



SUNNICA ENERGY FARM DCO EXAMINATION

ANSWERS TO EXQ3 AND COMMENTS ON DEADLINE 6 SUBMISSIONS

SAY NO TO SUNNICA ACTION GROUP LTD

3 March 2023

Introduction

1. The Say No to Sunnica Action Group Limited (SNTS) is an interested party (ID No 20031080) in the DCO examination.
2. In this document, SNTS provides comments on documents submitted at Deadline 6 and provides answers to the ExA's questions that were directed to SNTS. A separate note has also been submitted at Deadline 7, which provides submissions following the hearings held between 14 and 17 February 2023.
3. As has previously been noted (including in our submissions at Deadline 6), a significant aspect of how the Applicant has presented its case is the repetition of points previously made. As a result, SNTS does not reply to all parts of the Applicant's submissions but instead confines itself to new information on which it is of the view that it must comment. This approach has also been adopted in the notes produced by our experts. However, SNTS maintains and repeats its case as presented in past submissions.

Examining Authority's Third Written Questions [PD-025]

4. Three questions were directed to SNTS in the ExA's third set of written questions.

Q3.2.12 - Are IPs satisfied that the Applicant's in combination assessments, contained within its HRA Report has fully considered all relevant plans or projects? If not, what assessment remains outstanding?

5. SNTS is of the view that the Local Authorities are best placed to answer this question, as they have a more detailed understanding and overview of the relevant projects in their areas. We do note that, in respect of some plans and projects, the Applicant has relied uncritically on the relevant Applicant's conclusion of no likely significant effect. It is, of course, preferable that there be an independent assessment of this as part of this examination. We also note Natural England's conclusion that there is no functional linkage to the Breckland SPA. SNTS would reserve our position on the scope for cumulative impacts on European Sites pending sight and independent review of Natural England's evidence base for that conclusion, noting that the ExA has requested this, and it is still awaited.

Q3.2.13 - Are IPs satisfied with the conclusion of no LSE on the Great Crested Newt (*Triturus cristatus*) qualifying feature at Fenland SAC?

6. In respect of Great Crested Newts, SNTS is satisfied with the conclusion of no likely significant effect.

Q3.7.2 - Please comment on the extent to which you consider that these photomontages give an accurate representation of the effects of mitigation planting during the winter.

7. This question related to the Verifiable Photomontages from Viewpoints 11, 11b, 12a, 14, 18, 25, 32, 33 and 46 [APP-221; APP-222; APP-223; APP-224; APP-226; APP-227; APP-228; APP-229 and APP-232] appear to show summertime planting superimposed on wintertime landscapes.
8. A paper from Mr John Jeffcock is appended in **Appendix A**, which addresses this question.

Comments on Deadline 6 Submissions

Appended Papers

9. The following papers have been produced by our experts addressing documents submitted at Deadline 6:
 - a. A paper produced by John Jeffcock of Michelle Bolger Expert Landscape Consultancy on landscape and visual impact matters can be found in **Appendix B**.
 - b. A paper produced by Dominic Woodfield of Bioscan on ecology and biodiversity matters and a paper commenting on the RIES are in **Appendix C**
 - c. A paper produced by SNTS commenting on Deadline 6 papers concerning PROWs, including the Applicant's document [REP6-035] entitled 'Public Rights of Way Experience Note', is in **Appendix D**.

Lifetime Of the Scheme and Decommissioning

10. We note the paper produced by Suffolk CC on the issue of decommissioning and the permanent harms of the scheme [REP6-077]. SNTS associates itself with the position advanced therein, which provides a further strand to the issue of the permanence of the scheme that was commented on at Deadline 6 ([REP6-074] from para 8).

Heritage

11. In lieu of a formal document from Dr Richard Hoggett, we note the following three points here concerning the Isleham crash site:
 - d. [REP6-067] (Isleham PC Deadline 6 Submissions): we support the position of Isleham Parish Council with regard to the treatment of the crash site. Specifically, we note their comment that remains (including human remains) continue to be discovered on the site, that the proposed 50m x 50m exclusion zone is too small, and that the existing visual link between the village and the crash site is a significant part of commemorating the crash.
 - e. [REP6-068] (Isleham Society Deadline 6 Submissions): we support the Society's comments on the proposed treatment of the crash site and particularly note their comments on the sacrifice made by the aircrew in order to avert crashing into the village.

- f. **[REP6-039]** (Draft SoCG between the Applicant and the Councils): we note that the agreed statement concerning the Isleham crash site does not specify an agreed size for the exclusion area.

