CCC's response to this question is provided following the responses to the remainder of the Section 2.10. questions. The majority of points raised are those where the Applicant has previously responded, including at [REP5-057] , highlighting that it is working towards addressing issues raised. These responses are not repeated in depth, with just key points set out, to aid the reader by avoiding extensive re-iteration.
Transport	REP5-084 and REP5-079	2.10.14 AIL Routes	The Applicant has responded to this point at 13.55 to 13.59 of The Applicant's Response to the LPA Deadline 4 Submissions [REP5-056] , summarised here. The Applicant makes it clear that the statement that it relies solely on a past

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	SCC response to 2.10.14		movement of a transformer from Ipswich to Burwell is wholly incorrect. In order to progress the matter, the Applicant agrees to engage the services of a haulier in order to inform ongoing discussions with the LHAs.
Transport	REP5-084 SCC response to Annex A 13.4	ALL: No mechanism is proposed to review structures or reimburse Highways Authorities for cost. This can be resolved by a commitment to include these measures in a side agreement or protective provisions.	The Applicant agrees that this is resolvable and is constructively progressing the content of a side agreement with the LHAs. The Applicant is mindful that the examination is due to complete by the end of March 2023 and therefore it would be sensible to discuss a backstop position should the side agreement not be complete by the end of the examination. The Applicant therefore intends to submit draft protective provisions for the protection of the local highway authorities by the 8 February so that they can be discussed in the hearings.
Transport	REP5-084 SCC response to Annex A 13.6	The Councils seek a number of changes to management plan, including controls of traffic and HGV movements in the outline Construction Transport Management Plan (OCTMP) and Outline Travel Plan (OTP) to limit the transport impacts to those assessed in the ES and TA. REP4-141 includes details of omissions. A revised CTMP could address these concerns.	The Applicant has responded to [REP4-141] in [REP5-057] , which it appreciates SCC has not had the benefit of seeing at the time of writing. A number of changes have been made, or have been proposed to be made, to the F-CTMP/TP [REP5-015] . This includes revising the cap on staff numbers to equivalent to a 1.5 occupancy, through an update to 7.2.38. In Section 13.50 of [REP5-057] , the Applicant has agreed in principle the introduction of a cap in HGV numbers within the CTMP to address concerns that the level of HGVs which occur will not exceed the level assessed within the Environmental Statement. The details of such a cap will be drafted by the Applicant and will take account of the LHAs recommendation set out in the Joint Local Impact Report, for discussion and agreement with the LHAs. This will be introduced into the F-CTMP/TP at a future deadline when agreed.
Transport	REP5-084 SCC response to Annex A 13.7	The Councils are also seeking protective provisions, to discharge their responsibilities to access, inspect and maintain the public highway within the order limits.	The Applicant is constructively progressing the content of a side agreement with the LHAs. The Applicant is mindful that the examination is due to complete by the end of March 2023 and therefore it would be sensible to discuss a backstop position should the side agreement not be complete by the end of the examination. The Applicant therefore intends to submit draft protective provisions for the protection of the local highway authorities by the 8 February so that they can be discussed in the hearings.
Transport	REP5-084	REP4-141:1g: As the Applicant has only recently approached SCC for information regarding the highway	The Applicant reiterates that this information will be incorporated into drawings when received. We note that the LHAs consider that this matter can be resolved subject to no anomalies being identified.

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	SCC response to Annex A Table 9: 1g	boundary, SCC considers its comment remains valid. We anticipate that once boundary details are available and reviewed this matter can be resolved subject to no anomalies being identified	
Transport	REP5-084 SCC response to Annex A Table 9: 1h	Visibility. REP4-141 :1h and 1r The LHA have responded to the Applicant with a number of questions and requests for additional details with regard to the temporary traffic measures proposed. Not Resolved	As set out in [REP5-057] , the Applicant is working towards addressing issues raised by the LHAs. It intends to respond comprehensively to the LHAs on all matters relating to site access. The Applicant considers that this matter is resolvable.
Transport	REP5-084 SCC response to Annex A Table 9: 1r	Traffic management. Detail requested around the traffic management measures proposed.	This response relates to the deliverability of the proposed traffic management measures, and the Applicant has been requested to provide additional detail to demonstrate this. It is understood that the principal of providing traffic management, as opposed to extensive visibility splays, to deliver safe and suitable access during the construction phase is not in dispute. It should also be noted that the traffic management powers that the Applicant is seeking in article 44 of the draft DCO make provision for the implementation of alternative traffic regulation measures than those shown on the Traffic Regulation Measures Plans [REP2-007] to [REP2-011] , with the consent of the traffic authority concerned. The Applicant considers, therefore, that concerns relating to the detail of the temporary traffic regulation during construction are capable of resolution after the grant of development consent, if development consent is granted. Nonetheless, as set out in [REP5-057] , the Applicant is working towards addressing issues raised by the LHAs. It intends to respond comprehensively to the LHAs on all matters relating to site access.
Transport	REP5-084 SCC response to Annex A Table 9: 1s	Concern regarding safety during the operational phase due to the intensification of use.	It is noted that the SCC and CCC's concerns with regards operational access is based on the assumption that there will be an intensification of use. The Applicant has previously, set out the legal basis by which the LHAs and the Examining Authority can have confidence that the use of the existing accesses during the operational phase would not result in a detrimental impact on Highways safety. Please see 4.1.9 and 6.1.1 of [REP5-057] .

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			<p>The Application seeks authorisation to construct, operate and maintain the Scheme. Article 2 of the draft DCO [REP4-005] defines the meaning of "maintain" in the draft DCO. This sets out that the definition does not include removal, reconstruction or replacement of the whole of the authorised development. Article 5(3) of the draft Development Consent Order [REP4-005] also sets out that the carrying out of any maintenance works which are likely to give rise to any materially new or materially different effects that have not been assessed in the Environmental Statement would not be authorised. This establishes that there would not be an intensification of use at the accesses retained during the operational phase. In addition the Applicant updated the Outline Operational Environmental Management Plan [REP5-010] at paragraph 2.1.1 to oblige the Applicant to provide an annual schedule of planned maintenance.</p> <p>The Applicant re-iterates that it would not be appropriate to increase the size of junctions and clear vegetation for visibility splays, where accesses are existing and there will not be an intensification of use.</p>
Transport	REP5-084 SCC response to Annex A Table 9: 1w	Requests for stage 1 RSA at other locations.	Requests for RSA in other locations are noted and the Applicant is working with the LHAs on wider points relating to the accesses. The Applicant disagrees with the LHA about the necessity of undertaking Stage 1 RSA at this point in the process. This is on the basis that providing a Stage 1 RSA for proposals where junction layouts are non-complex, and safe and suitable access is demonstrated through standard means, i.e. swept path analysis, appropriate visibility or traffic management, is onerous due to the low risk that any issues which arise could not be addressed through a combined Stage 1/2 RSA at technical approval stage. Notwithstanding this, the Applicant appreciates that the LHA is proposing a targeted approach to where RSA1 is requested, and continues to work towards addressing their concerns.
Transport	REP5-084 SCC response to Annex A 13.16	AIL. Paragraph 5.13.10 of EN-1 states that waterborne or rail transport is preferred over road transport at all stages of the project, where cost effective. In SCCs opinion the applicant has not demonstrated that its transport	At this stage of the project it is envisaged that AIL will be transported by waterborne travel to the nearest feasible and cost effective port. The AIL will then be transported the remainder of the route by road, given the lack of river connectivity to the site itself. A map of the intermodal rail freight sites and routes in the UK is provided by Network Rail ([REDACTED]). This

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		management plan complies with this guidance.	Network Rail map illustrates that the closest intermodal rail freight site to the Sunnica site is located at Ely North Junction. Ely North Junction is located approximately 10 miles to the north of the Sunnica site, meaning that a significant proportion of the journey would need to be undertaken by road. At this stage of the project it is not feasible to constrain the origin of AIL loads required by the Scheme and it would not be cost-effective to transition loads from water, to rail, to road, and so the feasibility of using rail routes has not been taken forwards for further consideration at this stage. A worst case assessment of all AIL loads being transported to the site via road from a port has been adopted for the Scheme; however, following detailed design the appointed contractor will determine the most appropriate way for loads to be transported as part of the final CTMP and TP.
Transport	REP5-084 SCC response to Annex A 13.51	Accuracy of HGV forecasts	SCC has requested that this is addressed by introducing controls on HGV numbers by day to each access. The Applicant has committed to this at Deadline 5 at point 13.50 of [REP5-057]. The Applicant can accept in principle the introduction of a cap in HGV numbers within the CTMP to address concerns that the level of HGVs which occur will not exceed the level assessed within the Environmental Statement. The details of such a cap will be drafted by the Applicant and will take account of the LHAs recommendation set out in the Joint Local Impact Report [REP1-024], for discussion and agreement with the LHAs. This will be introduced into the F-CTMP/TP at a future deadline when agreed.
Transport	REP5-084 SCC response to Annex A 13.58	Uncertainty over AIL access to the site. SCC understands that the Applicant has engaged a haulier to conduct a review the route from a suitable port of origin to the site to demonstrate that there is a viable route acceptable to NH and the LHAs.	The Applicant confirms that this is correct and a haulier has been engaged, with a view to addressing the concerns of the LHA.
Transport	REP5-084 SCC response to Annex A 13.6	Requirement for highway boundary detail.	The Applicant notes that SCC considers this to be resolvable, albeit an element of risk is highlighted. <i>"We anticipate that once boundary details are available and reviewed this any anomalies between the order limits and boundaries can be identified, although an element of risk remains that without</i>

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			<p><i>topographic survey data. Issues may therefore arise during the detailed design phase."</i></p> <p>The Applicant highlights that it is being within the Order limit which provides the ability for the Applicant to carry out works under the provisions of the DCO, and that all highways works required are within the Order limits. Therefore it is reasonable to conclude that the element of risk highlighted above is acceptably low and if such risks become manifest they are capable of resolution after the grant of development consent, if development consent is granted, within the powers sought by the Applicant in the DCO.</p>
Transport	REP5-084 SCC response to Annex A 13.64	Requirement for RSA Findings of the RSA at Newmarket Road Site Access I	<p>The Applicant's position on the requirement for RSA1 at this stage is set out in response to Table 9: 1s above.</p> <p>For the benefit of the Examining Authority, comprehensive discussion on this point is provided in SCC's comment and the Applicant's response on p86 of [REP5-057]. The Applicant and SCC agree that the standard visibility requirement is 120m from a distance 2.4m back from the give way line, and that the 90m available represents one step below the desirable minimum. 90m is the distance between the existing access to the upstream junction.</p> <p>The speed survey which determines visibility requirements was undertaken at the access location, rather than the extent of the splay, to provide a robust assessment as surveyed vehicle speeds would not be affected by having slowed down to turn from the A11. The Applicant contends that vehicle speeds at the extent of the splay, i.e. the turn from the A11, will be significantly lower as vehicles slow to make the turn. Thus a survey undertaken at the extent of the splay is likely to show a lower 85th percentile speed, and therefore a lower visibility requirement.</p> <p>SCC is in receipt of the RSA1, the speed survey data, and the Applicant has confirmed directly to SCC that it accepts the recommendation of the RSA1. Discussions are ongoing with regards ways that the Applicant can address SCC's concerns in this location. The outcomes of the work and discussions will be documented in the examination process through the Statement of Common Ground (SoCG).</p>
Transport	REP5-084	REP4-141: Response to LIR (REP3-019) 13.117 to 13.118. SCC welcomes the Applicant's commitment to collect	Paragraph 7.2.11 of the Framework Construction Traffic Management Plan and Travel Plan [REP5-015] sets out this commitment.

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	SCC response to Annex A 13.5 and 13.71	and assess collision data during the construction phase. However, this not reflected in the CTMP n or other management document. This matter can be resolved by including this as a commitment within the CTMP or side agreement.	
Transport	REP5-084 SCC response to Annex A 13.72	Visibility at Access I	Please see response to 13.64 above.
Transport	REP5-084 SCC response to Annex A 13.81	The plan provided by the Applicant (REF) still shows the vehicle modelled over-runs the island. Comments have also been made regarding movements of AILs on the B1103 Swan Lane specifically the oversailing loads being very close to the White Swan Public House. It is noted that in paragraph 5.8.1, the Applicant acknowledges that a 1000 tonne crane will have to traverse parts of the footway. This is a concern to the LHA as it is not known what services are beneath the footway or how quickly any damage to these or the footway will be rectified. That this occurs raises questions about the suitability of this route. As noted in the LIR (REP1-024) the AIL wheel track (blue for AILs) passes over the central island at the junction of the B1102 The Street / Mildenhall Road (Plate 27) so more than	The blue line shown in Figure 27 of the Framework Construction Traffic Management Plan and Travel Plan [REP5-015] indicates the path of the vehicle body. The vehicle tracking indicates that the wheels of the AIL and the load will not overrun the central island at the junction. The body will marginally over-sail the central island and a minor trimming of branches may be required. The Second Change Application [REP5-059] removes the need for AIL travel to Burwell Sub-station which was accepted by the Examining Authority on 25 January 2023. This means that the AILs will no longer need to travel along the B1103 Swan Lane or to pass the White Swan Public House. Therefore, the comments on these matters no longer apply.

