

SUNNICA ENERGY FARM
REF: EN01016 DRAFT DEVELOPMENT CONSENT ORDER
PLANNING ACT 2008
INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS
AND PROCEDURE) REGULATIONS 2009

WRITTEN SUMMARY OF ORAL CASE FOR EAST CAMBRIDGESHIRE
DISTRICT COUNCIL & CAMBRIDGESHIRE COUNTY COUNCIL

ISSUE SPECIFIC HEARING 4

Introduction

1. East Cambridgeshire District Council (“**ECDC**”) had contributions to make on some of the agenda items discussed on Thursday 16 February and Friday 17 February. Cambridgeshire County Council (“**CCC**”) matters were also discussed. Where relevant, the distinctions between the authorities are highlighted. These points build on the those contained in the Joint LIR with other local authorities, as well as the points made at ISH4. There is some overlap between the points discussed at ISH4, those summarised in this document, and the answers given to ExAQ3.
2. Again, for brevity, where issues overlap with other authorities, we have not sought to repeat the points.

Landscape and visual impact

3. Parcels **E19, E20, E21** and **E22** (south of Elms Road) are all located within Suffolk. We do not make comment on them, please see comments by SCC and WSC. Similarly, **E1-E04** and **E08-E10** are located within West Suffolk.

4. In so far as there is anything further to add to the general impacts on the landscape of the area, the Joint LIR already captures most of the points made.¹ The following is added. There will be rapid and permanent change of large tracts of rural landscape areas around the settlements of Worlington, Frekenham, West Row, Chippenham, Isleham and Snailwell. These will all become a new renewable industrial energy landscape.

5. There will be a significant impact from the loss of the largely open character of the project area; impacting views, landmarks and the wider landscape. There will be changes to the character of secondary and unclassified roads. Ultimately the accumulation of long-term Minor and Moderate Adverse Effects will result in Significant Adverse long-term Effects.

6. There will be a permanent loss of landscape features, including trees (including TPO trees), parts of woodlands, hedgerows, scrub, arable flora and arable land. On the trees, the Councils have asked for further clarification. The Applicant has stated that a further AIA is not anticipated prior to the determination of the application.

¹ Table 6, page 122, 10.119-10.121; 10.138; 10.148; 10.176

This is most concerning, particularly in relation to issues around the TPO trees on Chippenham Road. This is because the tree protection and removals Plan 6 in Appendix D, [REP5-053], and the schedule page 100 of the AIA [REP5-053] show three TPO trees to be removed from the TPO groups. These are not reflected in the two groups described at paragraph 8.1.7 or on Plan 7 of the hedgerow create/retained/loss information.

7. At ISH 4 it was mentioned that it should be possible to use Horizontal Directional Drilling to go under these trees and the road, avoiding tree losses, and the associated impact on this protected avenue feature. ECDC has written to the Applicant ahead of Deadline 7 in order to alert them to the same. The same is attached as an appendix to these submissions.

Potential for mitigation

8. In short, the position remains that the potential for appropriate mitigation, to the satisfaction of ECDC, is very limited. As to what is possible; mitigation planting, where it is appropriate, needs to be sensitive to the local landscape character, while making greater efforts to integrate the new with the old.
9. As Mrs. Rhodes pointed out at the hearing, the tone of the OLEMP needs to be amended to recognise the lasting adverse physical impact that the development would have on the local landscape and the adverse psychological impact it would have on the local communities who live in it, use it and enjoy it.

10. It is the Council's view that it would not be possible to achieve effective mitigation in relation to the following parcels: **W04, W05, W07, W08, W09, W10, W11, W12, W17**. As explained, the mitigation itself – in the form of intrusive visual screening, would be detrimental to this historic landscape.²
11. Notwithstanding this position, the Councils have produced, in response to the ExA's Action Point 1 of ISH4, a table which details parcel by parcel residual landscape impacts and potential further mitigation.