Horse Racing Industry

12. In its Deadline 6 submissions, SNTS noted that Mr Richard Sykes-Popham had been unable to produce further submissions due to his being hospitalised following an accident. At that time, SNTS indicated it might put in a further document from him at a later point.
13. Considering Mr Sykes-Popham's position and where the documents from him and the Applicant stand, SNTS is satisfied that the case on the HRI is before the ExA. On that basis, a further paper will not be submitted, and the case on both sides can be examined from the available documents.
14. SNTS notes that a further reply to its paper on the Hatchfield Farm case was produced by the Applicant at Deadline 6 **[REP6-036]**. SNTS has commented previously on the inappropriateness of the continuous ping-ponging of replies throughout this examination. The submissions are clear on both sides, and the ExA can draw their own conclusions. However, SNTS strongly disagrees with the Applicant's views expressed there, much of which mischaracterises or misunderstands the position SNTS set out in its paper **[REP5-098]**.

Fire Safety, HSC and COMAH

15. SNTS continues to associate itself with the position advanced by Dr Fordham and does not comment on this matter further here.

Appendix A



Landscape Briefing Note 16

Project: 1186 Sunnica PVD
Date: 1st March 2023
Purpose: Response to ExQ3.7.2
Reference: 1186 BN16 Sunnica PVD Response to ExQ3.7.2.docx
Author: John Jeffcock CMLI

1. This note has been prepared in response to Question 3.7.2 of the Examining Authority's third written questions and requests for information (ExQ3) [PD-025]. Question 3.7.2 is a question for the applicant and Say No to Sunnica (SNTS). It states:

The Verifiable Photomontages from Viewpoints 11, 11b, 12a, 14, 18, 25, 32, 33 and 46 [APP-221; APP-222; APP-223; APP-224; APP-226; APP-227; APP-228; APP-229 and APP-232] appear to show summertime planting superimposed on wintertime landscapes. Please comment on the extent to which you consider that these photomontages give an accurate representation of the effects of mitigation planting during the winter.

2. **SNTS Response.** Annex D to the applicant's Outline Landscape and Ecology Management Plan lists the indicative species for woodland planting (Table D3) [REP5-014]. This list consists of 12 tree species and 2 species of shrub. Out of the 12 tree species, 10 are deciduous and would lose their leaves during winter. The loss of this foliage during winter is not reflected in the applicant's photomontages. Therefore, they do not accurately convey the level of visibility of the proposals during winter, nor the effectiveness of the mitigation planting during winter. At all of the specified viewpoints, the impact of the development would be greater in winter than is depicted. For example, from Vp 12, the solar arrays, BESS and substation developments would be visible to a greater extent than is portrayed, such that the presence of the development would be obvious. In accordance with best practice guidance (TGN 06/19 Visual Representation of Development Proposals Page 5 (extract attached)), winter photomontages which depict the long-term impacts of the development should have been submitted for all viewpoints. It is not appropriate to rely only on summertime photomontages.

End of Note.



Visual Representation of Development Proposals

Technical Guidance Note 06/19

17 September 2019

This guidance aims to help landscape professionals, planning officers and other stakeholders to select types of visualisations which are appropriate to the circumstances in which they will be used. It provides guidance as to appropriate techniques to capture site photography and produce appropriate visualisations.



2 Guiding Principles

- 2.1 This guidance follows the broad principles set out in GLVIA3. Readers should note the comments in the Introduction (para 1.2.13) regarding the limitations of two-dimensional images.
- 2.2 Baseline photography should:
- be sufficiently up-to-date to reflect the current baseline situation;
 - include the extent of the site and sufficient context;
 - be presented at a size and relative position, on a corresponding sheet, to allow like-for-like comparison with the visualisation;
 - be based on good quality imagery, secured in good, clear weather conditions wherever reasonably possible (*see Appendix 4 and GLVIA3 para 8.22*);
 - avoid foreground clutter; and
 - in LVA / LVIA baseline photography, if relying on only existing views with no visualisations, clearly identify the extent of the application site in the view (*see Type 1 Visualisations*).
- 2.3 Visualisations should:
- provide a fair representation of what would be likely to be seen if the proposed development is implemented;
 - be based on replicable, transparent and structured processes (*Section 4*) and use a reasonable choice of agreed viewpoint locations, view directions, view angles and times of day (*Appendix 4*);
 - be reproduced at a suitable size and level of geometric accuracy relative to the baseline photographs (*Sections 3/4 and Appendices 7/8*);
 - be accompanied by appropriate information, including a Technical Methodology and required data within page title blocks (*Appendix 7.2 and 10*); and
 - where necessary, the photography and visualisation should be capable of being verified (*see Visualisation Type 4, Section 4 and Appendix 11*).
- 2.4 The producers of visualisations should:
- refer to GLVIA3 paras 8.15-8.31
 - use Visualisation Types 1-4, described further below, selected by reference to Purpose of use and anticipated Users, combined with the indicative overall Degree or Level of Effect (a product of Magnitude and Sensitivity) (*see Section 3*);
 - use techniques and media, with appropriate explanation, that represent the proposed scheme and its setting as accurately as reasonably practicable, proportionate to its potential effect;
 - where reasonable within project timescales, include maximum effect scenario (*e.g. winter views - see GLVIA3 paras 6.28, 8.15*); and
 - use appropriate equipment and settings (*Sections 3/4 and Appendices 1-5*).