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		trimming of branches (5.6.11) may be required at this location.	
Transport	REP5-084 SCC response to Annex A 13.94	Operational Phase/maintenance. The Councils' main concern is the potential for operational traffic movements to result from replacement of PV cells, batteries or other infrastructure during the life span of the project, for which there has been no assessment. This is both in terms of the number of movements that result, for example replacement of large numbers of PV cells, or access or the larger loads or cranes requiring to travel to or from the substation or battery storage sites.	Please see response to Table 9: 1s above.
Transport	REP5-084 SCC response to Annex A 13.100	Golf Links Road is recognised by the Applicant as being unsuitable for HGV access and the other two accesses are to be removed during the operational phase. The Applicant is asked to clarify how HGVs required for access or maintenance are to access this part of the site.	The Applicant has confirmed in its Response to the Joint Local Impact Report [REP3-019] at corresponding point 13.100 that no HGVs will be required for maintenance of this part of the Scheme. If maintenance is required during the operational phase, it will be undertaken using smaller vehicles.
Transport	REP5-084 SCC response to Annex A 13.105	SCC continues to have concerns that the access tracks will only be wide enough for single large vehicle movements and if conflicts occur there will not be space to manoeuvre incoming vehicles past outgoing. Whilst the Applicant has stated that measures will be put in place to prevent this it is unclear what these will be and whether they will be effective.	The Applicant has set this out comprehensively in the corresponding point 13.105 in the Applicant's Response to the JLIR [REP3-019] . This includes strong commitments to management and control measures, and commitments to the design of the internal site layouts. As referenced in the REP3-019 response, the Framework Construction Traffic Management Plan and Travel Plan [REP5-015] includes the measures introduced into this control document at Deadline 3, i.e. paragraph 7.2.19. This sets out clearly what the effective proposed measures are.

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Transport	REP5-084 SCC response to Annex A 13.107	Visibility at Access I	Please see response to 13.64 above.
Transport	REP5-084 SCC response to Annex A 13.113	Concerns remain regarding the provision of safe access during the operational phase after the removal of the temporary traffic management measures, especially as limited information has been provided on use during the operational phase and it is not possible for the authority to understand what intensification of use will occur.	<p>The Applicant notes specific comments regarding the detail and deliverability of traffic management, and refers to the response to Table 9: 1r.</p> <p>It is important to acknowledge that the Scheme will generate a very small quantity of traffic during operation with up to 17 permanent staff on-site.</p> <p>The Applicant refers to Table B-9 in Appendix 2 to the Design and Access Statement [REP3A-032], which expresses the “design principles” that are referred to in requirement 6 of the draft DCO. This table sets out the phases (construction, operation and decommissioning) in relation to which the Applicant proposes to use each of the accesses. The primary accesses for each site are clearly identified and it is these accesses that will predominantly be used during the operation of the authorised development, if development consent is granted. However, the Applicant is seeking to retain the ability to use the non-primary accesses as denoted in Table B-9 during the operation of the Scheme, as a contingency should it prove necessary. In relation to the accesses pertaining to Grid Connections Routes A and B, Table B-9 explains that following construction these will be re-instated to their prior condition, however, the Applicant requires the ability to reinstate these accesses during the operational phase if it requires access to the Grid Connection Route to carry out maintenance, if, for example, there is a fault in the cable.</p> <p>The Applicant understands that SCC’s concern relates to the use of those accesses non-primary site accesses during operation, after the temporary traffic regulation measures required for them to be operated safely have expired. In this regard it is important to note that the Applicant seeks in article 44 of the draft DCO the power to make temporary traffic regulation measures for the purposes of the construction, operation and decommissioning of the authorised development, subject to the traffic authority’s consent. Provided such consent is granted then temporary traffic regulation measures could be re-introduced to ensure the safe use of those accesses.</p> <p>The Applicant updated the Operation Environmental Management Plan [REP5-011] at Deadline 5 to include an obligation to submit annually a</p>

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
			schedule of maintenance activities for the coming year which will ensure the authorities have oversight of planned maintenance activities.
Transport	REP5-084 SCC response to Annex A 13.116	Highway boundary and topographic surveys are necessary to ensure that the proposals are deliverable	Please refer to response to 13.6 above.
Transport	REP5-084 SCC response to Annex A 13.118	REP4-141: Response to LIR [REP3-019] 13.117 to 13.118. SCC welcomes the Applicant's commitment to collect and assess collision data during the construction phase. However, this not reflected in the CTMP or other management document.	Please refer to response to 13.5 and 13.71 above. Paragraph 7.2.11 of the Framework Construction Traffic Management Plan and Travel Plan [REP5-015] sets out this commitment.
Transport	REP5-084 SCC response to Annex A 13.49 to 13.125	SCC sets out multiple comments which are repeated from its response to the CTMP at Deadline 4. SCC helpfully sets out key issues to enable resolution.	The Applicant has responded to the comments in full in 8.72 Applicant's response to LPA Deadline 4 submissions [REP5-057] , Table 5. To aid the reader, the Applicant responds to SCC's key issues to enable resolution within this section. The Applicant considers that matters raised are resolvable, and notes significant progress has been made on these matters.
Transport	REP5-084 SCC response to Annex A 13.49 and 13.120	SCC would expect the CTMP to include: maximum number of HGVs using individual routes or using specific accesses. The number of workers on site and numbers of LGVs arriving / departing to be recorded. This would show compliance with HGV, LGV movements and car share ratio achieved.	The Applicant has listened to the LHAs concerns regarding HGV movements and controls. In response, the Applicant can accept in principle the introduction of a cap in HGV numbers within the CTMP to address concerns that the level of HGVs which occur will not exceed the level assessed within the ES. The details of such a cap will be drafted by the Applicant will take account of the LHAs recommendation set out in the Joint Local Impact Report [REP1-024] , for discussion and agreement with the LHAs. This will be introduced into the Framework Construction Traffic Management Plan and Travel Plan [REP5-015] at a future deadline when agreed. The Applicant has amended the LGV vehicle cap set out in paragraph 7.2.38 of the F-CTMP/TP [REP5-015] as requested. The establishment of the cap at a level equivalent to 1.5 vehicle occupancy provides the control measure to ensure that the Applicant maximises sustainable transport opportunities.
Transport	REP5-084	Monitoring and reporting	Paragraph 7.4.7 of the F-CTMP /TP [REP5-015] sets out that the information requested by SCC for monitoring and reporting is included. This includes:

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
	SCC response to Annex A 13.122, 13.124, 13.125		<ul style="list-style-type: none"> • Progress of the project against specific gateways; • Freight movement to/from the site; • Details of non-compliance with routing or speed limits; • Near misses or safety related incidents; • Freight compliance with appropriate exhaust emissions (Euro VI); • Transport of AILs to/from the site; • LGV movements to/from the site; • Staff movement to/from the site, based on total numbers of vehicles and compliance with shift patterns; and • Information on complaints received on transport related issues including parking.
Transport	REP5-084 SCC response to Annex A 13.126	<p>Monthly monitoring report should be submitted to Local Highways Authorities and a contribution for time and costs associated with reviewing and monitoring by the Local Highway Authorities should be paid.</p> <p>SCC considers that the monitoring shall be provided at mutually agreed regular intervals and not on request. This appears to be the Applicant's view and SCC looks forward to changes to the FCTMP&TP to confirm this.</p>	<p>Paragraph 7.4.7 of the F-CTMP /TP [REP5-015] sets out "<i>The Applicant is committed to regular and frequent monitoring on a monthly basis, or such lesser frequency as is agreed with the LHAs.</i>"</p> <p>Financial arrangements between the Applicant and the LHA are a matter for negotiations in relation to the Side Agreement, and not control documents such as the CTMP.</p>
Transport	REP5-084 SCC response to Annex A 13.126 to 13.131	SCC requests a Planning Performance Agreement (PPA) to be agreed to allow SCC to recover reasonable costs.	The Applicant is in discussion with the Councils regarding fees for the discharge of requirements and has responded to the Councils' proposal prior to Deadline 6.
Transport	REP5-084	The Councils consider it reasonable to pursue either protective provisions for the LHAs similar to those which are proposed for National Highways, or	The Applicant is constructively progressing the Side Agreement with the LHAs and has agreed a weekly programme of meetings with SCC with a view to completing the agreement before the examination concludes. The Applicant is mindful that the examination is due to complete by the end of March 2023 and

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
	SCC response to Annex A 13.137	alternatively a side agreement with the LHAs to ensure that the LHA can control works to the public highway and recovers reasonable costs for doing so.	therefore it would be sensible to discuss a backstop position should the side agreement not be complete by the end of the examination. The Applicant therefore intends to submit draft protective provisions for the protection of the local highway authorities by the 8 February so that they can be discussed in the hearings.
Transport	REP5-084 SCC response to Annex A 13.140	A commitment is made in 7.2.15 of the CTMP (REP3A-005). However, no reference to agreeing the nature of the condition surveys with the LHAs are included in the CTMP nor the latest version of heads of terms for side agreement received on the 20/12/2022.	The Applicant will agree the nature of the condition surveys with the LHA. 7.2.15 sets out that the geographical scope will be agreed with the LHA. Furthermore, 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.
Transport	REP5-084 SCC response to Annex A 13.141 to 13.143	Requests for financial payments	The Applicant is prepared to discuss appropriate financial provision in the context of a side agreement.
Transport	REP5-084 SCC response to Annex A CTMP	Definition of HGV	The definition of HGV as all vehicles exceeding 7.5T in weight is included in paragraph 2.3.1 of the F-CTMP [REP5-015].
Transport	REP5-084 SCC response to Annex A CTMP	Access intensification and maintenance	Please see response to 13.94 above.
Transport	REP5-084 SCC response to Annex A CTMP	Car Share Ratio of 1.3	The Applicant has amended the LGV vehicle cap set out in paragraph 7.2.38 of the F-CTMP/TP [REP5-015] as requested. The establishment of the cap at a level equivalent to 1.5 vehicle occupancy provides the control measure to ensure that the Applicant maximises sustainable transport opportunities.

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
Transport	REP5-084 SCC response to Annex A CTMP	Link Sensitivity	SCC considers the matter of link sensitivity to be concluded, with the exception of Saturday movements. The Applicant notes this conclusion, and has responded with regards Saturday movements in response to ExQ2.10.6
Transport	REP5-079 CCC response to 2.10.11	E1: Visibility and intensification of use Provision of Highways extent on plans & E2 to E5 Further commentary on intensification of use	The Applicant has advised the LHAs that it intends to incorporate highways boundary information on drawings when it receives the information. Please see the response to SCC Annex A, Table 9: 1s with regards to intensification of use. In relation to traffic management during operation see the response to SCC response to Annex A 13.113 above.
Transport	REP5-079 CCC response to 2.10.11	E6-E7 La Hogue Road. Suitability of passing places rather than full widening. Request for RSA1 and deliverability within highway or DCO boundary.	Please see response to CCCs response to EXQ2.10.5. In addition to this response, it is clear and unequivocal from the drawings provided at Annex C of the F-CTMP/TP [REP5-015] that the proposed works are deliverable within the DCO Order limits.
Transport	REP5-079 CCC response to 2.10.11	E8-E9 Access width during the operational phase.	This is the same core issue around intensification of access which is set out in response to SCC Annex A, Table 9: 1s the response to SCC response to Annex A 13.113 above. The use of existing farm accesses is appropriate considering very low levels of usage, and importantly that usage will not be intensified, which will mean that the chance of two vehicles meeting in different directions will be both very low, and no greater than the current level of risk. Furthermore, any vehicles turning into and out of the site accesses, which appears to be the issue raised in this response, will be under the control of the Applicant. If intensification was to occur, the safeguard exists that the temporary traffic management would be re-introduced.
Transport	REP5-079 CCC response to 2.10.11	E10-E11 It is unclear whether approval through the CTMP is appropriate for those elements of the works that will be permanent and will be required to be maintained throughout the operational phase.	It is unclear how this comment relates to E10-E11, which refers to the internal site layout for the construction phase. Nonetheless, the Applicant notes it is requirement 6 (detailed design approval) that is the mechanism for the approval of the detailed design of the project and note that requirement 6(1)(f) specifically relates to the approval of the design of "vehicular and pedestrian access, parking and circulation areas".
Transport	REP5-079	E12-E13 drainage	As stated, drainage is a detailed design matter. However, a Drainage Technical Note [REP5-070] has been submitted into examination which sets

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
	CCC response to 2.10.11		out the drainage strategy and design principles to be adopted. The Applicant has acknowledged the possibility that other environmental consents may be required for Scheme, including water discharge activity environmental permits. This is documented in its Consents and Agreements Position Statement [REP2-016] at row 3 of Table 1-1.
Transport	REP5-079 CCC response to 2.10.11	E14-E126 Further comments on visibility during the operational phase Suggestion of moving accesses Safety of existing field accesses	The Applicant notes that CCC's concerns now appear to be focussed on the operational phase and note the acceptance that traffic management during construction can be used to mitigate its safety concerns. Please see the Applicant's responses to response to SCC Annex A, Table 9: 1s the response to SCC response to Annex A 13.113 above.