Historic Environment

12. ECDC remain concerned around the impact on The Avenue (Chippenham Park Registered Park & Garden) as well as the plane crash site, parcel E05.
13. To this end, the following is added in relation to these elements. Without prejudice to the Council's view that **parcel E05** ought to be removed completely and the landscape being very open with far reaching views presents a challenging starting point from which to seek appropriate mitigation.³ It is the Councils' view, that Lee Brook would provide a more natural boundary to the scheme in the west. Without prejudice, the Councils have responded the ExQ2 with regards to reduction of E05 to an existing field boundary, which would leave the Plane Crash site outside the solar development and would allow a much more open landscape, appropriate to this area. However, should Parcel E05 be retained in its entirety, there is a real

² See comments made at Deadline 6; [REP5-056] [REP6-076]

³ Joint LIR 10.165

opportunity to achieve a positive place making and an innovative design solution as mitigation around the Plane Crash Site. Pursuant to this, there have been some suggestions, including.

- (i) The raising of the viewing area of the crash site for better vantage points;
- (ii) To provide interpretation signage to explain the history of the plane crash site to the general public;
- (iii) To remove solar panels along the assumed flight path in a V-shape; creating a visual link from Beck Road/the permissive footpaths across the crash site towards Mildenhall;
- (iv) Allow access to the crash site area; provide seating for contemplation wherever appropriate;
- (v) Work with the community of Isleham to commission a commemorative sculpture.

14. ECDC considers the impact on the **Chippenham RPG** to be of extreme importance. One of the persistently under-addressed concerns relates to the loss of trees on the Avenue to make way for a new road. This will immediately impact the setting of the RPG as this major change sits within it. This impact on the setting is of a scale and magnitude unlike any other development nearby: the core conflict arises both in scale and proximity. This concern is further compounded by the lack of clarification on which trees have been properly surveyed and which are subsequently to be removed.

15. Policy EN-1 (not covering solar energy) clearly states in relation to impact on heritage assets the following: *'Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.'* Further, that *'Substantial harm to or loss of a grade II listed building park or garden should be exceptional'*.⁴ Whilst there is significant loss here of the setting of assets the Applicant struggles to establish any exceptional circumstances and continues to pray in aid of national policy that is continually bandied around as the answer to energy crisis.

16. The conservation of the RPG must be afforded great weight as part of the overall assessment. In the draft policy EN-3 great emphasis is placed upon the distance of a solar farm to the grid connection. In light of the above, the ultimate problem presented by the Applicant is one of their own making. Poor site selection process has led them to being so close to the RPG, with all the issues that this entails.

17. These concerns have been communicated to the Applicant and repeated here for the benefit of the ExA:
 - (i) The introduction of this development results in irreconcilable land uses; the change in the relationship between the RPG and its wider context for significantly over a generation. It will turn into a semi-industrialised zone, and with any screening mitigation only present as further intrusion itself;

⁴ Paragraph 5.8.14

- (ii) No evidence has been produced to support the claim that the Avenue has always solely been a Beech tree avenue. The critical point overlooked is how many other tree groups are present, including informal and formed Pine, Ash, Thorn and other mixed broadleaved species including some semi-mature and early mature Beech. During ASI4 it was noted that on the western side there were remnants of what appeared to have once been a double hedgerow which includes several veteran specimens of Hawthorn, Blackthorn and Crab Apple. These have not been recorded as veteran trees in the AIA (further details in Appendix attached as above).
- (iii) The AIA report states that the Avenue will not suffer tree losses yet the environmental masterplan still shows that there will be some losses, this needs to be corrected;
- (iv) The AIA states that the cable route will be achieved without tree loss using the route of the existing track and Horizontal Directional Drilling, but the indicated cable route appears to show that such an approach would not be possible, as shown on tree protection and removals Plan 6 to the dogleg bend near tree T259.