Appendix B



Landscape Briefing Note 17

Project: 1186 Sunnica PVD
Date: 1st March 2023
Purpose: Response to SCC's Deadline 6 Submission REP6-076
Reference: 1186 BN17 Sunnica PVD Response to SCC Deadline 6 Subs.docx

1. We support comments made by Suffolk County Council (SCC) in their *Deadline 6 Submission - Comments on the Applicant's Response to ExA Second Written Questions [REP6-076]*. In particular, we support the following points made by SCC in relation to the applicant's response to Q2.0.11.

TGN 02-21: Assessing landscape value outside national designations

2. We agree with SCC that TGN 02/21 is the relevant guidance for assessing landscape value in landscapes such as the Limekilns and Chippenham Park, which are located outside of nationally designated landscapes. As explained in TGN 02/21, an absence of designation does not mean an absence of value and an evidence base approach to assessing landscape value should always be followed. We agree with SCC that the applicant has not followed guidance in relation to this matter but has taken an approach which '*portrays expressions of value towards the local landscape as mere 'feelings''*' (Page 3). When following the approach set out in TGN 02/21, and with reference to the evidence considered in our review of the application [REP2-240b] the landscape of the Limekilns and Chippenham Park must be considered to be a valued landscape for the purposes of NPPF Para 174.

Relationship between Limekilns and Chippenham Park

3. We agree with SCC that the Limekilns '*is evidently intrinsically linked to the historic landscape, which provides the setting for Chippenham Registered Park and Garden, including The Avenue*' (Page 3). Indeed, the Limekilns was historically part of Chippenham Park. Further, we agree with SCC that the '*visual connection between Limekilns and the land south of Chippenham Park means that the development would not only be detrimental to the character of LLCA 26 (The Limekilns) and its views, but it would also make the adverse changes to the setting of Chippenham Park and the historic landscape very noticeable*' (Page 3).



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4. As explained in SCC's comments, *'the landscape around Chippenham Park, as seen from The Limekilns provides cultural time-depth and continuity with regards to landscape character, landscape features as well as to the visual experience for visual receptors within and moving through the landscape, including around The Limekilns. This time-depth would vanish, if Sunnica West A was to be built. The conclusion must therefore be that this landscape, as it is today, still reflects its history very closely and is highly sensitive to the proposed development'* (Page 4) Our emphasis.

Review of Local Landscape Designations West Suffolk District, March 2022

5. The *Review of Local Landscape Designations West Suffolk District, March 2022*, was not considered as part of our review of the application, as at the time of writing we were not aware of its existence. However, we agree with SCC that it is relevant as it provides *'additional pointers to the value around the area of Chippenham and The Limekilns'* (Page 4). In particular, we agree with SCC's interpretation of the cultural heritage comments for EA6 (which includes the Limekilns) that the Limekilns is one of few areas where cultural heritage features and patterns associated with the horse racing industry can be *'fully experienced and appreciated by the wider public'* (Page 5). This is fundamental to the value of the Limekilns; not only is the historic landscape here legible but it is one of few locations where it can be appreciated by the public.

National Policy & Design Process

6. We agree with SCC that *'the iterative design process referred to by the Applicant started too late in the process, i.e. after site selection, which did not include any landscape criteria. The Councils consider that parts of the project area were chosen despite not being suitable for the proposed development'* (Page 6). In relation to this, we consider that the applicant has not applied principles of 'good design' as sought by NPS EN-1 and as a consequence, the proposals do not recognise the intrinsic character and beauty of the countryside and would not contribute to nor enhance the natural and local environment contrary to NPPF Para 174. In relation to this matter, we also agree with SCC that *'the Applicant has demonstrated a degree of disregard for this intrinsic character and beauty of the countryside, its setting and place, and its wider benefits, with its assessments and proposals for the historic landscape around Chippenham Park, The Limekilns, the U6006 and the plane crash site'* (Page 7) and that *'When considering the contribution of Sunnica to the quality of the area it would be located in, the overall balance is negative'* (Page 7) (Our Emphasis).

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7. In relation to the Joint Councils' request that parcels W03-W12, E05, E12 and E13 are removed from the proposals, we agree with SCC's comments that '*this reduction [is] necessary to reduce the adverse impacts and effects of the scheme on the landscape to a level that is acceptable*' (Page 8).

End of Note.