3. Comments on DCO amendments

Topic – DCO amendments

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
Ecology	REP5-075 and REP5-101 CCC and WSC Comments on Requirement 10(1)-(4)	<p>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].</p> <p>Requirement 10 should be updated to include a contingency fund as a solution, in order to address the Councils' concerns regarding a lack of contingency if habitat provision fails – 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].</p>	<p>The Applicant has set out their position regarding the management and maintenance of landscape and ecological measures, including stone curlew offsetting areas, post the decommissioning works at Deadline 5 [REP5-057].</p> <p>In respect of 'contingencies', were habitat provision or other measures to be needed, this would be recommended by the Ecology Advisory Group (EAG) and given that the EAG is built into the OLEMP, and then onto the LEMP, compliance would be required by the DCO. No separate provision is therefore required for a contingency fund.</p> <p>It is also noted that Requirements 8 and 10 of the DCO requires the scheme landscaping and ecological provision and the stone curlew habitat provision to be maintained throughout the lifetime of the development (which would include during the decommissioning phase) in accordance with the detailed LEMP and offsetting habitat specification that is approved. If it is no longer possible to do that, then the detailed LEMP specification would need to be updated and approved (pursuant to Requirement 5), meaning that the LPAs will be able to ensure that habitat provision is continuing to be provided.</p>
Ecology	REP5-101 WSC Comments on Schedule 2 requirement 8(b)	<p>OLEMP - 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. In addition, if the LEMP is not in place</p>	<p>The creation of habitats is dealt with in the Outline LEMP [REP5-011], updated at Deadline 5. This includes, for example, where creation or installation of habitats or particular features are required to be established during construction, such as planting for screening purposes or commencement of habitat creation for Stone-curlew. The specific dates for any of these will be fully established once any construction programme is known, and would be set out in the detailed LEMP. As that detailed LEMP has to be approved prior to</p>

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
		when decommissioning of the project occurs, the detailed DEMP should include details of any habitat restoration that will be required.	construction, the LPAs will be able to check and agree the implementation timetable that is proposed. Prior to decommissioning the detailed DEMP will set out any measures required for habitat re-instatement, this is secured through the FDEMP.
Transport	REP5-075 CCC Comments on Article 11:	<p>The Applicant is invited to amend Article 11(1) to clarify that rights of way may only be stopped up for the purposes of delivery of the Scheme. The Council expects an alternative public right of way (PROW) whilst any public right of way is temporarily stopped up.</p> <p>The revised drafting of Article 11 remains unacceptable and the Council responded to questions asked of CCC by the Examining Authority in its second written questions – Q2.9.9 to 2.9.18.</p> <p>To reflect text in Article 11 (1)(b) “authorise for the purpose of crossing only”, the corresponding provision at Schedule 6 also needs to be amended to align correctly. Column 3 of Schedule 6 Part 2 currently states that “<i>motor vehicles under the direction of the undertaker may pass along, or cross, the length of the public right of way</i>”. This should be amended to say “<i>motor vehicles under the direction of the undertaker may cross the public right of way</i>”</p>	<p>The Applicant's view is that Article 11(1) does not need amending to clarify that rights of way may only be stopped up for the purposes of delivery of the Scheme, as it is clear in sub-paragraph (1) that the power can only be exercised during and for the purposes of constructing or maintaining the Scheme. This is sufficiently clear that the power to temporarily close public rights of way may only be exercised for the purposes and periods stated which are limited to the construction and maintenance of the Scheme.</p> <p>The Scheme has been designed to minimise the number and duration of PRoW closures, including along the cable route. If closure of routes is required then as a worst-case scenario, it has been assumed that the PRoW would be closed for no more than three weeks, and therefore not considered to have a significant or long term impact. Therefore, diversions of PRoWs or the provisions of alternative PRoWs are not considered proportionate for the worst case scenario of three weeks closure. Nonetheless, the Applicant understands CCC's concerns and has included reference in paragraph 6.3.10 of the CTMP [REP5-015] to the preferred use of managed crossings of the public rights of way affected by the works, where it is safe to do so.</p> <p>The Applicant has responded to the Council's responses to the Examining Authority's second written questions Q2.9.9 to 2.9.18 in section 2 of this document.</p> <p>The Applicant has updated the draft DCO submitted at Deadline 6 to make the change in column 3 of Part 2, Schedule 6 to the draft DCO to align with the updated text in Article 11(1)(b).</p>
Transport	REP5-075	It is unclear whether the permitted preliminary works, defined in Article 2 of	The purpose of the permitted preliminary works is to enable the Applicant to carry out certain specified works, which are not likely to result in significant

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
	CCC Comments on Requirement 16(3):	the Order, will require construction of accesses, both temporary and retained throughout the operational phase, and thereby included.	<p>environmental effects that would require management or mitigation (of the type secured in the management plan), prior to discharging the relevant requirement. The Applicant does not intend on carrying out permitted preliminary works during the operational phase of the authorised development, as by that point it will have fully commenced the authorised development and discharged the relevant requirements in order to construct the Scheme.</p> <p>Accesses are controlled under Article 12 (Access to works) which applies to any access, whether for permitted preliminary works or for commencement.</p>
Transport	<p>REP5-073</p> <p>ECDC Comments on the definition of 'maintenance':</p> <p>WSC comments on the definition of 'maintain'.</p>	<p>The definition of maintain in the draft DCO is too wide and makes it possible to replace very large proportions of the whole with all of the attendant impacts and effects.</p> <p>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 authorised 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.</p> <p>The better approach is as follows. The definition of maintain is simplified to what is genuinely maintenance as opposed to replacement: "<i>maintain</i>" includes inspect, repair, adjust, alter, and improve any part of the authorised</p>	<p>As noted in the Applicant's response to the Examining Authority's First Written Questions Q1.5.8 [REP2-037] the Applicant is satisfied that this definition of maintain is not too extensive and widely drawn. The definition has been drafted to directly reflect the nature and context of the authorised development, which will need to be properly maintained, managed and protected throughout its operational lifetime. The drafting, therefore, reflects this operational period and likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards.</p> <p>Given the intended operating life of the Scheme is up to 40 years, it is necessary to include 'replace' within the definition of maintain to ensure that, components can be replaced routinely as required during operation. If 'replace' is not included within the definition of maintain, the Applicant would need to apply for development consent in order to replace any component of the Scheme. This would result in an unduly restrictive barrier to ensuring the authorised development can remain operational for the full lifetime of the Scheme within the parameters of the Application.</p> <p>Following engagement with the Councils, in particular WSC who confirmed that its concerns about the scope of 'maintain' is a practical point rather than one that required amendments to the draft DCO, the Applicant updated the Outline Operational Environmental Management Plan [REP5-009] at paragraph 2.1.1 to oblige the Applicant to provide an annual schedule of planned maintenance.</p>

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
		<p><i>development and "maintenance" and "maintaining" are to be construed accordingly.</i></p> <p>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.</p> <p>There is a need for a new requirement to address what happens at the end of the life of the installation:</p> <p><i>"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."</i></p>	<p>The Applicant acknowledges the Council's concern relating to the definition of 'maintain' and is continuing to engage with as well as considering developing a requirement to be included in the draft DCO in relation to providing oversight of maintenance of the authorised development.</p>
Transport	REP5-076 SCC comments on (v) Article 44(2)	SCC agrees that the Applicant should obtain the traffic authority's consent before exercising the powers under paragraph (2); however, SCC considers that, as drafted, the provision does not quite work. As mentioned in SCC's ISH1	The Applicant has considered the proposed wording for sub-paragraph (2) and notes that it is the same as the wording in the current draft DCO so no further amendments have been made.

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	traffic regulation measures)	<p>Post-hearing Submission [REP2-085a], SCC considers paragraph (2) should be amended as follows –</p> <p>“(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road is situated, the undertaker may for the purposes of construction, maintenance and decommissioning of the authorised development, temporarily place traffic signs and signals in the extents of the road specified in column 2 of Part 4 of Schedule 14 (traffic regulation measures) and, subject to the consent of the traffic authority in whose area the road is situated the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016”.</p>	
Transport	<p>REP5-076</p> <p>SCC comments on (vi) Article 44(5) traffic regulation measures</p>	<p>SCC considers the drafting of paragraph (5) would be clearer if it explained what is meant by a “local advertisement”. For instance, SCC publishes a notice of consultation in a local newspaper which covers the affected area and expects the Applicant would do the same under paragraph (5). For clarity therefore, SCC suggests that new article 44(5) is amended as follows –</p>	<p>The Applicant has updated the draft DCO submitted at Deadline 6 to include this change, although it has made some minor drafting amendments in accordance with the latest drafting guidance for Statutory Instruments.</p>

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		<p>"(5) Prior to any application for the consent of the traffic authority under paragraphs (1) and (2), the undertaker shall carry out 21 days consultation with affected highway users by means of site notices and local the publication of an advertisement in a newspaper which covers the affected area and shall include a consultation report presenting the results of that consultation as part of its application for consent".</p>	
Transport	<p>REP5-076</p> <p>SCC comments on (viii) Schedule 2, Requirement 16(1) (construction traffic management plan)</p>	<p>A drafting point: after "must" insert "be".</p>	<p>The Applicant has made this amendment in the updated version of the draft DCO submitted at Deadline 6.</p>
Transport	<p>REP5-076</p> <p>SCC comments on (ix) Schedule 2, Requirement 16(3) (construction traffic management plan)</p>	<p>For consistency with the running order of the definition of "permitted preliminary works" and the amendments made to paragraph (h) of that definition, SCC considers paragraph (3) should be amended as follows –</p> <p>"(3) No part of the permitted preliminary works for each phase comprising above ground site preparation for temporary facilities for the use of contractors, the diversion and laying of apparatus, and site clearance (including vegetation removal, and demolition of existing buildings and structures), and the</p>	<p>The Applicant has amended the draft DCO submitted at Deadline 6 so that the order of specified permitted preliminary works in requirement 16(3) follows that in the definition, although the Applicant notes that in the Council's proposed drafting 'the diversion and laying of apparatus' is referred to twice it has referred to these works after temporary facilities for the use of contractors'.</p> <p>Regarding access, please see Article 12 (Access to works) which applies regardless of whether the access is for permitted preliminary works or for commencement. The Article deals with permanent means of access that are identified in Schedule 7, Part 1, temporary means of access that are identified in Schedule 7, Part 2 and, in relation to any other means of access, with the approval of the relevant planning authority.</p>

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		<p>diversion and laying of apparatus so far as it relates to works in the highway may start until a permitted preliminary works traffic management plan for that phase has been submitted to and approved by the relevant county authority for that phase or, where the phase falls within the administrative areas of both the county of Suffolk and the county of Cambridgeshire, both relevant county authorities".</p> <p>As mentioned in SCC's comments on the Applicant's Schedule of Change to the draft DCO from Change Request application to Deadline 2 [REP3A-042] SCC considers all works involving the formulation of or change to any vehicular access, whether or not on a temporary basis or not, needs to be subject to the prior approval process. SCC seeks confirmation that none of the remaining paragraphs within the definition of "permitted preliminary works" (i.e. paragraphs (a), (c), (e), (f) or (g)) could require the formulation of or change to any vehicular access, whether or not on a temporary basis or not.</p>	
Transport	REP5-076 SCC comments on (xi) Articles 9 (power to alter layout etc., of	As mentioned in SCC's ISH1 Post-hearing Submission [REP2-085a], SCC is concerned about the lack of any requirement for its consent in the provisions in relation to Street Works in Part 3 of the dDCO, in particular in	The general concerns re-iterated in this response concerning works in the local highway network (the term "highway" being inclusive of public rights of way) are addressed throughout this response document. The Applicant does not accept the assertion that it has not provided sufficient information to enable the effects of the Scheme to the local highway network to be assessed.

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
	streets) and 11 (temporary stopping up of public rights of way):	Article 9(1) as regards the works in Schedule 5 and in Article 11(1) as regards interferences with public rights of way. SCC reiterates its general concern (as elaborated in the Joint LIR and during ISH1) as to the insufficiency of the information provided by the Applicant to enable the effects on the local highway network and the public rights of way network to be fully assessed. In the absence of further information, the powers sought by the Applicant to undertake works affecting these networks should be subject to a requirement for consent from SCC	In relation to the specific concerns relating to Article 9 the Applicant notes that the detailed design of "vehicular and pedestrian access, parking and circulation areas" are specifically identified as requiring pre-commencement approval under requirement 6(1)(f). In relation to Article 11 the Applicant notes that article 11 requires the Applicant to consult the traffic authority prior to exercising the specific powers listed in paragraph (3) and that the measures detailed in the CTMP in relation to temporary closures of public rights of way, see in particular paragraphs 6.3.4 to 6.3.10, are required to be developed into a full construction traffic management plan and submitted for the approval of the relevant county authorities, before the Project can commence. However, the Applicant acknowledges SCC's concerns (which are shared by CCC) and hopes that they can be addressed through the means of an appropriate side agreement. The Applicant is mindful that the examination is due to complete by the end of March 2023 and therefore it would be sensible to discuss a backstop position should the side agreement not be complete by the end of the examination. The Applicant therefore intends to submit draft protective provisions for the protection of the local highway authorities by the 8 February so that they can be discussed in the hearings.
Drainage	REP5-075 CCC Comments on Requirement 12	Appropriate text should be added to Requirement 12 to confirm the Drainage Strategy includes the results of the infiltration testing.	The Applicant notes the comment and the DCO has been updated at Deadline 6 to include reference to the Drainage Strategy including results of infiltration testing.
Protective provisions – drainage authority	REP5-075 CCC Comments on Schedule 12, Part 8	It is noted there is no change to Schedule 12, Part 8 where the Council has asked in response [REP3A-038]: Clause 90(1) would seek 28 days as opposed to 14 days for the submission of plans.	The Applicant has previously responded at Deadline 4 [REP4-036] to say that it is in discussions with Cambridgeshire County Council's legal team on the protective provisions for the benefit of the drainage authorities. The protective provisions in Schedule 12 of the Order will be updated in the draft DCO once both parties are agreed. The Applicant returned comments to the Council's lawyers on 14 th December 2022 and is awaiting a substantive response.

