

Fordham (Cambs) Walking Group



Registered party 20030564

Planning Inspectorate Reference EN010106 Sunnica Energy Farm

Deadline 7 Representation dated 18th February 2023

Response to The Examining Authority's written questions and requests for information (ExQ3)

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1. INTRODUCTION

1.1 The Fordham (Cambs) Walking Group (FCWG) welcome the opportunity to respond to the 7th deadline with our comments on the responses to answers to the Inspectorate's ExQ3 questions and information submitted to the sixth deadline.

1.2 We apologise insofar as we find a need to repeat issues raised before that have either not been answered by the applicant at all, or we feel, insufficiently.

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

1.4 Where Sunnica have responded to FCWG's Written Statement (document EN010106-003889) the points raised have been inadequately answered and are found lacking in reasoned justification. Towards the end of ISH3 Sunnica's Barrister Richard Turney claimed that legally Sunnica are not able to provide permissive paths within the DCO. FCWG were finding this hard to grasp and requested a more detailed explanation from Sunnica. This issue was raised by us at deadline 6 but no response has been forthcoming. The applicant's position doesn't sit well with the fact that Sunnica are proposing some permissive routes within the DCO, albeit on a very small scale.

1.5 Our understanding is that an agreement may be made under section 106 of the Town and Country Planning Act 1990, containing covenants from one or more parties (who must have a legal interest in the land) to another party (usually the local planning authority). Under section 106(1) of the Act, any person interested in the land may enter into a planning obligation. Persons can only bind their own interest and any successors in title to that interest. Normally all persons with an interest in land affected by a planning obligation – including freeholders, leaseholders, holders of any estate contracts and any mortgagees – may and should sign the obligation. Where a developer has only an option to purchase the land, the current landowners will need to be party to any obligation binding the land.

1.6 The FCWG cannot currently see any reason in principle why the owner, and any other party with an interest, cannot enter into such agreement to achieve permissive route on the DCO land. There may be impediments that we are not aware of and that is the reason for seeking further information. Dialogue is the key to understanding on both sides and Sunnica continue to resist that.

2. Q3.9.5 RESPONSE TO THE EXAMINING AUTHORITY'S WRITTEN QUESTION TO FORDHAM CAMBS WALKING GROUP

2.1 *"Fordham Walking Group concerns: Are you satisfied with the proposals put by the Applicant in its response to our ExQ2.9.18? If not, please explain why not".*

ExQ2.9.18 to Applicant: *Fordham Cambs Walking Group (FCWG) has over 200 active members, including members from neighbouring villages. They have expressed strong concerns regarding the inadequacy of mitigation relating to permissive routes (see FPC submission at D4). Please confirm that the discussions between the Applicant and CCC relating to permissive routes will include the FCWG as requested in that organisation's D4 post hearing submission [REP4-097].*

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

2.2 The Fordham (Cambs) Walking Group (FCWG) are dissatisfied with the applicant's response. The applicant seeks to exclude FCWG claiming that within the scheme, "no other changes to Permissive Paths are feasible or practicable". The applicant goes in to no more detail, nor provides any evidence, to justify their statement. This is despite several requests from this group at earlier stages, including ASI Thursday 3 November 2022 (ASI3), please see document EN010106-004531 which details this group's request. Towards the end of ISH3 Sunnica's Barrister Richard Turney claimed that legally Sunnica are not able to provide permissive paths within the DCO. FCWG are finding this hard to grasp and would request a more detailed explanation from Sunnica. This issue was raised by us at deadline 6 at which point we expanded on our own understanding of the scope of S106 but no response has been forthcoming. The applicant's position doesn't sit well with the fact that Sunnica were at that time, and still are proposing, some permissive routes within the DCO, albeit on a very small scale.

2.3 We believe that our group does have locus as a registered party with detailed local knowledge and use of PRoWs; together with expertise relating to local needs for permissive routes. Our wish remains to be involved from the early stages in the design process, both for routes within the DCO and those outside culminating in S106 obligations. Our interest includes the nature and extent of permissive routes, and we continue to be excluded from discussions and presented with inadequate proposals from the applicant as a fait accompli. The role of FCWG is supported by the County and Parish Councils.

2.4 In this context, we feel the need to highlight an error in the applicant's Design and Access Statement document 002012, which claims at paragraph 1.4.1 "The contributions of all disciplines have been crucial to informing the design approach to the Scheme. The design team has also worked collaboratively with stakeholders to allow the design to be informed by local knowledge and expertise" - This is simply incorrect insofar as FCWG is concerned, the applicant has not worked collaboratively with us as a stakeholder, nor has the

applicant sought our local knowledge or expertise. The DaAS also contains only a partial review of the applicable policies. For example, it fails to mention Policy 10 of the Fordham Neighbourhood Plan 2018 which contains a statement under Pedestrian Access & Public Rights of Way *“Development proposals that are located where there is an opportunity to link two or more public rights of way or to enhance connectivity through the village should incorporate this connectivity through the proposal wherever appropriate”*.