Appendix C



BIOSCAN UK LIMITED FOR SAY NO TO SUNNICA
DEADLINE 7 SUBMISSIONS:
ECOLOGY AND NATURE CONSERVATION MATTERS

1. This Deadline 7 note has been produced by Bioscan on behalf of Say No To Sunnica (SNTS). It responds to and/or passes comment upon the following documents and submissions made at (or subsequent to) Deadline 6 of the Sunnica Energy Farm DCO Examination:
 - A) Matters concerning ecology and nature conservation as contained within various submissions made to the Examination at Deadline 6 (30 January) by Sunnica Ltd, principally [REP6-036](#) (Applicant's response to deadline 5 submissions) and [REP6-024](#) (Applicant's revised BNG assessment – tracked version).
 - B) Matters concerning ecology and nature conservation as contained within submissions by other parties made to the Examination at Deadline 6. Specifically: [REP6-070](#) Natural England Deadline 6 submission; [REP6-039](#) (Joint councils' SoCG); [REP6-057](#) (Cambridgeshire CC comments on deadline 5 submissions with which Cambridgeshire DC agree); [REP6-075](#) (Suffolk CC comments on deadline 5 submissions); [REP6-080](#) (West Suffolk DC comments on deadline 5 submissions).
 - C) Matters concerning ecology and nature conservation as contained within additional (and/or late) submissions made to the Examination by Sunnica Ltd, specifically the applicant's 'Ecology Position Statement' [\[AS-320\]](#) and the late submission of the Hedgerow Plan ('Hedgerow Creation/Retained/Loss Status') [\[AS-326\]](#) accepted at the discretion of the Examining Authority.
2. Please note that a separate note submitted at Deadline 7 deals with the Report on the Implications for European Sites (RIES), issued on 13 February 2023 [\[PD-027\]](#). Bioscan's response to relevant elements of the Examining Authority's third set of questions (ExQ3) [\[PD-025\]](#) issued on 3rd February 2023 is also dealt with via separate Deadline 7 submissions from SNTS.
3. Each of A) to C) above is now dealt with in turn below.
 - A) Sunnica Ltd Deadline 6 submissions REP6-023/REP6-024 (Applicant's revised BNG assessment) and REP6-036 (Applicant's response to deadline 5 submissions).**
4. The applicant's most recently revised BNG assessment [REP6-024](#) has been subject to negligible change beyond a new 'headline summary' output figure being appended at Appendix/Annex D to the document (pp39-40). This shows a halving of the applicant's originally submitted area-based BNG figure.
5. The supporting evidence for these revised output figures is not provided however, as revealed by the tracked change on page 39 showing deletion of the sentence "*the metric calculation will be provided separately to stakeholders*". In other words, the applicant appears to have no intention of providing the full read-out of the calculations revealing its input figures and assumptions so they can be subject to independent consideration by the ExA and/or others. This is not transparent and does not accord with industry-standard guidance for the use of Metric 3.1.



6. Notwithstanding this attempt to conceal its workings, it is in any event clear that the comments of SNTS submitted at D6 (and previously), and which expose major flaws in the applicant's approach, have not been addressed by the applicant in producing a revised calculation.
7. In particular, the applicant has not engaged with the indisputable fact that its exploitation of the deficiencies in the Metric 3.1 calculator tool (which does not recognise arable habitats of acknowledged higher value than normal), generates a significantly inflated BNG figure that is not representative of the true biodiversity impacts and risks associated with this scheme.
8. Bioscan and SNTS remain disappointed and unimpressed that the applicant continues to seek to exploit these universally recognised deficiencies in the way the Metric 3.1 calculator tool deals with elevated value arable land in order to present an artificially positive, clearly unrepresentative and inaccurate result. This compounds the fact that due to deficiencies in survey rigour and methodology that have been exposed by Bioscan's independent assessments, Sunnica Ltd do not actually know the full extent of the scarce arable flora resource across the land within the proposed DCO limits, and by extension nor is that information in front of the examination.
9. On top of this fundamental flaw, it is further apparent that the BNG calculation does not make any adjustment to reflect the change noted by NE in [REP6-070](#) that the applicant no longer proposes to create conditions for chalk grassland by mixing topsoil with chalk (discussed further under (B) below). Nor the applicant's belated acceptance in [REP6-036](#) that shade from PVs will have a significant impact on the type and value of vegetation deliverable in the field units where they are proposed.
10. To expand on the latter point, we note that in responding to the issue of micro-climate changes raised by Dr Fordham at pages 48-50 of [REP6-036](#), there is significant acceptance by the applicant that the solar arrays will cause significant shading and that this may influence plant community composition and habitat quality. The shade-tolerant communities referenced in the applicant's responses in this document will be different from the high distinctiveness unshaded grassland communities assumed to be created by the applicant in its submissions elsewhere, and which are relied upon in its quantitative BNG assessment and Metric outputs. This belated acceptance that solar arrays will have a potentially significant effect on the type of plant communities that develop under and around them is welcomed, and vindicates Bioscan's evidence to the examination on this matter as submitted previously. However, it is noted that the applicant has not sought to factor in these accepted changes to its assessments of impact and of the future position, neither in the ES and nor in its BNG calculations, both of which continue to be predicated on assumptions that higher value and distinctiveness grassland communities uninfluenced by shading effects will be created and sustained.
11. For these and other reasons brought to the ExAs attention in previous submissions from Bioscan and SNTS, and which have remained unaddressed by the applicant, we contend that the ExA can place no weight on the applicant's contended net gain figures. In fact, given the potentially very significant change to that figure that adjustments precipitated by the above changes to the project parameters would entail, Bioscan and SNTS further submit that the ExA can have no confidence at this stage that a Metric output >0% (ie no net loss) would be achieved by the scheme. We may wish to make further representations on this matter at Deadline 8.