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
		<p>Clause 90(2) We would seek 2 months as opposed to 28 days to consider the plans.</p> <p>Clause 94, We would wish to capture indemnity in this paragraph.</p>	
DCO	<p>REP5-073</p> <p>ECDC Comments on Article 27 (Temporary use of land for constructing the authorised development)</p>	<p>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.</p> <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. The same point arises in respect of Work 10, dealt with below.</p> <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>	<p>The Applicant acknowledges the Council's concerns about the flexibility of the phrase 'temporary use of land', but, as is common practice, temporary possession of land enables developers to minimise the permanent acquisition of the rights sought. This is particularly the case for the cable corridor, where temporary possession will enable the Applicant to carry out micro siting before acquiring the permanent easement and, for plot 21-04, to enable the passage of abnormal indivisible loads without needing to take permanent rights.</p> <p>Whilst the power in Article 27 is flexible to enable the Applicant to minimise the permanent acquisition of rights sought, Article 27(1)(b) to (e) sets out limitations on this general power to temporarily use the Order land for carrying out the authorised development. Under paragraph (2) the undertaker cannot take temporary possession of any house, garden or other occupied building. In addition, the undertaker must:</p> <ul style="list-style-type: none"> serve notice of intended entry not less than 14 days before intended entry onto the land (paragraph (3)); not remain in temporary possession of the land for any longer than required and not for more than one year after the date of final commissioning of the phase of the authorised development for which the land was temporarily possessed unless the undertaker has already served a notice to treat or general vesting declaration (paragraph (4)); before giving up occupation of land, remove the temporary works and restore the land to the reasonable satisfaction of the owner. The model provision has been modified to specify certain operations that are not required to be removed. This approach is specific to the authorised development and is necessitated by the authorised development (paragraph (5)); and not compulsorily acquire, compulsorily acquire rights over, the land referred to in paragraph (1)(a)(i) (i.e. plot 21-04).

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
			<p>The Applicant has taken the Council's earlier comments on board regarding the pre-construction tree surveys and updated the DCO at Deadline 6 to provide that the detailed design for a phase, which is required to be submitted pursuant to Requirement 6, must now include details of how the design has taken account of the arboricultural impact assessment (AIA) or updated tree surveys for locations within that phase, where arboricultural impacts are likely.</p> <p>The proposal to disapply the provisions of the TPO regime, is to ensure that one regime will apply to trees affected by this Scheme through the DCO and its accompanying certified documents. As such, with the drafting of the CEMP as at Deadline 5 and the amendments to the DCO at Deadline 6, that regime is created and the Councils have the protections they have been seeking whilst maintaining the flexibility under Article 27 in relation to land rights used to access land to carry out these works.</p>
DCO	REP5-073 ECDC, SCC and WSC comments on Schedule 13, fees for discharge of requirements	The Councils have proposed a fee schedule for the discharge of fees to be included in Schedule 13 for discussion with the Applicant.	The Applicant notes the proposed fee schedule and has responded to the Councils prior to Deadline 6.
DCO	REP5-076 SCC, WSC and ECDC comments on Article 36 (felling or lopping of trees and removal of hedgerows)	<p>ECDC continue to rely on the points made after ISH 1. The latitude afforded under these provisions remains far too wide.</p> <p>SCC considers the inclusion of sub-paragraph (2)(b) is an improvement on the previous draft; however, SCC considers the words "except for where not practically possible" should be removed. While sub-paragraph (2)(b) is</p>	The Applicant acknowledges the Councils' concerns and following feedback from the Councils it has updated the Framework Construction Environmental Management Plan [REP5-043] and has provided the updated Arboricultural Impact Assessment [REP5-052]. The Applicant considers that these provide sufficient information on likely direct and indirect arboricultural impacts required to facilitate the Scheme and the method for dealing with trees during delivery of the Scheme, and through the Arboricultural Report required to be prepared alongside the CEMP, alongside the amendments to Requirement 6 brought forward at Deadline 6, will give the LPAs the controls they seek in respect of tree impacts.

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		<p>precedented, the words “except for where not practically possible” do not appear in the precedents and SCC is not aware of any explanation for their inclusion. SCC considers the inclusion of these words would compromise the effectiveness of the provision. SCC considers sub-paragraph (2)(b) should read –</p> <p>“In carrying out any activity authorised by paragraph (1) or (4), the undertaker must – ...</p> <p>(b) ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice provided these meet or exceed the appropriate British Standards, except for where not practically possible;”</p> <p>The Secretary of State considered this drafting to be appropriate in the recently made A47/A11 Thickthorn Junction Development Consent Order 2022. Article 39(2)(b) of that Order states –</p> <p>“(2) In carrying out any activity authorised by paragraph (1) or (4), the undertaker must</p>	<p>As noted, the Applicant updated Article 36(2) in the draft DCO submitted at Deadline 4 to include the wording proposed by the Suffolk County Council, with the addition of ‘except where not practically possible’ in paragraph (2)(b). This is necessary to give the undertaker flexibility in case it is not possible in particular circumstances to ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards, or other more suitable recognised codes of good practice. Whilst it is the Applicant’s intention as demonstrated in this paragraph to ensure the works are in accordance with such standards, it is well precedented in a number of made DCOs to ensure there is sufficient flexibility to ensure the nationally significant infrastructure project that is consented can actually be delivered in future unknown circumstances.</p>

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		<p>... (b) ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice provided these meet or exceed the appropriate British Standards; ...”</p> <p>WSC welcomes the made in relation to the standard of tree works and compliance with legislation to protect wildlife. 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'</p>	
DCO	Requirement 14, Construction Environmental Management Plan	WSC consider that Natural England should be consulted in connection with the discharge of Requirement 14.	The Applicant has updated the draft DCO submitted at Deadline 6 to include Natural England as a consultee in requirement 14.
DCO	Requirement 15, Operational Environmental Management Plan	WSC consider that Natural England should be consulted in connection with the discharge of Requirement 15.	The Applicant has updated the draft DCO submitted at Deadline 6 to include Natural England as a consultee in requirement 15.

4. Comments on Other parties' submissions at Deadline 5

Topic – Other parties' submissions at Deadline 5

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
Ecology	REP5-077 and REP5-101 CCC and WSC comment on draft Joint Councils SoCG [REP4-015], Row 4, Page 12	The Council does not agree that the "Scheme provides nesting and higher quality grassland foraging habitats", given that the scheme will provide sub-optimal, not optimal, habitat for these species. This matter is still under discussion.	The Applicant does not agree that the Stone-curlew habitat proposed by the Scheme will be sub-optimal. The Scheme is offsetting the loss of arable farmland, itself a suboptimal, if not poor, habitat for Stone-curlew, with permanent grassland and disturbed ground nesting plots; habitats accepted as optimal habitat for Stone-curlew, for example by the RSPB with respect to measures to conserve the species in Breckland. Natural England have confirmed in their Deadline 6 SoCG that the mitigation proposed is sufficient.
Ecology	REP5-091 and REP5-101 CCC and WSC comment on ISH2 Note [REP4-030], paragraph 3.1.7 – Bird Surveys	The post meeting note states that further surveys prior to commencement of construction will 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 [REP3-015] states that "Pre-construction surveys will be undertaken to validate and, if necessary, update the baseline habitat survey findings and to Page 3 of 9 update on the presence and location of invasive species" (page 16C-17), but does not include pre-commencement surveys for protected species. The Councils request the wording of the FCEMP be updated to include updates for baseline habitat and protected species.	Table 3-3 Biodiversity of the Framework CEMP states on page 16C-13 under 'Monitoring Requirements': <i>'A pre-construction site walkover will be undertaken in advance of mobilisation/any potential advance works to re-confirm the ecological baseline conditions and to identify any new ecological risks. Updated species surveys, including bats, great crested newt, breeding birds, otter, water vole and badger, will be completed as appropriate to re-confirm the status of protected species identified, to inform mitigation requirements and support protected species licence applications, if required by Natural England. the Council(s) and ECoW team. This is proposed to be secured by a Requirement of the draft DCO.</i> <i>Such surveys will be undertaken sufficiently far in advance of construction works to account for seasonality constraints and to allow time for the implementation of any necessary mitigation, prior to construction. Additional surveys may be required during the advance works, site clearance and construction phase as advised by the ECoW team, based on the findings of the updated walkover and protected species surveys, or otherwise as identified as appropriate by the Applicant or their appointed contractor.'</i>

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Ecology	<p>REP5-091 and REP5-101</p> <p>CCC and WSC comments on ISH2 Note [REP4-030], paragraphs 3.3.16 – Bats CEMP</p>	<p>Professor Wade confirmed that measures relating to bats are secured through the Framework Construction Environment Management Plan (CEMP) [REP3-015]. 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 the Councils' Local Impact Report [REP3-019] that <i>"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"</i>. The Councils request the framework CEMP is updated to address this matter.</p>	<p>Please refer to comment above.</p>
Ecology	<p>REP5-091</p> <p>CCC comments on Applicant's response to the Joint Councils Deadline 2, 3 and 3A submissions [REP4-035], Page 10 – Lack of protection for decommissioning phase</p>	<p>The Applicant states that the <i>"DEMP will include measures relating to landscape and ecology in line with the Framework DEMP"</i>. There is no provision within the framework DEMP to manage habitats, either those retained or reinstated as part of the decommissioning works. The LEMP required under Regulation 8(2)b [REP4-005] only covers the management of maintenance of <i>"landscape / ecological measures during the operational life of the authorised development to the date on which the decommissioning environmental management plan is implemented pursuant to requirement 22 (decommissioning and restoration)"</i>. Therefore, there will be no LEMP to cover the decommissioning phase or a period of</p>	<p>Table 3-3 of the Framework DEMP provides sufficient outline commitments, which will be refined and detailed in the final DEMP, produced prior to decommissioning, to avoid and minimise impacts on protected/notable species and existing habitats during the decommissioning works.</p> <p>In addition, there is a commitment to fully reinstate, on a like-for-like basis at the same location on completion of the works, any habitats temporarily lost or damaged during decommissioning. The specific provisions for this will be provided in the final DEMP. The focus of the DEMP is to mitigate the impacts of decommissioning <u>works</u>. As there is a commitment to maintain the LEMP measures, they will be left in situ, the DEMP will ensure appropriate mitigations are in place during that short works period to ensure that that commitment which is secured through the DCO is met. Beyond that, as the Applicant has stated in other submissions, the LEMP measures will be in the control of the landowners.</p>

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		<p>restoration to ensure that all habitats (either retained or reinstated as part of decommissioning) will establish and achieve their target condition. The Council is concerned that habitats will not be protected during the decommissioning / restoration phase due to the lack of habitat management, which is likely to result in failure of any mitigation / compensatory habitat (required as part of the decommissioning works) and decline in the quality of any retained habitats. The Council require this issue be addressed through the rewording of Requirement 22 to include the production and implementation of a LEMP to cover the decommissioning and restoration phase. This should cover both the management of retained and reinstated habitats, ensuring appropriate establishment of the habitats and management towards their target conditions. Management should be sought in perpetuity, as discussed within section 8 of the Council's Written Summary of Oral Case for Issue Specific Hearing 2 [REP4-080].</p>	<p>In respect of retained or created habitat within the Scheme design, a key role of the Ecology Advisory Group is to advise on the monitoring of the Scheme post-construction to ensure it meets the outcomes set out in the detailed LEMPs. The Applicant has set out in its Deadline 5 submissions why management will not take place in perpetuity by the Applicant.</p>
Ecology	<p>REP4-086</p> <p>Dr Edmund Fordham comments on microclimate.</p>	<p>Dr Edmund Fordham comments on local micro-climate changes caused by the presence of solar PV panels and the impact on ecology and biodiversity.</p>	<p>The impact of the Scheme on site microclimate is restricted to those areas of vegetation underneath and in close proximity to the panels. There will be no impacts on other habitats away from the panels including all priority habitats and sites designated for their biodiversity value. This impact on the microclimate of the panels has been recognised by the Applicant from the outset of the project, e.g. in classifying the grassland habitat to be created with respect to assessing the net change in biodiversity (BNG) and choice of appropriate seed mixes. These factors, as Dr Fordham identifies, are primarily casting shade, altering temperature and changing the pattern of rainfall landing on the ground. Further to the information usefully</p>

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			<p>provided by Dr Fordham, researchers at Keele University report that evidence from the UK indicates that lower ground temperatures, light and moisture are found beneath panels compared with adjacent farm fields. Within the created grasslands in the panelled areas, while this could disadvantage some grassland species which prefer more direct sunlight, it presents an opportunity for their shade-tolerant counterparts. Indeed, the patterns of shading created by the panels offer a range of habitats for plants, with those in the shade often flowering later (Turner <i>et al.</i>, 2022). This change in the timing of flowering can lead to a positive impact on pollinator abundance helping to extend the time insects can spend foraging which in turn can lead to more diversity and richness (Graham <i>et al.</i>, 2021). The shading can also create a stable environment and show a high species diversity if an appropriate seed mix is used and the vegetation is managed appropriately (Blaydes <i>et al.</i>, 2021, Tsoutsos <i>et al.</i>, 2005). Shading in some regions can have beneficial effects for some shade-tolerant plants (Jossi, 2018).</p> <p>The Applicant's approach has and will continue to:</p> <ul style="list-style-type: none"> - be aware of the microclimatic changes that may be experienced and plan ahead - recognise that there is still much to learn about the ecology of solar farms and keep up to date with the outcomes of research and guidance on habitat management on solar farms - undertake surveillance of variables such as vegetation cover, plant species composition, soil condition and indications of unplanned runoff - communicate this information to those advising the Scheme, e.g. the Ecology Advisory Group - implement appropriate remediation if, where and when necessary. <p>References Blaydes,H., Potts, S.G., Whyatt, J.D. and Armstrong, A. 2021. Opportunities to enhance pollinator biodiversity in solar parks,</p>