2.5 Whilst it might be both difficult and inconvenient for the applicant, we see no reason in principle why permissive paths through the DCO area could not be achieved. This group’s interest and membership covers all of the DCO area. Any difficulty stems directly from the applicant’s failure to front load and to address the needs for permissive routes at the correct stage - at start of the design process, pre-application. This group has highlighted the failure to properly respond to the applicable policies in its five submissions since July 2022. The failures to properly address the relevant policies and other material considerations are covered in some detail in this group’s earlier submissions, particularly the FCWG Written Statement of November 2022 (Registered party 20030564 document EN010106-003889), which remains the main plank of this group’s case. It is supplemented by, and expanded on, in our Deadline 6 Representation of January 2023, document EN010106-004988.

2.6 Attention to permissive links in the area should be a priority as there is a local initiative gathering momentum, to provide a sustainable transport hub at Fordham. This would give, amongst other public transport links, a fast bus from the Fordham hub into Cambridge along the B1102. The group ‘A to B1102’, as a representative of local needs, is feeding into consultations from CCC, the Greater Cambridge Partnership and the Cambridgeshire and Peterborough Combined Authority. This is part of a strategic initiative to encourage a modal shift, and to reduce congestion in Cambridge. There would be facilities at the Fordham hub for cycle parking, shelters, and a limited amount of car parking. It is therefore particularly important that NMU routes from Fordham’s neighbouring villages are improved including those in Suffolk.

2.7 Use of the term ‘Mitigation’

The Applicant’s statement in response to ExQ2.9.18 that permissive routes proposed within the scheme are not ‘mitigation’ contradicts their apparent acceptance of that word without challenge in relation to lxQ Q2.9.9 and Q2.9.14. Whilst ‘mitigation’ has a particular meaning for EIA, irrespective of that, the need for a meaningful proportionate response to the relevant planning policies for permissive routes stands irrespective of the noun used. ‘Community benefit’ would serve equally well. ‘Mitigation’ in relation to permissive routes is a term that has been used by the County Councils, the Inspectorate, and other parties.

2.8 FCWG’s position on mitigation also relates to the fact that the applicant’s EIA, and subsequent responses, deny that the creation of an industrial type landscape in this rural area would have a negative impact on mental health and may restrict potential demand for active travel, wellbeing walking and NMUs in general. Residents on the fringe of both

counties are feeling threatened, isolated, and alienated by the proposals. The applicant lacks understanding of the family, social and recreational patterns in our area which are not limited by Parish, District or County boundaries. Some people walk or cycle between the villages and this includes school, work, wellbeing, family, social and shopping trips. Others are put off by the poor NMU network which needs improvement to meet this latent demand.

2.9 Regarding the local authorities' critique of the applicant's Equality Impact Assessment which identifies negative effects, FCWG cannot agree with the applicant's position that:

"The Equality Impact Assessment has identified a potential positive impact with regards to groups with protected characteristics as a result of new permissive routes as a whole provided during the Scheme's operational phase. The routes will provide new and additional facilities for walking, cycling and horse riding within and around both Sites A and B, which will result in health benefits for those who use them, including those from protected groups, in terms of providing a safe route for use by NMUs in the local area. For example, the routes will improve connectivity between the villages of Worlington (Sic), Isleham and Snailwell, providing a safe route for NMUs to use to travel between the sites without the presence of road traffic. Those from the protected groups listed are likely to benefit from the positive health outcomes associated with walking".

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

2.11 The applicant's claim that they are providing "improved connectivity between Worlington, Isleham and Snailwell", is false. They are not showing safe routes for NMUs to travel between these villages without the presence of road traffic as is claimed. The only such route, where that may or may not occur, is that between Isleham and Freckenham and even that has a missing link, as no details have been submitted to avoid walking along Sheldrick's Road. FCWG have not seen any applicant drawings showing an improvement to connectivity in the form of off road routes between Worlington and Isleham; nor between Worlington and Snailwell; nor between Snailwell and Isleham. We would like to see the evidence in support of their claim. The routes to which they refer are just part of the wider connectivity sought by FCWG.

2.12 The introduction of solar panels over such a wide area can only produce a gross negative impact. The applicant's assessment lacks proportionality. The creation of a very limited length of permissive path alongside and around solar panels, in a very few locations, is relatively unattractive to users and has questionable offset value. Taken together, it is most difficult to see how what is proposed would offset the loss of 2,800 acres of countryside to provide a net positive impact. Only 0.7 mile (alongside Beck Road) of the applicant's permissive paths can be regarded as meaningful for local connectivity and the promotion of active travel. The DCO boundary stretches 12.0 miles through the site from west to east and 6.8 miles through the site north to south. The current provision falls well short of the appropriate proportionate response.