B) Matters concerning ecology and nature conservation as contained within submissions by other parties made to the Examination at Deadline 6. Specifically: [REP6-070](#) Natural England Deadline 6 submission; [REP6-039](#) (Joint councils' SoCG); [REP6-057](#) (Cambridgeshire CC comments on deadline 5 submissions with which Cambridgeshire DC agree); [REP6-075](#) (Suffolk CC comments on deadline 5 submissions); [REP6-080](#) (West Suffolk DC comments on deadline 5 submissions).

12. In respect of the position of Natural England, Bioscan and SNTS note that NE's Deadline 6 submission (letter of 27 January 2023) ([REP6-070](#)) states:

"it is noted that it is no longer proposed to create conditions for chalk grassland by mixing topsoil with chalk and therefore we accept, and welcome, the line that states no mixing of topsoil with subsoil, or of soil with other materials".

13. We reiterate the point discussed under (A) above. Bioscan, via SNTS, ask the ExA to note that this change would appear to have potentially significant implications for the applicant's BNG calculation in terms of the type/distinctiveness and condition/quality of the target grassland communities that the applicant contends can and will be created as part of the scheme proposals. Where a lower quality of chalk grassland or more neutral type of grassland would now be delivered in areas hitherto intended for this admixture, no change has been made to the applicant's BNG calculations [[REP6-024](#)] to reflect this.

14. In respect of the position of the Local Authorities, Bioscan and SNTS support the position of the councils in seeking further amendments to the scheme to protect areas habitually used by nesting stone curlew. It is noted that such amendments would have the effect of improving confidence in the likely efficacy and adequacy of the proposed compensation/off-setting areas for this species, which we otherwise maintain achieve no more than a *de minimis* level of compensation with inadequate headroom or other contingency for failure.

15. Bioscan and SNTS further note and agree with the continuing position of common concern, e.g. as set out by Cambridgeshire County Council in [REP6-057](#), about ongoing insufficient assessment of impact on farmland bird assemblages and inadequate compensation, including the statement:

"The Council is especially concerned that the current management prescriptions for grassland areas will not be appropriate to support ground nesting species, particularly due to constraints with management for other target species / habitats and protection of archaeological interest. For example, there will be no suitable breeding habitat for skylark within solar panels parcels or ECO1, ECO2 and ECO3. The remaining areas of the site are unlikely to support 98 pairs (current recorded on the site). Therefore, off-site compensation is likely to be required".

16. Following on from this statement, Bioscan and SNTS note that the Council refers to paragraph 5.3.17 of National Policy Statement EN-1, which states that *"The IPC should ensure that these [priority] species and habitats are protected from the adverse effects of development by using requirements or planning obligations. The IPC should refuse consent where harm to the habitats or species and their habitats would result..."*