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			<p>Renewable and Sustainable Energy Reviews, 145, 2021, 111065, ISSN 1364-0321, [REDACTED].</p> <p>Graham, M., Ates, S., Melathopoulos, A.P., Moldenke, A.R., DeBano, S.J., Best, L.R. and Higgins, C.W. 2021. Partial shading by solar panels delays bloom, increases floral abundance during the late-season for pollinators in a dryland, agrivoltaic ecosystem. Scientific Reports, 11, 7452. [REDACTED]</p> <p>Jossi, F. (2018). How land under solar panels can contribute to food security. Retrieved 11 March 11, 2019, from [REDACTED]</p> <p>Turner, A., Harrison, E. and Robinson, Z. 2022. Solar farms a 'blight on the landscape'? Research shows they can benefit wildlife. The Conversation, October 2022. [REDACTED]</p>
Soils	REP5-090 A.G. Wright & Son (Farms) Ltd comments on BMV	The Deadline 5 submission claims that the Agricultural Land Classification (ALC) assessment submitted by the Applicant is deficient and that account should be made of both cropping and irrigation in the assessment of ALC grade.	<p>Natural England's Position Statement for ISH3 [AS-314] notes that "<i>The project soil specialist has provided clear justifications to their assumptions in our meetings and have demonstrated their competence in undertaking and delivering an ALC assessment.</i>". The Applicant has correctly assessed ALC Grade according to physical characteristics at the site. Furthermore Natural England in their Deadline 4 submission [REP4-139] again note that irrigation is no longer a factor in assessing ALC grade.</p> <p>The Patrick Stephenson assessment on behalf of SNTS does not follow ALC Guidelines on assessing drought limitation and was undertaken at locations outside of the Sites. The RAC work on behalf of SNTS makes claims based on irrigation, strategic scale mapping and the Patrick Stephenson ALC assessment. However all of these claims are contradicted by their own prior site assessment work within and adjoining the site.</p> <p>The claim made that the Applicant's ALC assessment is deficient is not substantiated.</p>
Soils	REP5-089	1) Different ALC Grading by MAFF and the Applicant	1) The Applicant uses the MAFF drought limitation as determined by the MAFF ALC survey team. The apparent difference

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	Anne Noble comments on BMV	2) Applicant ALC assessment falls short of standard 3) No map of pit locations 4) Six pits are insufficient 5) Expected Cropping does not match Grade 4 land 6) Wrong to suggest Patrick Stephenson has limited ALC experience 7) Loss of abstraction licences 8) Access needed for SNTS to undertake own ALC assessment 9) Soil Erosion and Grass Cover	<p>between the ALC grades presented by the Applicant and those shown on the original MAFF reports (1991 and 1992) is due only to the removal of the upgrade MAFF applied for the availability of irrigation. As NE have restated [REP4-139] irrigation is no longer a factor in assessing ALC grade.</p> <p>2) Natural England's Position Statement for ISH3 [AS-314] notes that <i>"The project soil specialist has provided clear justifications to their assumptions in our meetings, and have demonstrated their competence in undertaking and delivering an ALC assessment."</i> The Applicant has correctly assessed ALC Grade according to physical characteristics at the Sites.</p> <p>3) The location of pits dug for the assessment of ALC Grade by the Applicant have been recorded by GPS on site, with OS Grid References for these pit locations given to one meter. There is no ambiguity regarding the location of these pits.</p> <p>4) Page 3 of TIN049 (New field survey) notes that soil sampling by auger is <i>"..usually supplemented by digging occasional small pits (usually by hand) to inspect the soil profile."</i> The Baird Soil assessment work on behalf of the Applicant presents six soil inspection pit records covering the variation in soil types present within the site that are relevant to ALC grading and soil management planning. The approach taken by the Applicant is in accordance with the guidance and the claim that 6 pits are insufficient is unsubstantiated.</p> <p>5) As previously noted the ALC guidelines are clear that ALC Grades are defined by reference to physical characteristics, and not inferred from cropping. Nevertheless, the generalised description of ALC Grade 4 quoted by Dr Anne Noble notes that Grade 4 land can include very droughty arable land as found in the Sites.</p> <p>6) The Patrick Stephenson ALC report (attached to [REP2-240d] starting at page 164) fails to record soils data that is needed to assess ALC drought limitation, obtains inappropriate laboratory assessment of soil for ALC and repeatedly references cropping</p>

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			<p>in support of his assessment work [REP4-140]. These errors do suggest limited experience in assessment of ALC Grade. These errors should also have been apparent to RAC when attaching the Patrick Stephenson report to their submission [REP2-240d]. Further, at Deadline 5 the Applicant has submitted an independent review of the survey work undertaken by Patrick Stephenson Limited [REP5-065]. This independent review concludes that there are significant data omissions in the report and problems with the methodological approach, which provides further support to the Applicant's view that the Patrick Stephenson assessment should not be relied upon.</p> <p>7) The claim that landowners are at risk of losing abstraction licences as a result of the development, is contingent on the landowner trading the entire volume of their abstraction licence. It is highly improbable that this would occur. As all landowners will retain irrigated land outside of the Sites, none will have any reason to trade the entire volume of their abstraction licence, even assuming that their land agent, managing such transactions on their behalf, would permit such a transaction to occur without warning the landowner of the risk.</p> <p>8) As noted above Natural England [AS-314] state that "<i>The project soil specialist has provided clear justifications to their assumptions in our meetings, and have demonstrated their competence in undertaking and delivering an ALC assessment.</i>". SNTS have presented work by RAC that is contradicted by prior site survey work by RAC within the Sites. SNTS have also presented an ALC assessment by Patrick Stephenson who in addition to failing to record the soils information necessary to determine the drought limitation to ALC Grade, repeatedly seeks to assign ALC grade according to cropping and yield [REP4-140]. SNTS have not provided any credible justification for needing to undertake their own ALC assessment of the Sites. If such an assessment were to take place using either of SNTS's land quality consultants (who</p>

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			<p>have demonstrated lack of experience and lack of objectivity respectively), there is the clear risk that SNTS would continue to gainsay the Applicant's ALC assessment, offering no resolution. As previously noted at Deadline 5, an independent review of the survey work undertaken by Patrick Stephenson Limited has been undertaken and has been submitted into the Examination [REP5-065]. This document concludes that there are significant data omissions in the report and in the methodological approach. Given the flaws in the methodology by RAC / Patrick Stephenson (on behalf of SNTS) and their failure to follow ALC Guidelines, the Applicant maintains its view that there is little to be gained by any kind of joint survey. The Applicant would also reiterate that giving access to third party land is not within its control.</p> <p>9) Farmers routinely establish ley pasture crops that are grazed 8 to 10 weeks after sowing. The claim that establishing a perennial pasture cover will require 5 years is clearly false. Dr Anne Noble has previously noted that they are a FACTS registered agronomist [REP4-077] so should have the professional training and experience to know that their 5 years establishment claim is incorrect. Business as usual for the arable land within the Sites is annual cultivation and harvest work leaving bare soil and this presents the greatest risk of soil erosion. Rotations also can include sugar beet that is harvested late in the year (normally starting in October and extending through winter). With such a late harvest the land is rarely as dry as for an August harvest of cereals, risking significant rutting of wet soil by heavy harvest equipment, further exacerbating risk of water erosion. The 40 years of perennial pasture cover below and between solar panels in the Sites will significantly reduce wind and water erosion risk. The Applicant has previously submitted details of Countryside Stewardship SW7 (Appendix C of [REP4-032]) which notes that arable reversion to low input grassland will stabilise soil and reduce</p>

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Soils	REP5-096 Natural England comments on ALC and BMV	<ol style="list-style-type: none"> 1) Benefit to soil organic matter (SOM) from reverting arable land to pasture will only extend to the duration of the reversion. 2) Impact of solar panels on soil health is unknown. 3) Justification for providing an allowance of additional subsoil for Drought calculation. 	<p>risk of erosion. This may in turn reduce risk of downstream flooding.</p> <ol style="list-style-type: none"> 1) Higher SOM content benefits the soil in terms of improved structural stability. This is beneficial for the wider environment as it enables improved rainfall infiltration and increases resistance to soil erosion, reducing flood and water contamination risks. Should the current arable land management at the Sites return following decommissioning SOM will again approach the low equilibrium caused by this management. This does not however discount the 40 plus years of environmental benefit derived from arable reversion. Furthermore the land managers will return to land with greater topsoil structural stability than at present. This will facilitate adoption of arable management that conserves SOM such as the direct drilling of combinable crops. In this way the heavy lifting of regenerative agricultural practice will have already been achieved, with the arable management only needing to maintain SOM, not increase it. 2) The report Agricultural Good Practice Guidance for Solar Farms (BRE (2014) Agricultural Good Practice Guidance for Solar Farms. Ed J Scurlock) notes that solar farms support a similar stock density of sheep to conventional grassland, and that preliminary studies on quantity and quality of forage from solar farms is very little different from open grassland under similar conditions. This report includes eight case studies of solar farms grazed by livestock. With productive pasture at a solar farm clearly and routinely achieved, we can have confidence that the soil health and wider environmental benefits that are know to be delivered by arable reversion to grassland, will also be delivered by the arable reversion to pasture at a solar farm. 3) The allowance of an additional depth of subsoil with an elevated stone content is made for a depth below that which could be excavated for that soil type at the site using spade and pick. It is therefore not possible to assess this allowance

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			<p>against field observations. The allowance is in addition to the soil profile that can be observed by ALC field survey, and is therefore a cautious approach acting to lessen the drought limitation on overall ALC Grade.</p>
Soils	REP5-098 SNTS comments, Appendix A	<ol style="list-style-type: none"> 1) Benefits to soil health are temporary and short term 2) Soil Pit locations are on poor ground and insufficient in number 3) Irrigation and aquifer recharge 4) Access for verification 	<p>We note and welcome that RAC now concede that it is not appropriate to attempt to set ALC grade with reference to cropping.</p> <ol style="list-style-type: none"> 1) Benefits to soil health will be for the 40 years of the development and may extend beyond this period if land management does not revert to current standard arable management. Recovery of topsoil structural stability will facilitate adoption of soil health conserving practices such as direct drilling. Conservation of soil health through regenerative agriculture is much simpler and more reliable than attempts to recover soil health through regenerative agriculture. 2) Pits have been located within fields at representative locations. No pits are on headlands. There is no required density of pits. TIN049 recommends occasional small pits dug by hand. Six pits are sufficient to confirm the soil physical characteristics relevant to ALC Grading and soil management planning. As previously pointed out in paragraph 4.1.6 of [REP4-032] the photographs of archaeological trenches are in addition to soil inspection pits, specifically to demonstrate the presence of small areas of subsoil within the chalk parent material that are present at parts of the site. 3) The RAC claim (paragraph 4.1.9 of [REP5-098]) that it is for the ExA to decide on the role of irrigation in ALC grading, is wrong. NE have provided clear and consistent guidance that it is no longer appropriate to include irrigation when assessing ALC drought limitation, and that pre 1997 ALC Grading can be revisited to remove any influence of irrigation on drought grade. With regard to aquifer recharge, the Applicant has not claimed there is significant recharge of aquifers from surface waters. The Applicant notes that the surface waters are aquifer fed so

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			<p>that low water levels in the aquifer will risk low flows subsequently in surface waters.</p> <p>4) Claims made of deficiencies in the Applicant's ALC assessment are not substantiated. RAC have presented the Patrick Stephenson assessment work, ignoring clear failures to properly assess ALC drought limitation and only now conceding that there should be no attempt to use cropping in the assessment of ALC Grade. In addition the claim that the ExA needs to decide on the role of irrigation in ALC assessment rather than accept the guidance of Natural England, is irresponsible. This patten is likely to continue in RAC reporting of any joint ALC assessment work within the sites, and so not facilitate decision making. The Applicant would also reiterate that giving access to third party land is not within its control.</p>
BESS	REP5-088 Alan B Smith comments on BESS	Mr Smith's submission mainly concerns the report into the Carnegie Road, Liverpool BESS incident. Comments are made on the engagement and capability of FRS to respond to BESS incidents.	<p>The DCO hearing on BESS safety covered the Carnegie Road explosion. The BESS design did not integrate a gas exhaust or deflagration venting system, the BESS supplier (NEC) offers a design that integrates full explosion protection. In addition, the BESS container integrated a Novec 1230 fire suppression system which was commonly known to be unable to stop thermal runaway in large scale lithium-ion battery systems and would likely lead to the build-up of explosive gases.</p> <p>The Applicant has stated that BESS designs without gas exhaust / deflagration venting will not be considered for the Scheme, and gaseous suppression systems are not fit for purpose.</p> <p>The NFCC has recently released (for consultation) their UK FRS guidance draft document for Grid Scale BESS planning. The Applicant has made a commitment to adhere to these guidelines and is fully engaged with SFRS to input and review all BESS safety literature, BESS test data, and Emergency Response Plans. Emergency response planning will ensure that sufficient resources are available for incident response, and BESS site and system selection is focused on ensuring no explosion occurs. Important design safety lessons have been learned from the Liverpool and Beijing incidents and BESS</p>

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			<p>systems considered for the Scheme will have been designed and tested to mitigate explosion risks. The fire safety strategy for Sunnica will be devised to achieve a high level of safety without the partial or full intervention of SFRS, meaning that the BESS enclosure fire and explosion protection systems must be capable of preventing and controlling thermal runaway incidents without FRS involvement.</p> <p>The Buncefield oil depot explosion and impact on FRS resources and local residents bares no comparison with Sunnica risk profile and incident response requirements.</p> <p>SFRS and CFRS have been consulted by the Applicant and are fully aware of the provisions of the OBFSMP. They may not be registered as separate interested parties, but SFRS is taking the lead on engagement for both FRS and as SFRS are part of the SCC they are involved in the examination. It is therefore not correct to say that they have not been engaged. Both FRS will continue to be fully consulted moving forward with the Scheme. The Applicant has confirmed that a specialist BESS independent Fire Protection Engineer will review all safety and fire protection designs and test data.</p>
Transport	<p>REP5-091</p> <p>CCC comments on Land and Crown Plans Rev 04 [REP4-003 and REP4-004] – proposed use of land:</p>	<p>The Council requests details from the Applicant of its intended use for the land where it proposes to acquire rights from the local highway authority.</p> <p>In addition, the Council requests details from the Applicant of its intended use for the land where it proposes to temporarily compulsorily acquire rights where highway rights also exist. Without this information, it is hard for the local highway authority to understand the full impact of the proposals on the highway network and the effect that the proposals could have its ability to carry out its statutory functions.</p>	<p>The Applicant notes that the rights that it seeks authorisation to compulsorily acquire will be permanent and not temporary. There is no provision in the statutory regime for the compulsory acquisition of “temporary rights”.</p> <p>Rights acquired over land that is also a highway do not affect the status of that land as highway, nor affect the right of the public to enjoy the use of a highway, nor do they affect in anyway the statutory regimes regulating highways nor the highway authorities’ functions.</p> <p>The rights are required to ensure that the Applicant has the necessary interests in land it requires to carry out the Scheme and to ensure that it is not prevented from doing so by the assertion of any currently unknown existing private rights in land that are inconsistent with the exercise by the undertaker of the rights it seeks.</p>