2.13 FCWG noted that Sunnica proposed to submit a consolidated set of Access and Rights of Way Plans and that they would be adding permissive paths to these plans for deadline 6. Our group consider that was being done too late in the process and gave us little of significance, nor specific, to comment on. Additional permissive paths should be informed by a proper assessment of needs across the full DCO area and its margins. There is still no indication from Sunnica that they have or will be doing this.

2.14 There has been no improvement in the submitted drawings to show clearly the minor roads in relation to existing PRoWs, which would highlight the gaps in the network and permissive routes. Whilst the latest formally submitted drawings at deadline 6 show an additional short circular route within part of area E05, this makes no contribution at all to local connectivity.

3. COMMENTS ON THE INSPECTORATE'S ExQ3 QUESTIONS TO OTHER PARTIES WHERE THE FORDHAM CAMBS WALKING GROUP ALSO HAS AN INTEREST

3.1 ExQ3.0.4 for The Applicant Good design: *Further to your response to our ExQ1.0.5 and ExQ1.0.6, and in the light of any relevant submissions by Interested Parties, please comment on the need for a DCO Requirement for a Design Champion and for a Design Council Design Panel review.*

Although the question is not directly addressed to FCWG, The FCWG supports this request, particularly as we are mindful of the Design Council's Inclusive Environments Initiative. This acknowledges that crucial to the success of inclusive environments is consultation with user groups, putting people who represent a diversity of age, ability, gender and community at the heart of the design process.

3.2 ExQ3.0.5 for The Applicant Community benefit and legacy: *Further to your response to our ExQ2.0.1, we note that you say that you are "in the process of developing a suite of further community benefits which it hopes will be enshrined in a planning agreement ...". • What are these? • Do the relevant local authorities agree? and • What is the real legacy of the proposed development for local people?*

Although the question is not directly addressed to FCWG, we are not seeing any community benefits of significance and a persistent avoidance and vagueness about specifically what, where, and how much is proposed. We are not seeing a tangible legacy in terms of addressing useful permissive routes consistent with the scale of development proposed.

3.3 ExQ3.9.2 for The Applicant Consolidated access and PRoW plans: *We note your response to our ExQ2.9.13. Please advise when the consolidated set of Access and Rights of Way plans will be submitted.*

There has been no response from the applicant on our email 04 November 2022(Document EN010106-004531), requesting that they might usefully illustrate the network of existing and potential routes for non-motorised users across the wider area.

We suggested that since it is the case that non-vehicular users favour safe, attractive, PRoWs and class C, or unclassified roads; it would assist consideration if the applicant were to generate a single drawing highlighting such together with their “potential” permissive routes. There is still no single submitted drawing which does this and the current PRoW drawings have the C and unclassified roads greyed out.

3.4 ExQ3.9.6 for the Applicant Fordham Walking Group concerns: *Will Fordham (Cambridge) Walking Group be included as a consultee in the FCEMP [REP5-044] and if not why not?*

FCWG are regular users of all of the PRoWs in the locality and as such confirm that as a stakeholder, we would wish to be consulted.

3.5 ExQ3.9.10 for the Applicant NMUs: *Will the Applicant now accept that NMUs should be assessed as noise receptors? If not please explain why, having regard to the local authorities’ concerns expressed in their Deadline 6 submissions, for example CCC’s Comments on Applicant’s Response to ExQ2, Q2.9.9, page 72.*

FCWG Response: As NMUs, we are noise receptors potentially affected at both construction and operational phases. We believe that we should be treated as such in the EIA.

3.6 ExQ3.9.11 for the Applicant, CCC, SCC, WSC, EDCD Enhancements to the PRoW network: *Please summarise, with reference to relevant policy statements or guidance if considered relevant, your understanding of how, if at all, the ExA may or should take account of the extent to which a section 106 obligation or obligations completed by the end of the Examination would meet concerns expressed by IPs for the need for the proposed development to incorporate enhancements to the PRoW network. In your response, please include what account may or should be taken by the ExA in its recommendation report in the event of any proposed party failing without reasonable excuse to make good progress to complete the same.*

3.7 This question is at the heart of FCWG’s objections which are set out in full in our deadline 2 document EN010106-003889. There are discrepancies between the policies this group considers relevant and those of the applicant. We are mindful of the shortfall of significant or specific, quantifiable enhancements to the PRoW network; also, the Rochdale envelope principles where details of the whole project have not been confirmed. The more detailed the DCO application is, the easier it will be to assess whether the enhancements to the PRoW network are sufficient to satisfy stakeholders, the public interest, and for the Inspectorate make a recommendation to the SoS. At the moment, FCWG are not seeing sufficient commitment to the amount of permissive paths both within and outside the DCO.

4. CONCLUSIONS

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

4.2 The permissive routes proposed are insignificant in relation to the scale of the project. Their location benefits just three villages of the fifteen in the zone of influence identified by FCWG in our deadline 2 written statement document EN010106-003889.

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

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

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

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