17. Bioscan and SNTS support the position of the Councils in seeking additional robust impact assessment and where appropriate compensation provisions in respect of impacts on declining ('Priority') farmland birds likely to be displaced by the scheme, such as skylark. Bioscan notes that verbal assurances were made by the applicant's representatives at ISH2 that, in the face of evidence that their assumptions on this matter were wrong, they would review their evidence sources behind the claim that populations of certain declining farmland bird species within the proposed DCO limits were not significant (and thus any displacement impact upon them was similarly not significant). The ExA is asked to note that this information has not been forthcoming.
 18. Bioscan and SNTS also endorse the LPAs ongoing concerns about the adequacy of compensatory habitat provision for stone curlew and the absence of robust contingencies in the (we believe likely) event of failure, and the heavy reliance on OLEMP, LEMP and DEMP documents which continue to remain scant on essential detail.
 19. Finally, Bioscan and SNTS also endorse the LPAs concerns about resourcing, which echo their own comments previously made to the examination about (e.g.) the need for greater assurance that adequate numbers of suitably qualified ECoW personnel can and will be secured to deliver the multiple oversight, monitoring, scrutiny and reporting commitments the applicant has (rather blithely it has to be said), put forward and added to over the course of the Examination.
- C) Matters concerning ecology and nature conservation as contained within additional (and/or late) submissions made to the Examination, specifically the applicant's 'Ecology Position Statement' [AS-320] and the late submission of the Hedgerow Plan ('[Hedgerow Creation/Retained/Loss Status' plans) [AS-326] accepted at the discretion of the Examining Authority**
20. On 1 February the ExA wrote to Sunnica Ltd with a Rule 17 request for outstanding information that had been omitted from the submissions made by the applicant at Deadline 6. The applicant responded with further incomplete information and the ExA wrote again on 7 February 2023 impressing on them the need to submit a number of still outstanding documents¹, particularly in view of the impending hearing sessions. The applicant responded on the same day with reasons why it was unable to provide anything other than the 'Hedgerow Plan' prior to the hearings, offering (in lieu of the amended documents) a schedule of changes it proposed to make to the OLEMP and Environmental Masterplans by Deadline 7. It is noted that there is a heavy emphasis on documents related to ecology matters in these further delayed submissions.
 21. The ExA will be fully appreciative of the impact such late submissions generate upon the smooth running of the Examination and the timely consideration of relevant matters, including by resource-stretched interested parties such as SNTS. We consider that if the applicant had conformed to the ExA's intended timetable, it is likely that Bioscan would have wished to make oral submissions to the hearings of the week commencing 13 February 2023, and that SNTS has been disadvantaged in their being unable to do so.

¹ Updated ES Appendix 10I - Outline Landscape and Ecology Management Plan [EN010106/APP/6.2]; Updated Environmental Master Plan (Zoomed Out) [EN010106/APP/8.47]; updated Environmental Master Plan (Zoomed In) [EN010106/APP/8.77]. updated Outline Construction Traffic Management Plan [EN010106/APP/6.2] & hedgerow plan requested in ExQ2.7.3.

22. Notwithstanding the above, comments are made below on the late submission of the 'Hedgerow Plan' and on the applicant's ecology position statement with the observation that the continuing drip feed of documents from the applicant is likely to render further commentary necessary at Deadline 8.
23. With respect to the 'Hedgerow Plan' [\[AS-326\]](#), Bioscan and SNTS note that even by simple cross reference to current open-access aerial photography, errors, omissions and misclassifications in the applicant's hedgerow plans can be identified. The problems include:
- Omitted sections of hedgerow from the mapping that are readily identified on aerials;
 - Claims that hedgerows will be 'created' along field boundaries where aerial photography (and Bioscan's field notes) indicate there to be already extant hedgerows;
 - Locations where hedgerow 'loss' is indicated in lengths of boundary vegetation where there are mature trees, but no tree loss is indicated.
24. These matters can be documented more fully but Bioscan and SNTS make the short point at this stage that they remain unconvinced that the Hedgerow Creation/Retained/Loss Status plans accurately convey the likely impact of the scheme proposals on hedges and trees. This obviously has further implications for the veracity of the applicant's BNG output figures, as discussed under (B) above.
25. Finally, and with respect to the applicant's Ecology Position Statement [\[AS-320\]](#), Bioscan and SNTS make the following remarks:
- With regard to Habitats Regulations matters (page 3 of the position statement), the ExA is invited to read Bioscan's separate note on the RIES submitted at Deadline 7.
 - With regard to the matter of arable flora (page 3-4 of the position statement): the submissions made by the applicant here in response to concern over adequacy of effort and coverage are characterised by repetition of previous bland statements that the ES is robust. Bioscan and SNTS note that if the ES were robust, there would be no need to improve the mitigation and compensation provision, yet the applicant has sought to do so. The expansion of the arable flora compensation provision committed to here is welcomed, albeit not accepted as sufficient, but the statement that arable flora will be retained *in situ* disregards the basis of Bioscan's and SNTS's ongoing concerns which is that due to deficiencies in survey rigour and methodology, Sunnica Ltd do not actually know the full extent of where 'in situ' is, and by extension nor does the examination.
 - On stone curlew (pp4-5 of the position statement), Bioscan and SNTS observe that Natural England requested, in a meeting with AECOM on 30th November, that in respect of stone curlew, further information should be provided by the applicant on grazing of compensation sites, how a poor nutrient soil will be achieved, and timings of when the offsetting land will be provided. It would appear that despite the time elapsed, NE are still waiting on this (we would argue critical) information.



- On the applicant's comments about BNG (page 7 of the position statement), we refer the ExA to our comments at (B) above in respect of the continuing unreliability and lack of transparency around the applicant's BNG output figures and the continuing absence of robust evidential support for any level of net gain figure at all. The ExA should consequently place no weight on the applicant's submitted 41.85% net gain figure, and furthermore the hedgerow net gain figure is now rendered similarly questionable by the errors and omissions discussed above in respect to the Hedgerow Plan.