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Transport	<p>REP5-091</p> <p>CCC comments on REP4-003 and REP4-004 – extent of highway:</p>	<p>It is assumed the undertaker wishes to install cabling beneath or above the highway that the new infrastructure will cross. Article 26 of the draft DCO grants the undertaker the right to use subsoil or airspace below and above any street within the Order limits. The undertaker must engage with the local highway authority in respect of any highway the proposed works will intersect with before undertaking any works in the vicinity of the highway.</p> <p>The width of the highway will need to be clear to the undertaker to ensure no unauthorised or accidental incursion to the highway occurs. However, the vertical extent should also be considered – the authority's area extends both above and below the road surface. The extent of that interest will vary depending on the nature of the highway and its use by the public (e.g. an A road may have a broader vertical plane than a minor unclassified road).</p>	<p>Schedule 8 of the draft DCO sets out the purposes for which rights may be compulsorily acquired on a plot by plot basis. The purposes are defined as being "access rights", "cable rights" or "substation connection rights" and paragraph 1 of Schedule 8 sets out in detail what is meant by each of these terms.</p> <p>The Applicant notes CCC's comments in relation to the extent by which a highway vests in a highway authority, generally referred to in the case law as the "top two spits". It should be noted that article 26 is model provision that clearly takes account of these established principles.</p>
Transport	<p>REP5-091</p> <p>CCC comments on REP4-003 and REP4-004 – extent of temporary acquisition of land on the interests of the highway authority:</p>	<p>The Council requests an explanation from the Applicant whether the temporary possession of rights in land that carries public highway will have any effect on the rights of the public use or the responsibilities of the local highway authority.</p> <p>It is unclear whether the undertaker assumes any legal obligations in respect of the highway, as a result of temporarily acquiring rights over land where highway rights exist.</p>	<p>Please see the response above. The compulsory acquisition of rights or the temporary possession of land affects neither the highway authorities' functions nor the public right to enjoy the use of the highway.</p>

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		<p>Also, the Council requests that the Applicant explains whether the temporary acquisition of rights over land owned by the local highway authority, but not forming part of the public highway, will have any impact on the authority's ability to use that land for the purposes of managing and maintaining the highway.</p>	
Transport	<p>REP5-091</p> <p>CCC comments on REP4-035 on PRow Article 11, Page 29:</p>	<p>The Councils reiterate that temporary closures must be a last resort, and that, if they are required, alternative routes must be provided. The Applicant stated at ISH3 that there could be room within the authorised corridor for works, as the minimum space needed for cable works was 8-10m.</p> <p>It would be helpful within the CTMP [REP3A-004] 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.</p> <p>The Councils have provided proposed amended wording on this subject, in response to the ExA 2nd written questions (Q2.9.10).</p>	<p>In relation to the "last resort", please see the Applicant's response above in relation to [REP5-079] and [REP5-084] CCC and SCC response to Q2.9.10.</p> <p>The Applicant notes the point regarding the cross referencing to the CEMP but is clear that the contractor will be obliged to comply with both the approved CTMP and the approved CEMP and so it is unnecessary to include further cross referencing.</p>
Transport	<p>REP5-091</p> <p>CCC comments on REP4-035 on PRow Article 11(1)(b), Page 30:</p>	<p>The Councils welcome the amendment to this Article, but highlights the corresponding provision at Schedule 6 also needs to be amended to align correctly with Article 11. Column 3 of Schedule 6 Part 2 currently states that "motor vehicles under the direction of the undertaker may pass along, or cross,</p>	<p>Please see the response in the third row (CCC Comments on Article 11) of the 'Comments on DCO Amendments' table above.</p>

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		the length of the public right of way". This should be amended to say "motor vehicles under the direction of the undertaker may cross the public right of way"	
Landscape	REP5-091 CCC comments on REP4-035 on PRoW – Schedule 1 - permissive path, Page 30	The Councils raised that they are awaiting amendments made to the OLEMP and Environmental Masterplan before commenting further on permissive paths.	The Applicant submitted updates to the OLEMP at Deadline 5 [REP5-011]. An environmental mitigation workshop will be held between the Applicant and officers of the Councils on 31 January 2023 to discuss outstanding matters and further updates will be made to the OLEMP, which will be submitted at Deadline 7.
Transport/ Noise	REP5-091 CCC comments on REP4-035 on PRoW – Schedule 2 - impact of noise on equestrians, Pages 30-31	Construction noise monitoring at bridleways - the Councils refer to previous comments made in their D4 submission [REP4-137].	The Applicant has addressed this matter in its response to the ExA's Second Written Question Q2.8.1, but in summary the Framework CEMP sets out mitigation measures in relation to noise and vibration, including monitoring requirements. Noise monitoring will be undertaken throughout construction, with the location, methodology and frequency of this modelling to be determined by the Principal Contractor (once appointed) and agreed with host authorities pursuant to the consent process under Section 61 of the Control of Pollution Act 1974. Construction noise monitoring is also secured in the Code of Construction Practice.
Transport	REP5-091 CCC comments on REP4-035 on Access to Works (Q1.5.22 / article 12), Para 2, (Page 31):	From discussions, it is unclear whether approval of the detailed design of junctions and other works within the highway will be through the CTMP or separate approval process. If the CTMP, the Councils raised whether this is appropriate in planning terms for approving permanent works extending beyond the construction phase.	Requirement 6 in Schedule 1 to the draft DCO makes specific reference to accesses forming part of detailed design approval.
Transport	REP5-091	The local highway authority will continue to have road safety responsibility after implementation of the scheme, and any	The Applicant acknowledges this point and continues to work with the local highway authorities to ensure all appropriate highways-related mechanisms are in place.

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	CCC comments on REP4-035 on Access to Works (Q1.5.22 / Article 12), Para 3, (Page 31):	statutory powers given to the Applicant must not compromise the authority's ability to ensure that safe access is provided.	
Transport	REP5-091 CCC comments on REP4-035 on Highways (Article 10), Page 33:	The negotiation of Heads of Terms in respect of highways matters is noted. Until significant progress is made on matters relating to the highway authority's involvement in design, inspection, certification and adoption of works within or affecting the highway, CCC retains concerns about article 10 and its objection to the current wording.	The Applicant notes the concerns and further notes that encouraging progress is being made in relation to the negotiation of a side agreement. The Applicant is mindful that the examination is due to complete by the end of March 2023 and therefore it would be sensible to discuss a backstop position should the side agreement not be complete by the end of the examination. The Applicant therefore intends to submit draft protective provisions for the protection of the local highway authorities by the 8 February so that they can be discussed in the hearings.
Transport	REP5-091 CCC comments on Applicant's response to the Joint Councils Deadline 2, 3 and 3A submissions [REP4-035] on Site Access and Crane Routes (Deadline 2 submission – Q1.10.45), Pages 27-29, including paragraphs 1 and 2 (page 27) and paragraph 2 (page 28). CCC comments on REP4-035 on Access	Points raised in relation to: <ul style="list-style-type: none"> - Highway boundary data - Site accesses - Passing on La Hogue Road - Suggestion of intensification of use (operational phase) - Permitted preliminary works - Approval processes - detailed design / side agreement 	Please see the Applicant's responses above which cover each of these points raised.

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	<p>to Works (Q1.5.22 / article 12), paragraphs 1 and 2, page 31).</p> <p>CCC comments on REP4-035 on Vehicular Access (Requirement 16), paragraph 3, (page 32).</p> <p>CCC comments on REP4-035 on CTMP, Para 1, Page 35:</p> <p>CCC comments on REP4-035 on Abnormal Loads (Q1.10.6), Point 6, Page 41.</p> <p>CCC comments on REP4-035 on Abnormal Loads (Site A), page 44.</p> <p>CCC comments on REP4-035 on Site Access and Crane use (Q1.10.40, 1.10.42, 1.10.44), paragraphs 4 and 6 (page 45) and</p>		

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	paragraphs 2 and 3 (page 46).		
Air Quality/BESS	<p>REP5-093</p> <p>Dr Edmund Fordham comments on BESS/Air Quality</p>	<p>Dr Edmund Fordham provided comments on REP4-032, REP4-044 and REP4-034. The comments relate to BESS safety matters and COMAH.</p>	<p><u>BESS Safety response</u></p> <p>REP5-093 reiterates many points that have previously been addressed. As such, this response is not a point-by-point response, rather the main themes have been condensed and comments provided. A fundamental issue is that Dr Fordham is considering a catastrophic event to be inevitable, which it is not.</p> <p>Previous Solar Farm consents</p> <p>Dr Fordham states that the fact that the Cleve Hill application was granted on similar grounds does not mean that the Scheme's application should be. The Applicant disagrees with this. The Cleve Hill DCO was undertaken to the same standards of scrutiny as the Scheme DCO, and there is no reason to doubt that the Inspectors took all the evidence into account when making their determination. The issues Dr Fordham has with the inputs to the assessment have already been clarified in previous responses.</p> <p>Emission Factors/ Agreement with other work</p> <p>Justification for the "emission rate" of 1µg/m³ has been provided previously [REP4-032] – as emissions are uncertain, the modelling has produced dilution rates rather than concentrations. The total amount of pollutant released in one hour can be multiplied by the dilution rate to give an approximation of the expected pollutant concentration. As such, the total amount of HF that could be released from 5 racks has been multiplied by the modelled dilution rates to obtain the pollutant concentrations indicated. As such, no "emission rate" has been modelled.</p> <p>The Applicant agrees that large scale, outdoor tests are required in order to accurately characterise the potential emissions from a BESS. The latest testing standards will require that such tests are undertaken for the batteries eventually installed at the Scheme, and this information will be input into a detailed consequence model.</p>

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			<p>The Applicant disagrees with Dr Fordham's assertion that they are unwilling to engage on a technical level. Justification has previously been provided for the points raised [REP4-032], and they are being raised again. There is no scope at this stage of the process to undertake a new assessment in the way that Dr Fordham would like, and indeed, the data required is not currently available. When the design of the BESS is fixed, real-burn tests will be undertaken in accordance with the guidance, and this data will be used to inform a consequence model that will provide all the details Dr Fordham requires. The Applicant has provided a proportionate and robust assessment with the current available information, and has committed to further assessment. The information currently provided is enough for the ExA to reach a view on safety and environmental impacts.</p> <p>Beijing Fire as representative of the Scheme</p> <p>The Applicant maintains that the Beijing fire is not representative of a potential fire at the Scheme BESS. A poorly designed BESS with inadequate access is not equivalent to a state-of-the-art BESS compound with safety designed in from the start – including the largest separation distances between cabinets seen in the UK to date, plus a full suite of fire suppression systems, and access for emergency services considered from the outset.</p> <p>Toxic emissions not fully considered</p> <p>There is repeated commentary that not all toxic emissions have been considered in Appendix 16D. As stated at Issue Specific Hearing 3, attempting to quantify the full suite of pollutants that may be released from a fire is not helpful considering the improvements in BESS design that are occurring. Particularly in relation to the presence of plastic components. Toxic emissions can of course result from any fire, but as the evidence showed that HF was a consistent risk from BESS fires, and a pollutant that may be released in higher concentrations, the assessment focussed on this pollutant. If HF is not an issue it is highly unlikely that other pollutants will be an issue. It must be reiterated that a fire is unlikely and is not to be expected.</p>

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			<p>There are further assertions that the assessment has not accounted for a worst case/full destruction of the BESS facility. This is not the case, but it has been assumed that the full facility will not be burning simultaneously, as this would not occur – fire takes time to spread. Comments about particulate matter needing to be absorbed into the blood stream were a direct response to the assertion that inhalable nickel oxides <i>in particular</i> cause health impacts. In order for nickel to cause a health impact it does need to be absorbed into the blood stream. Any inhalable particulate can cause physical damage to the body, and this is not disputed. The latest Air Quality Guidelines from the WHO state:</p> <p><i>“...there has been no separate, independent assessment of the mechanistic, toxicological and human clinical studies relating ambient particles to human health.”</i></p> <p>It is therefore not possible to separate the mechanical impacts of particulates from the toxicological impacts of inhalable particulates. Nickel oxides may well be produced from certain types of battery fire, but as the type of battery has not been determined it is not possible to quantify any releases at this stage.</p> <p>Lack of a consequence model = a defective application</p> <p>There have been multiple BESS installations granted planning permission and Development Consent (as Associated Development) without a full consequence model, and it is standard procedure to provide this safety assessment prior to operation. The Applicant is in no way attempting to avoid a full assessment. Indeed, by waiting until the design is fully determined, the Applicant is ensuring that the latest technology and safety measures can be used at Sunnica. The fact that other recent applications have been granted on the basis of similar (less comprehensive) risk assessment approaches is indeed relevant, and the same level of evidence should be expected from Sunnica. The provision of full safety information is secured by Requirement 7 of the DCO.</p>