18. A separate note detailing the continued concerns of the Council has been communicated to the developer. The details contained therein are appended to these notes as a separate Appendix. The points and issues raised therein are not repeated here. The Applicant has suggested they intend on addressing the same at D7.

In-combination impacts (ecology & biodiversity, historic environment, and landscape and visual impact on)

19. On parcels **W01, W02, and ECO4**, ECDC welcomes the changes made by the Applicant. Given these parcels are no longer proposed for development, the landscape and visual impacts have been significantly reduced in this area. Some residual impacts remain in relation to the construction of the cable route. Vegetation losses should be avoided through use of Horizontal Directional Drilling HDD.

20. In so far as parcels **W03, W04, W05, W06, W07, W08, W09, W10, W11, W12, W17 and ECO5**, the Council's view remains unchanged, notwithstanding what the Applicant has provided by way of a response.⁵ In short, the requirements for visual screening remain irreconcilable with constraints within the historic landscape around Chippenham Park RPG. Notwithstanding this position, the Councils have produced, in response to the ExA's Action Point 1 of ISH4, a table which details parcel by parcel residual landscape impacts and potential further mitigation. ECDC supports and agrees with the further detailed comments put forward by SCC in the Deadline 6 submissions.

21. Specifically in relation to **E05**, there remains the conflicting requirements for landscape public amenity / recreation, historic environment and ecology issues. In applying the mitigation hierarchy to *avoid harm*, it is the Council's view that E05

⁵ [REP5-056] [REP6-076]

should be removed in its entirety. Similar positions are taken and comments made by WSC and SCC, with which ECDC and CCC agree.

22. The ExA asked the Applicant about whether further removal of parcels would impact the viability of the scheme. The concrete answer there came none. The Applicant instead listed all the work they have failed to do; that capacity will be lost is a statement of the obvious. The fact that no due diligence, or testing of the viability, in whatever form this might be, has not been done by the Applicant is extremely concerning. It is not good enough, given the scale and impact of this proposal, to simply assert that 'it may' be possible to remain viable.
23. It is similarly not an answer to list all the ways in which the scheme might be altered and reexamined. Practical issues are a matter for the Applicant. That the proposal would have to be reconfigured in another way to achieve less of an impact is – again – an obvious statement. That the Applicant should have taken the time to explore this, with varying results to be considered, would similarly have been an obvious and prudent step to have taken.
24. Instead, the Applicant continues to pray in aid of the need for renewable energy. They continue to repeat the fact that there is capacity at Burwell for them to use up. They keep referring to policies which purportedly support their position, regardless of the impacts on the landscape. In other words, they have only ever been interested in one version of this scheme, they have only ever contemplated realising no other proposal other than the one presented at examination. This is a serious omission on

the part of the Applicant. The invitation from the ExA to explore the possibility of producing more energy from fewer panels is quite revealing. It speaks to their continued concerns around the clear gap in Applicant's overall evidence.

25. Given the concerns raised by Tree Officers, Ecologists, Landscapers, Conservation Officers and Planners it is seemingly clear that this proposal is not a 'green' development.

Traffic & Transport

26. Cambridgeshire County Council submission [REP6-057] provided comments related to each of the accesses. The matters raised remain. Dialogue between the Applicant and the Council continue, and further information is anticipated to help provide clarity where it has been sought.

Draft Development Consent Order and related matters

27. In so far as the Council has any further comments to make in relation to the items contained at Item 6 of the Agenda, the Council has the following to add.
 - a) On the **compensation packages(s)**, s106 agreements(s) and side agreement(s), the Council's positivity initially held at the time of ISH 4 has since diminished. Mrs. Rhodes will comment on this in response to ExAQ3. However, it remains a difficulty that the land agreements seem to exclude creation by order across all land owned by landowners party the development. It remains the Council's preference

to avoid protective provisions (PPs) but understand that they have been provided as a fallback position. The PPs are inadequate as currently drafted and would need work to be acceptable to the Council. They may also be overtaken by events.