Concluding remarks

26. Bioscan and SNTS raised a number of ongoing concerns and outstanding issues, errors and information shortfalls related to ecology at Deadline 6 that remain outstanding, unaddressed or at best only partially addressed in the applicant's position statement and in the material before the Examination as at Deadline 7. They include impacts on farmland birds and matters around resourcing of essential ecological monitoring and supervision, in addition to long-standing and ongoing significant concerns about the base adequacy of the baseline habitat surveys and impact assessments (eg with respect to arable flora). The incremental concessions, amendments and improved compensation offers the applicant has reacted with are noted, and doubtless represent travel in the right direction, but Bioscan and SNTS remain concerned that, in what are now the closing weeks of the Examination, it remains the case that there is still no robustly evidenced case for no net negative effect on biodiversity in front of the examination. Indeed there instead appears to be an obdurate resistance on the part of the applicant to revision of its submitted environmental impact claims, even to reflect matters now established as incontrovertible fact.

Bioscan UK Limited 03.03.23



BIOSCAN UK LIMITED FOR SAY NO TO SUNNICA
DEADLINE 7 SUBMISSIONS:
ECOLOGY AND NATURE CONSERVATION MATTERS

COMMENTS ON THE REPORT ON IMPLICATIONS FOR EUROPEAN SITES (RIES)

1. The ExA published its Report on the Implications for European Sites (RIES) on 13 February 2023 ([PD-027](#)).
2. On behalf of Say No to Sunnica (SNTS), Bioscan has the following comments to make on this document.
3. Overall, it is notable that due to both the Examining Authority and key consultees such as NE and the LPAs still having to grapple with a) deficiencies in the applicant's baseline information, b) in the robustness of its mitigation and compensation design (even after iterative improvements and amendments), and c) in the confidence that can be had in its assessments of likely significant effects on European Sites, the RIES remains far from a complete document.
4. On stone curlew (and by extension the **Breckland SPA**), much now hinges on Natural England's stated position that it no longer considers there to be a functional linkage between the on-site populations of stone curlew and those underpinning the integrity of the Breckland SPA. We observe that the ExA, has asked NE to provide the evidential basis for latterly dismissing this possibility (ExQ3 [PD-025](#), Q3.2.7). We and SNTS support that request, the making of which is consistent with the proper exercise of the precautionary principle and with robust, evidence-based decision making. At the time of writing, we are not aware that it has been responded to and therefore this matter remains unresolved.
5. On the matter of **Eversden and Wimpole Woods SAC**, para 2.0.5 of the RIES identifies that SNTS identified this site as being within 26.7km of the Order Limits at Deadline 3a ([REP3a-051](#)) and yet this was excluded from the applicant's considerations pursuant to the Habitats Regulations (which otherwise claimed to have encompassed all such sites within 30km). This SAC has one qualifying feature, Barbastelle bat *Barbastella barbastellus*. SNTS considered that this site should be included in the Habitats Regulations assessment/s for the project on the basis of a wide foraging range for the species and as the Applicant's baseline surveys, presented in the ES in Appendix 8J ([APP-087](#)), had detected its presence within the proposed Order Limits.
6. Para 2.0.6 of the RIES notes that the Applicant responded at D4 ([REP4-036](#)) suggesting that evidence on the foraging range of bats from the SAC demonstrated that no functional link existed between the Proposed Development and the SAC. Para 2.0.7 confirms that NE have not yet commented on this matter in response to being asked about it at ExQ3 ([PD-025](#), Q3.2.9)
7. SNTS suggest that in the same way that the ExA has requested the evidential basis for NE dismissing functional linkage between the land affected by the project and the Breckland SPA (see para 4 above), the evidential basis for the applicant's assertions that there is no functional link between the Proposed Development and the Eversden and Wimpole Woods SAC should be made available to the Examination in order that the applicant's assertions can be independently assessed. To fail to do so would be to omit a credible impact vector between the proposed development and this SAC.



8. Beyond that, Bioscan and SNTS note that a suite of other matters still remain outstanding at this late stage, as listed in section 5 of the RIES, namely:
- The potential for LSE from grid connection route B on the drainage and hydrology of **Chippenham Fen Ramsar site and Fenland SAC**;
 - The potential for LSE from light spill on qualifying features of **Chippenham Fen Ramsar site and Fenland SAC**;
 - Evidence used by NE to determine that stone curlew habitat affected by the Proposed Development is not functionally linked to the **Breckland SPA**;
 - The likely consequences in the event that the stone curlew mitigation proposed is not successful or is found to be sub-optimal;
 - The potential for LSE from air quality in-combination effects at **Breckland SPA**;
 - The level of detail on dust management in the framework CEMP.
9. Bioscan and SNTS would add the following to the above list:
- Evidence used by the applicant to determine that there is no functional link between the Proposed Development and the **Eversden and Wimpole Woods SAC**.
10. Bioscan and SNTS note that to be faced with a RIES absent this level of detail at this late stage of the examination is far from ideal, and symptomatic of the applicant's 'design the scheme on the hoof' approach throughout the examination. Bioscan and SNTS hope the outstanding information will be submitted into the examination in short order and that the ExA is subsequently furnished with sufficiently robust detail to enable the ExA to furnish the Secretary of State with information that accords with the regulatory and good practice requirements around HRA and is sufficient for them to discharge their obligations pursuant to regulation 63(3) of the Habitats Regulations.