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			<p><u>Application of Control of Major Accident Hazards Regulations 2015 (SI 483 of 2015) ('COMAH'), the Planning (Hazardous Substances) Act 1990 ('P(HS)A') and the Planning (Hazardous Substances) Regulations 2015 (SI 627 of 2015) ('P(HS)R') to the proposed BESS and purported requirement for such matters to be concluded prior to the grant of development</u></p> <p>Dr Fordham in his submissions, in summary, takes the view that (i) there is a high likelihood that the provisions of COMAH and P(HS)A will apply to the proposed BESS and (ii) that such matters must be determined before development consent under the Planning Act 2008 may be granted. Dr Fordham also identifies what he considers to be a number of inconsistencies in the Applicant's responses on this topic.</p> <p><i>The regimes – an outline</i></p> <p>The P(HS)A provides that the Hazardous Substances Authority is the District Council (s.1). The obligation to obtain a Hazardous Substances Consent ('HSC') is set out in section 4: "The <u>presence</u> of a hazardous substance on, over or under land" (emphasis added) requires a hazardous substances consent (s.4(1)) unless the "aggregate quantity" of the substance falls below the prescribed quantity (s. 4(2)). The Secretary of State is then given the power to prescribe hazardous substances and various other matters through regulations (s. 5, 7).</p> <p>Pursuant to the P(HS)A the Secretary of State has promulgated the P(HS)Rs. Reg. 3(1) prescribes the hazardous substances regulated by the P(SH)Rs – those listed in Column 1 of Schedule 1 "and present as raw materials, products, by-products, residues or intermediates". Reg. 3(2) then lists the controlled quantity of those substances which triggers the need for an HSC – set out in Column 2 of Schedule 1. Schedule 1 is split into 3 parts and, materially to the points made by Dr Fordham, part 3 is as follows:</p>

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			<table border="1" data-bbox="1238 323 2096 515"> <thead> <tr> <th data-bbox="1238 323 1668 352"><i>Column 1</i></th> <th data-bbox="1668 323 2096 352"><i>Column 2</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="1238 352 1668 381"><i>Hazardous substances</i></td> <td data-bbox="1668 352 2096 381"><i>Controlled quantity</i></td> </tr> <tr> <td data-bbox="1238 381 1668 515">Where it is reasonable to foresee that a substance falling within Part 1 or Part 2 ("HS") may be generated during loss of control of the processes, including storage activities in any installation within an establishment, any substance which is used in that process ("S").</td> <td data-bbox="1668 381 2096 515">The amount of S which it is believed may generate (on its own or in combination with other substances used in the relevant process) an amount equal to or exceeding the controlled quantity of the HS in question.</td> </tr> </tbody> </table> <p data-bbox="1227 576 2112 639">Schedule 1 includes a number of notes, including Note 6 as referred to by Dr Fordham.</p> <p data-bbox="1227 671 2112 767">Regulation 5 sets out how an HSC application must be made and what it must include. Regulation 10 provides for consultation before any such application is decided.</p> <p data-bbox="1227 815 2112 1038">Reg. 24(1) provides that "in formulating any relevant policy" (which includes national policy statements under s. 5(1) Planning Act 2008), the Secretary of State must take into account certain matters. These include the objectives of preventing major accidents, and the matters referred to in Article 13(2) of Directive 2012/18/EU on the control of major accident hazards involving dangerous substances (often termed <i>Serveo III</i>).</p> <p data-bbox="1227 1086 2112 1380">The COMAH regulations apply to "any establishment which is either a lower tier establishment or an upper tier establishment" (Reg. 3(1)) (subject to certain exceptions which are not material). An "establishment" is defined as, broadly, "the whole location under the control of an operator where a dangerous substance is present in one or more installations" in quantities set out in Schedule 1. "Presence of a dangerous substance" includes "the actual or anticipated presence of a dangerous substance in an establishment, or of a dangerous substance which it is reasonable to foresee may be generated during</p>	<i>Column 1</i>	<i>Column 2</i>	<i>Hazardous substances</i>	<i>Controlled quantity</i>	Where it is reasonable to foresee that a substance falling within Part 1 or Part 2 ("HS") may be generated during loss of control of the processes, including storage activities in any installation within an establishment, any substance which is used in that process ("S").	The amount of S which it is believed may generate (on its own or in combination with other substances used in the relevant process) an amount equal to or exceeding the controlled quantity of the HS in question.
<i>Column 1</i>	<i>Column 2</i>								
<i>Hazardous substances</i>	<i>Controlled quantity</i>								
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			<p>loss of control of the processes, including storage activities” again in quantities set out in Schedule 1. (For both, see Reg. 1).</p> <p>Part 2 (Regs 5-7) impose duties on all operators – whether of upper tier or lower tier establishments. Reg. 5 imposes general duties including, for example, taking all measures necessary to prevent major accidents. Reg. 6(1) obliges operators to provide notice to the COMAH competent authority “within a reasonable period of time prior to the <u>start of construction of a new establishment</u>”, Reg. 6(2) includes similar provisions prior to the start of operation. Reg. 7 requires every operator to prepare and retain a written major accident prevention policy, again prior to the construction or operation of a new establishment or prior to modifications leading to a change in the inventory of dangerous substances present (reg. 7(3)). Regs. 8-16 impose further obligations in relation to Upper Tier Establishments, including prepare a safety report within a reasonable period of time prior to the start of construction, operation or modification to the inventory of dangerous substances (Reg. 8), keeping that under review (Reg. 10), preparing reviewing and testing emergency plans within a reasonable period of time prior to the start of operation (Regs. 11, 12) and providing information to allow a local authority to prepare an external emergency plan (Reg. 13).</p> <p>We note that HSE Guidance suggests a ‘reasonable period of time’ for Reg. 8 purposes is 3-4 months.</p> <p><i>Dr Fordham’s Submissions</i></p> <p>It is not a proportionate use of time to engage with each point made by Dr Fordham. Some (such as alleged inconsistencies) are simply not accepted. Others, (such as a challenge to the correctness of the Secretary of State’s statements on batteries, or whether the Secretary of State has or has not complied with his policy promulgation</p>

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			<p>obligations under Reg. 24 P(HS)R) are simply outside the scope of this Examination.</p> <p>Insofar as is material to the decision before the ExA, the key points are (1) the Applicant is not required to seek an HSC at this time; (2) the ExA is not required to resolve the applicability of the COMAH or P(HS)A or P(HS)R to the eventual technology adopted, at this time. That is not what the current statutory and regulatory scheme requires. The COMAH, P(HS)A and P(HS)R's bite at different stages in the process – before, for example, construction or operation. They complement, not supplant, the Planning Act 2008 regime. References to Article 13(2) and (3) of the Directive do not help, as COMAH, P(HS)A and P(HS)R are all in clear terms, do not require what Dr Fordham says they do, and <i>to the extent</i> (which is denied) the ExA were to consider there is a discrepancy between the Directive and domestic provisions, post UK-exit from EU the Directive cannot be used to directly supplement the UK's regime.</p> <p>Fundamentally the Applicant is not seeking an HSC through this process. If it becomes clear that an HSC will be required, or obligations under COMAH imposed, the Applicant will comply as and when required (i.e., within reasonable periods of construction or operation). This examination is entitled to assume subsequent regimes will operate effectively. Accordingly, it would be unnecessary, and therefore unlawful, to impose a requirement in the Applicant's proposed DCO to require it to comply with P(HS)A and COMAH.</p> <p>Compliance with sections 4.11 and 4.12 of the Overarching National Policy Statement for Energy (EN-1)</p> <p>Dr Fordham suggests that (i) the Applicant has not complied with sections 4.11 and 4.12 of EN-1 and (ii) those purported failures are insurmountable and must result in a recommendation for the refusal of</p>

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			<p>the Applicant's application for development consent. The Applicant disagrees with both contentions.</p> <p><i>Section 4.11 of EN-1 in relation to COMAH</i> In relation to section 4.11 of EN-1 Dr Fordham suggests that it is a requirement of EN-1 for an application for development consent to include a COMAH safety report. That is not correct.</p> <p>As set out above, COMAH only requires a Safety Report to be submitted prior to commencement of construction or operation. For the avoidance of doubt, the relevant legal obligation was in similar terms when EN-1 was promulgated in June 2011, only requiring a safety report within a reasonable period of time prior to the commencement of construction: Reg. 7 Control of Major Accident Hazards Regulations 1999 (SI 743 of 1999).</p> <p>Nor does EN-1, properly construed, require a COMAH safety report at planning consent stage for the Scheme.</p> <p>First, Section 4.11 confirms that COMAH applies "from the design and build stage through to decommissioning". The Scheme, of course, is not at detailed design stage because development consent is being sought using the Rochdale Envelope approach.</p> <p>Second, Section 4.11.4 advises Applicants "seeking to develop infrastructure subject to the COMAH regulations" to make early contact with the Competent Authority. Here, it is not clear the Scheme will be subject to the COMAH regulations. Dr Fordham considers this is the case, but the Applicant considers it too early to tell.</p> <p>Third, EN-1 is clear that a safety report may not necessarily be required. Section 4.11.4 refers to "If a safety report is required"</p>

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			<p>(emphasis added) and "The [Secretary of State] to be satisfied that an assessment has been done where <u>required</u>" (emphasis added)</p> <p>Fourth, the timing of the safety report as outlined in EN-1 is focused on ensuring one is complete before construction commences, echoing the requirements of the COMAH regulations. Section 4.11.4 continues: "If a safety report is required it is important to discuss with the Competent Authority the type of information that should be provided at the design and development stage, and what form this should take. This will enable the Competent Authority to review as much information as possible <i>before construction begins</i>, in order to assess the whether <i>the inherent features of the design</i> are sufficient to prevent, control and mitigate major accidents." (emphasis added)</p> <p>Critically, section 4.11.3 states "The same principles apply here as those set out in the previous section on pollution control and other environmental permitting regimes." Those principles, contained in section 4.10 include:</p> <ul style="list-style-type: none"> • "The planning and pollution control systems are separate but complementary; • The [Secretary of State] should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. • The [Secretary of State] should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes... will be properly applied and enforced by the relevant regulator. It should act to complement but not seek to duplicate them." <p>It is important to note that section 4.11 of EN-1 <u>does not</u> require a COMAH safety report to produced at the DCO application stage. The farthest it goes is to require a discussion with the Competent Authority on the type of information that should be provided at design and development stage. If a full COMAH safety report was required, EN-1</p>

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			<p>would have stated so, not least because this would be more exacting than the underlying legal framework. It is no surprise that it does not, because to include such a policy requirement would lead to unnecessary duplication – a safety report both at consenting stage, and then again prior to commencement of construction.</p> <p>In this regard, it remains the Applicant's view that it is not currently possible to determine whether the BESS is subject to COMAH for the reasons discussed above. No statutory party has come forward to positively confirm that COMAH applies to BESS and both constituent bodies of the COMAH competent authority have had every opportunity to do so.</p> <p><i>Section 4.12 of EN-1 in relation to P(HS)A</i></p> <p>Section 4.12 of EN-1 requires Applicants to consult the Health and Safety Executive ('HSE') at the pre-application stage. Dr Fordham acknowledges that the Applicant has done so. The suggestion that the Applicant is not compliant with the terms of EN-1 is not tenable.</p> <p>Dr Fordham goes on to allege that the Applicant was obliged, by virtue of the HSE's consultation response, to consult the hazardous substance authority and claims that the Applicant has failed to do so. The hazardous substance authorities for P(SH)A and P(SH)R are the district authorities (s. 1 (PSH)A). They were consulted by the Applicant in the pre-application period as required under section 42(1)(b) of the Planning Act 2008. They have continued to be involved in this process ever since. In any event, and in relation to section 4.12.3 of EN-1, the Applicant carried out the required consultation to determine the relevant consultation distances from existing sites; these matters were considered as part of the assessment of major accident hazards in Chapter 16 of the Environmental Statement (see Table 16-8 of [APP-048]).</p> <p>In this regard it is relevant to note that the HSE raised no in principle concerns with the Scheme during the pre-application period, confirming that it would not "advise against" the Scheme, and that since the</p>

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			<p>Application was submitted the HSE have raised no objection. The Applicant does not consider that HSE needs to undertake a formal appraisal. Contrary to Dr Fordham's para. 55, section 4.12.2 of EN-1 is referring to the HSE undertaking an analysis of whether the Secretary of State should grant the HSC, not development consent: where these paragraphs refer to "consent" in context it is to the HSC, where it intends to refer to the DCO it uses the term "development consent" (see paras. 4.12.1 and 4.12.2).</p>
Flood Risk	<p>REP5-100</p> <p>SCC comments on Appendix 9C: Flood Risk Assessment Addendum - Parts 1 and 2 [REP4-040 and REP4-041], paragraph 10.1</p>	<p>SCC LLFA recommends this section includes reference to pluvial/surface water flooding as the summary only details the risk presented by fluvial/river flooding to the Scheme.</p>	<p>The Applicant notes the comment and has amended the 'FRA clarification document in light of proposed Scheme changes' to include Pluvial Flood Risk as well as Fluvial Flood Risk. The revised 'FRA clarification document in light of proposed Scheme changes' will be submitted at Deadline 6.</p>
Flood Risk	<p>REP5-100</p> <p>SCC comments on REP4-040 and REP4-041, Annex B</p>	<p>SCC LLFA requests that maps are included to demonstrate the extent of pluvial flood risk areas in relation to the layout of the site as has been provided for fluvial flood risk mapping.</p>	<p>The Applicant notes the comment and agrees to amend the mapping to include additional figures on pluvial flood risk across the site relative to the Scheme parameter plan. Plans will be submitted with the revised 'FRA clarification document in light of proposed Scheme changes' at Deadline 6.</p>
Environment-waste	<p>REP5-101</p> <p>WSC response to the Applicant's response to ECDC, CCC, SCC and WSC Deadline 2,3 and 3A submissions</p>		<p>The Applicant notes that WSC endorses the response of ECDC's response to question 2.1.2 of the ExA's second written questions. However, the Applicant's reading of the responses is different. ECDC's response seems to focus on the exclusion of the legislative provisions applicable to the Scheme and whether that is appropriate, whilst the submissions from WSC seems to focus on the need to obtain HSC as part of the DCO rather than separately and at a later date.</p> <p>The Applicant disagrees that HSC is required to be sought at this stage. The Applicant's position, as explained in its response to question 2.1.2, is that whether or not hazardous substances consent is</p>

