

SUNNICA ENERGY FARM

EN010106

8.91 Local Highway Authorities Protected Provisions

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010



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Sunnica Energy Farm

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SCHEDULE 12

PART 12

FOR THE PROTECTION OF THE RELEVANT LOCAL HIGHWAY AUTHORITIES

Application

1. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and the relevant local highway authority.

Interpretation

2. In this Part of this Schedule—

“highway” means, notwithstanding article 2(1) of this Order, a street vested in or maintainable by the relevant local highway authority under the 1980 Act;

“plans” includes sections, drawings, specifications and particulars (including descriptions of methods of construction);

“relevant local highway authority” means—

- (a) Cambridgeshire County Council, in relation to any specified work constructed in the area of that council;
- (b) Suffolk County Council, in relation to any specified work constructed in the area of that council.

“specified work” means so much of any part of the authorised development as forms part of or is intended to become a highway, or part of any such highway;

“structure, apparatus or surface” means any highway drainage structure or drainage apparatus, street furniture or carriageway comprised in a specified work.

Relevant local highway authority approval of specified works

3. Without affecting the application of sections 59(a) (general duty of street authority to co-ordinate works) and 60(b) (general duty of undertakers to co-operate) of the 1991 Act, before commencing the construction of any specified work, the undertaker must submit to the relevant local highway authority for its approval proper and sufficient plans and must not commence the construction of a specified work until the plans for that specified work have been approved by the relevant local highway authority or settled by arbitration.

4. When signifying approval of plans submitted under paragraph [(3)], the relevant local highway authority may specify any protective works (whether temporary or permanent) which in its reasonable opinion must be carried out before the commencement of the construction of a specified work to ensure the safety or stability of the highway and such protective works must be carried out at the expense of the undertaker.

5. If, within 28 days after any plans have been submitted to the relevant local highway authority under paragraph [(3)], it has not intimated its disapproval and the grounds of disapproval, the relevant local highway authority is deemed to have approved them.

(a) As amended by section 42 of the Traffic Management Act 2004 (c. 18).

(b) As amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

6. In the event of any disapproval of plans by the relevant local highway authority under paragraph [(3)], the undertaker may re-submit the plans with modifications and, in that event, if the relevant local highway authority has not intimated its disapproval and the grounds of disapproval within 28 days of the plans being re-submitted, it is deemed to have approved them.

Inspection and supervision of specified works

7. Any specified work, and all protective works required by the relevant local highway authority in accordance with paragraph [(4)], must be constructed in accordance with the approved plans for that specified work and an officer of the relevant local highway authority is entitled on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

Maintenance of specified works by the undertaker

8. If any specified work is not maintained by the undertaker in accordance with article 10 (construction and maintenance of altered streets) of this Order to the reasonable satisfaction of the relevant local highway authority, it may by notice require the undertaker to maintain the specified work or any part of it in accordance with article 10 to such extent as the relevant local highway authority reasonably requires for as long as the obligation to maintain the specified work under article 10 applies.

9. If the undertaker has failed to begin taking steps to comply with the reasonable requirements of any notice issued under paragraph [(8)] and has not subsequently made reasonably expeditious progress towards their implementation within 28 days beginning with the date on which a notice in respect of any work is served on the undertaker, the relevant local highway authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

10. In the event of any dispute as to the reasonableness of any requirement of a notice served under paragraph [(8)], the relevant local highway authority must not, except in a case of emergency, exercise the powers conferred by paragraph [(9)], until the dispute has been finally determined.

Payment of fees for approving and supervising the construction of specified works

11. On submission of the plans for a specified work, the undertaker must pay the relevant local highway authority 2% of the anticipated cost of constructing the specified work to cover the relevant local highway authority's reasonable fees, costs, charges and expenses in approving the plans for and in supervising construction of the specified work.

12. The relevant local highway authority may apply to the undertaker for up to two further payments (limited in each case to a maximum of 2% of the anticipated cost of constructing the specified work) if it reasonably considers that its fees, costs, charges and expenses in approving plans for and supervising construction of the specified work will exceed the amount the undertaker must pay under paragraph [(11)].

13. The undertaker must use reasonable endeavours to agree to pay any amount reasonably sought by the relevant local highway authority under paragraph [(12)] (having regard to the extent of the outstanding work in respect of which the relevant local highway authority is likely to incur fees, costs, charges and expenses) and following agreement must pay any such amount.

14. The undertaker must repay to the relevant local highway authority, all reasonable fees, costs, charges and expenses reasonably incurred by it in approving the plans for and supervising construction of a specified work which have not otherwise been covered by a payment made under paragraphs [(11)] to [(13)].

15. The relevant local highway authority must repay to the undertaker (or, with the undertaker's agreement, offset against any amounts for which the undertaker is otherwise liable to that relevant

local highway authority) any payment or part of a payment made under paragraphs [(11) to [(13)] which exceeds the fees, costs, charges and expenses it has incurred in approving plans for and in supervising the construction of a specified work and in response to a written request from the undertaker (served no earlier than after the final adoption or restoration of all of the specified works under article 10(1) and (3) as the case may be) the relevant local highway authority must provide to the undertaker a financial summary containing detailed evidence of how the payments received by the relevant local highway authority under paragraphs [(11)] to [(13)] have been spent.

Commutated sums

16. In respect of a structure, apparatus or surface installed or altered as result of a specified work in relation to which the relevant local highway authority is, or is to become, liable to maintain, the undertaker must pay to the relevant local highway authority (at the time when the relevant structure, apparatus or surface is, in accordance with this Order, to become maintainable by the relevant local highway authority) a commuted sum to reflect any additional cost that may be incurred by the relevant local highway authority over an appropriate timeframe in maintaining that structure, apparatus or surface.

17. The amount of the commuted sum referred to in paragraph [(16)] is to be determined with reference to the detailed design of that structure, apparatus or surface and agreed between the relevant local highway authority and the undertaker, both acting reasonably.

Consents and agreements

18. Wherever in this Part of this Schedule provision is made with respect to the approval or consent of the relevant local highway authority, that approval or consent must be in writing and may be given to such reasonable terms and conditions as the relevant local highway authority may require in the interests of safety or to ensure highway construction standards are met in order to minimise inconvenience to persons using the highway, but must not be unreasonably withheld.

Disputes

19. Any difference or dispute arising between the undertaker and the relevant local highway authority under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the relevant local highway authority, be determined by arbitration in accordance with article [39] (arbitration) of this Order.

Saving for the 1991 Act

20. This Part of this Schedule does not apply to any works comprised in the authorised development in respect of which the relations between the undertaker and the relevant local highway authority are regulated by Part 3 (street works in England and Wales) of the 1991 Act.