- b) On the procedural steps to **remove** parcels, SCC will comment on this.
- c) On the ongoing concerns around the '*temporary use of land*', the Council does not have anything further to add beyond what it has already stated. We have requested that this be restricted to 24 months from the start of construction as suggested by the developer. The Applicant remains of the view that this can be resolved via the CEMP, we look forward to commenting as appropriate;
- d) As to the definition of '**maintain**' ECDC has already made clear submissions on this previously.⁶ For all the reasons previously given, we remain of the view that the current definition does not satisfy the Council. Contrary to what is said by the Applicant, the Council's suggested wording will not lead to a whole new DCO. But the current wording does mean that 99% of the panels could be removed and not considered wholesale removal at the same time. The Council is keen to emphasise on a requirement that will require the CEMP to be updated. There is a suggested wording provided in our previous submissions not repeated here;
- e) On **Article 9 and 11** of the DCO, the Council does not repeat its points. The Applicant remains of the view that the CTMP is the appropriate mechanism to

⁶ REP5-073

address the issue of PRoW closures but it was agreed that article 11 should be amended to include a new article 11(8) requiring restoration of any PROW temporarily altered under the Order. Attempts ongoing to agree appropriate wording

- f) As to **Article 18(1)** on post-decommissioning environment, the Council and the Applicant are attempting to agree common ground via the Framework DEMP. A number of concerns in the current drafting has been raised and in so far as they're not resolved, the Council will update the ExA at Deadline 8.

- g) For **Articles 36 and 37**, the trees generally and those subject to a TPO, the points made above and those communicated to the Applicant are not repeated. The point remains that the AIA is inadequate; and there is no need to have a mechanism under the guise of potential need to remove if life is at risk. In sum, if the Applicant had the adequate information available, these provisions would be superfluous. In so far as it is necessary, the scope of 36(4) should be replicated in 37(4);

- h) As to **Article 44(5)** ECDC and CCC have nothing further to add to what is already contained in the comments from SCC; namely that Schedule 2, Requirement 23, obligates the interpretation board for the crash site to be within the highway. The Council explained that this was not the Highway Authority's practice, and the Applicant acknowledged this to be an error. Instead, it should be on the permissive path within E05. The Council is content with this but considers there should be a covenant requiring the board to remain post-decommissioning.

Fees Schedule / Discharge of Requirements

28. This is an extremely important issue for the Council. The Applicant's engagement on it has not been serious. WSC will make their own submissions on this separately. ECDC's view is as follows. The maximum fee for a solar farm of this size in one district = **£300,000**. In this case, the burden falls on two districts, this would normally mean that one authority gets 150% of that figure (£450,000). Instead, given the extensive and onerous nature of Requirement 6, the two authorities are content to settle on the maximum fee of £150,000 each.
29. The Councils have responded in regards to the enforcement monitoring fees within ExAQ3. Please consider the points made there separately.
30. In addition to the clear rationale relating to site area calculation, the above request is also driven by the conduct and practice of Sunnica as established during this examination process. To this end, the Applicant has often provided inadequate and/or incomplete information during this examination process. This is not just the Councils saying this, but the requests and clarifications often sought by the ExA underscore this. An example of this includes how piecemeal the information has been to date, and crucially what has now been left to the discharge requirement stage (including trees/AIA, the detailed layout and landscape plans per parcel etc).
31. The LPAs are united in maintaining that there will have a substantial amount of work to do within a very short period of time (one month) and the burden on resources (if current experience is an indication) is especially onerous.

32. Finally, the Reserved Matters or approval of technical matters under the planning fee regime are also defined by a maximum fee (£300k) no matter their type.

END

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COUNCIL

ISSUE SPECIFIC HEARING 3
DRAFT DEVELOPMENT CONSENT ORDER

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