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			<p>required at this stage cannot be determined until detailed design has taken place. NPS EN-1 explicitly considers at footnote 94 that Hazardous Substances Consent can be sought after the DCO application. It therefore considers there is policy support for its approach. The position is considered in more detail in the response to Dr Fordham's comments above.</p> <p>It is noted that HSC was not sought in either the Cleve Hill Solar Park Order 2020 or the Little Crow Solar Park Order 2022. The position taken by the Applicant is therefore precedented.</p>
Land	REP5-095 Environment Agency	The agent for the Environment Agency (EA) states that there has been a lack of engagement from the applicant with regard to the voluntary agreement regarding the cable crossing in land adjacent to Burwell Lode	<p>From the outset of negotiations, the EA stated that any voluntary agreement should reflect the terms of any Protective Provisions (PPs) in the DCO. The solicitors for the Applicant issued PPs to the EA on 16 November 2022, which the EA responded to on 12 December 2022. The solicitors for the Applicant then returned updated PPs on 14 December 2022 to reflect the EA's comments. The solicitors for the Applicant have since sought the EA's agreement of the PPs on 3, 17 and 30 January 2023. The Environment Agency responded that they expect to provide a response on 31 January 2023.</p> <p>With regard to the Heads of Terms for a voluntary agreement the Applicant does not agree that there has been a lack of engagement. There has been engagement with the agents for the Environment Agency through 2022 with a full response provided to the EA on 14 September regarding the Heads of Terms agreement. A response from the EA was received on 9 November 2022. Negotiations are ongoing and the Applicant remains committed to reaching a voluntary agreement with the EA.</p>
Hatchfield Farm decision and the Horseracing Industry in Newmarket	Deadline 5 [REP5-098] Response to ExAQ2.7.4 Appendix B	Relevance of the Hatchfield Farm call-in decision	The note at Appendix B (Response to ExAQ2.7.4) sets out SNTS's explanation for why it believes the 'Hatchfield Farm' decision has only minimal relevance to the Sunnica scheme's determination. The note concludes that it would be "an error of law" to take the determinations made in respect of Hatchfield Farm (considering the nature of the impacts, the specific vulnerabilities, and the harms assessed) and applying them to the Sunnica scheme.

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			<p>From our review of the note, we consider that SNTS has fatally misunderstood why the 'Hatchfield Farm' call-in decision is relevant. It has never been suggested by Sunnica that the 'Hatchfield Farm' scheme itself – with its own specific impacts – is similar to Sunnica (self-evidently, it is not). It is relevant because it helps establish how an Inspector (and the Secretary of State) goes about establishing whether a development (any development) impacts on the long-term viability of the HRI in Newmarket under the relevant development plan policy. The specific impacts can of course be different, albeit SNTS allege types of impact (including urbanisation and the perception that a grant of permission will harm the HRI due to perception the decision maker does not value the HRI) that were explicitly considered at Hatchfield Farm. The decision therefore creates a 'framework' for assessing the impacts of any scheme on the HRI henceforth.</p> <p>SNTS base their conclusions of harm based on, inter alia, their assessment of why the HRI in Newmarket is successful; on their view of HRI's relative strength and resilience, the relative attractiveness of other HRI locations, and their speculation as to how wealthy horse owners will behave in response to alleged harms (actual and perceived). All of these factors were considered in detail by the Hatchfield Farm Inspector and Secretary of State, often in response to allegations of harm that are remarkably similar to those now expressed by SNTS. Consequently, even though the scheme and the type of alleged impacts may be different to Sunnica, the Hatchfield Farm decision is self-evidently an important and relevant matter for the Examining Authority in terms how one considers threats to the industry in a planning context.</p> <p>Underneath this strategic point, there are a series of other suggestions made by SNTC that we consider need addressing:</p> <p>Policy matrix: The note alleges that the Hatchfield Farm decision is not relevant, in part because it considers the scheme in the context of different local planning policy (B.38 to B.40). We have dealt with this point previously at Paras 2.3 to 2.17 of the Lichfields 'Review of Reports' Note [REP4-039]. This sets out why both</p>

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			<p>policies could be 'important and relevant matters' in the context of the PA 2008 against which this application is being determined.</p> <p>Tipping point: The note asserts that the assessment of the 'tipping point' for the HRI was different in the Hatchfield Farm case. It suggests that the Inspector was determining whether the HRI would 'implode' as being the 'tipping point' rather than assess its longer-term decline (B.33 to B.37). This is clearly not the case. The inspector rejects the idea of implosion when considering a 'worst-case' (IR475), and any fair reading would see that he considers both the short- and longer-term impacts of the scheme on the HRI's viability as a whole, for example in noting its ups and downs and then concluding in terms i.e. IR487.</p> <p>Harms and mitigation to Limekilns: At Para B.14 the note states that <i>"the applicant accepts the impact in landscape, visual and heritage terms to the Limekilns cannot be mitigated"</i>. This statement misconstrues Sunnica's position and does not reflect relevant local plan policy tests. Paras 3.16 to 3.17 of the Lichfields 'Review of Reports' Note [REP4-039] considers the individual landscape and visual impacts to the Limekilns. It concludes that while there will be some impacts to the Limekilns in respect of the aspects mentioned at Para B.14 (i.e. there will be a visual change), it does not follow – and would be specious to suggest - that this translates automatically to a harm to the HRI. In the case of the proposal here, the evidence does not support the idea that the visual impacts would be to such a degree as to have a material adverse impact on the HRI and SNTS do not provide any such evidence. Moreover, the relevant local plan policy test is not whether there are any impacts at all (mitigated or unmitigated), it is whether the scale of the impacts would, inter alia, threaten the long-term viability of the HRI.</p> <p>Prospective and current investors: The note sets out that the Hatchfield Farm decision fails to engage with harms to 'footloose' 'prospective investors' (B.21 to B.26). It is therefore alleged that the appeal decision has little relevance to the Examining Authority with regards to this impact. SNTSs interpretation of IR467 of the</p>

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			<p>Hatchfield Farm decision (in which Mr Wicksteed's evidence referred to is summarised) seems to suggest that investors only act in a 'businesslike fashion' once they have invested in Newmarket. This is an incorrect reading.</p> <p>Mr Wicksteed was responding to the proposition (put to the Hatchfield Farm inquiry by witnesses on behalf of the HRI) that owners of racehorses in the global HRI were footloose but – because horse racing might be seen as a hobby – they would not necessarily behave rationally in deciding where to invest. It would be illogical to assume the principle of rationality (in weighing up advantages and disadvantages of a place) only applies to those who currently have horses in Newmarket; the SNTC suggestion would imply – most oddly – that it is only those who already have horses in Newmarket who behave rationally; self-evidently, horse owners who are most likely to invest in Newmarket's pre-eminent facilities will already be involved in the national or global HRI and thus able to weigh up all of Newmarket's advantages and compare them to other locations. It is worth noting that the Jockey Club witness at Hatchfield Farm concluded that even if that scheme had been approved, and if overseas investment reduced, this "<i>opens up opportunities for others</i>" thereby indicating that on the HRI's own case to that inquiry, even if existing owners might make a decision on a whim to leave Newmarket due to the grant of permission, others not in Newmarket (i.e. prospective investors) would see Newmarket as an opportunity (IR476). Therefore, the Hatchfield Farm decision is clearly relevant for both existing and prospective investors and there is no sensible basis for concluding otherwise.</p>

5. Comments on HPUT

Topic – HPUT

Topic	Deadline and Document Ref	Summary of issue raised	Applicant's response
Compulsory acquisition	REP5-102	Introduction (paragraph 1)	<p>The Applicant notes that FHPUT is in a position where it feels it must maintain its objection to the Scheme. However, the Applicant is also grateful that FHPUT notes that positive progress has been made in the negotiation of protective provisions and conclusion of a separate legal agreement and that it remains hopeful that it may be able to withdraw its objection prior to the second CAH. The Applicant agrees that is looking likely that Protective Provisions will be agreed in advance of the CAH. The Protective Provisions will prevent the Applicant from exercising the DCO powers over the FHPUT land unless the exercise of the powers is in accordance with the agreement of FHPUT. Accordingly, the Applicant's position is that once the Protective Provisions are in agreed form the objection can be removed even if the legal agreement has not yet been completed as FHPUT has its protection.</p> <p>FHPUT make submissions setting out its objections to the Scheme. The Applicant considers that there is not merit in providing a detailed response to these submissions at this Deadline as it believes that the conditions set out by FHPUT to enable it to remove its objection are capable of being met by the end of the examination.</p> <p>The Applicant further considers that the submissions made by FHPUT have been previously responded to and there is no need for the Applicant to repeat its previous submissions. However, the Applicant does not accept the submissions made by FHPUT. If it becomes apparent that agreement of protective provisions and a separate legal agreement is not possible by the end of the examination it reserves the right to make further submissions to set out in detail its position on alternatives and inadequate consultation.</p>
Compulsory acquisition	REP5-102	Alternatives (paragraph 3)	FHPUT characterise the consideration of alternative cable corridor routes in the vicinity of the Campus as being inadequate. FHPUT discounts the reasons the Applicant has provided to justify the approach taken to the cable corridor

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			<p>and the discounting of Option 1 and a variation of Option 1. FHPUT may disagree with the conclusions reached by the Applicant but it is wrong to say that it has provided inadequate justification for the selection of its preferred cable corridor route.</p> <p>Much of FHPUT's case relies on weighing the harm or risk of harm that the Applicant has identified in respect of Option 1 and variations of Option 1 against the harm that FHPUT says would exist if the cable corridor is located, as it is, in the Application. It discounts risks identified by the Applicant in respect of Option 1 and variations of Option 1 which the Applicant disagree with and places weight on its assertion that significant harm will occur to FHPUT if the cable corridor presented in the Application is pursued. The Applicant and FHPUT have come to different conclusions on this balancing exercise. For this reason it has a desire to reach commercial agreement before the end of the examination with FHPUT and therefore it has decided to make considerable concessions to resolve issues between FHPUT and the Applicant. It is confident that FHPUT and the Applicant can come to agreement before the end of the examination.</p>
Compulsory acquisition	REP5-102	Protective provisions and option agreement (paragraph 4)	<p>The Applicant and FHPUT are negotiating the terms of the protective provisions. They are in substantially agreed form and the Applicant expects agreement to be reached by the end of the examination and hopefully before the next CA Hearing.</p> <p>The Applicant provided a draft Option agreement for an easement to FHPUT on 24 January 2023. It will seek to conclude the Option agreement prior to the end of the examination.</p> <p>The Applicant does not wish to provide detailed comments on the protective provisions in this submission given negotiations have progressed significantly with the drafting nearing agreed form. The Applicant has included a copy of the protective provisions which it considers are acceptable in the DCO submitted at Deadline 6.</p>
Compulsory acquisition	REP5-102	Inadequate engagement (paragraph 5)	FHPUT's submissions on inadequate consultation have been made before and nothing in this further set of submissions changes the Applicant's view that the characterisation is incorrect.

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Compulsory acquisition	REP5-102	Removal of parcels from the Order limits (paragraph 6)	<p>The Applicant made a changes application at Deadline 5 which included the removal of Plots 16-05 and 16-06 and an amendment to the extent of Plot 16-04 so that the land to the west of the proposed security fence is excluded. That changes application has subsequently been accepted by the Ex A.</p> <p>The Applicant considers it has amended the Application as requested by FHPUT.</p>
Compulsory acquisition	REP5-102	Flood risk (paragraph 8) – Comment regarding ensuring flood modelling being undertaken and flood risk not increased during construction works	<p>In line with National and Local planning requirements, no part of the Scheme may increase flood risk elsewhere. The Environment Agency has agreed to the Flood Risk Assessment and Flood Risk Addendum for the Scheme, with construction phase risks agreed to be captured with the CEMP (Requirement 14). The Environment Agency Statement of Common Ground records this agreement.</p> <p>It is noted that there are no formally designated EA flood defences in the area of the River Snail and the area is not within an IDB boundary for other flood defences.</p> <p>Additional fluvial modelling has not been undertaken in this area, as flood risk to and from the Scheme has been assessed to be low. Fluvial modelling and the impact to and from the Scheme would only be undertaken to establish long term flood risk to and from the Scheme. Construction of cable crossings is a short-term impact in terms of flood risk. Construction phase risks and mitigation are set out within the CEMP, Table 3-4, ensuring flood risk is not increased during the works period. The works will not impact flood risk to the Scheme or elsewhere.</p> <p>Pollution risk will also be captured within the CEMP to ensure no pollution risk to groundwater and surrounding receptors.</p>
Compulsory acquisition	REP5-102	Next steps (paragraph 9)	Sunnica is committed to agreeing protective provisions with FHPUT and acquiring the necessary property interests by agreement. Its objective is to do this by the end of the examination and to have made as much progress as is possible by the date of the forthcoming compulsory acquisition hearings.
Compulsory acquisition	REP5-103	Written summary of oral representation at CAH1	No additional points are made beyond those made in REP5-102. The Applicant's response to those submissions is set out above.

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Compulsory acquisition	REP5-105	Draft of protective provisions	The Applicant is considering the proposed protective provisions. It provided its comments on the draft in December 2022. FHPUT's solicitor has proposed further amends which the Applicant responded to on 27 January 2023. The Applicant considers that the protective Provisions are in substantially agreed form, subject to final comments that maybe made by FHPUT's solicitors. It has therefore added the latest version of the protective provisions to the DCO submitted at Deadline 6..