Bioscan UK Limited – 28.02.23

Appendix D

1) REP6-035 “8.85 Issues Paper: Public Rights of Way Experience Note”

1. Overall, SNTS's position with regard to public rights of way (PROW) and other local routes enjoyed by the communities in this area is that the Applicant had adopted an approach of trying to “make good” a “bad” situation.
2. As stated in previous submissions by SNTS, including at the oral hearing ISH4, the site selection process is flawed and the scheme design that is derived from this is also flawed. Consequently, impacts on users of local routes have not been adequately assessed and therefore not adequately avoided or mitigated.
3. The experience of non-motorised users (NMU) of local routes is not only limited to ‘official’ PROWs but also includes lightly trafficked and minor roads, as has been highlighted in written representations by parish councils (e.g. REP2-148), Fordham (Cambs) Walking Group (FCWG), local horse riders and also flagged by CCC at ISH4. These other routes have not been adequately considered yet form a vital and valued part of the countryside amenity.
4. Noise impacts on users of PROW and other local routes have not been assessed. As stated in our previous REP6-074, SNTS does not consider noise impacts on users as ‘transient.’ Indeed, noise travels throughout the scheme area and will impact users of PROW as they transit. Furthermore, not all users of PROW are in continuous transit (e.g. anglers, wildlife spotters, or those simply stopping to enjoy a particular sight, have food/drink, etc). The Lark footpath has a couple of benches for people to sit and take in the tranquil surroundings. This enjoyment of the PROW is vital for the mental health and well-being of users and is something that would be significantly reduced by the noise and visual impacts.
5. Noise impacts on animals including horses, bats, etc have not been assessed along the PROW. This is of particular concern for the U6006, a popular bridleway and one which passes between solar fields and in close proximity to a BESS and substation complex.
6. SNTS remains broadly aligned with many of the concerns raised by FCWG and by the councils in relation to PROW.
7. In particular, the overall position that scheme will significantly change the rural character and enjoyment of the open landscape, and the widespread negative impact on the community who enjoy walking, cycling, jogging and riding through it, as outlined in REP6-063 by FCWG.
8. One example of a popular, “non-PROW” route, is East Fen Road in Isleham, which is in close proximity to the northern boundary of parcel E05, and which starts as a residential road, leading to a farm track (East Fen Drove, Figure 1). Because it is not a ‘through road’ it has little traffic and is well used locally by walkers and dog walkers who enjoy the tranquillity and unrestricted far-reaching views to the River Lark (North), Mildenhall (East) and Freckenham to the South.

9. A further example of a well-used area that has not been adequately considered is the Limekilns gallops, a popular location for afternoon dog walkers, as has been mentioned in a number of oral and written submissions. It is an important open space which is used by the community outside of the times that it is reserved for horse racing activities.
10. The Applicant has taken a viewpoint ('Viewpoint 3') to the South from East Fen Road (VP3, Figures 10.23A and 10.23B in APP-215), which is a good example of how far-reaching the views from this road are. These would be severed by the proposed mitigation planting along the northern edge of E05, including the view towards the plane crash site, an important part of Isleham's village history.
11. VP3 also demonstrates how built features stand out in the relatively flat open landscape. The 'hut' that marks the crash site location is approximately 4-5m in height, and is clear to see despite being around 1Km from VP3. St Andrew's Church tower in Freckenham is also clearly visible (approximately 18m in height) despite being some 3Km away from VP3, as are residential properties in Freckenham.



Figure 1 River Lark and Sunnica East A

12. The heights of some of the structures described above could be compared with some of the industrial structures that are proposed for Site East A (as described in Chapter 3: Scheme Description REP2-023 and in the Outline Battery Fire Safety Management Plan, REP5-051). Examples include:
- Outdoor solar station: 17m x 6.5m footprint x 3.5m in height
 - Weather stations: 6 m high
 - BESS containers: maximum height from ground level of 6 m
 - Substation: 85 m (L) x 55 m (W) x 10 m (H)
 - Substation control building or container: 25 m (L) x 8 m (W) x 7 m (H)
13. Users of PROWS do not simply focus on views along a given route or the river, as is indicated by the Applicant in paragraph 4.1.24. They enjoy the broader, open surroundings and the features within it that they can identify with as part of their connection to neighbouring communities.
14. The heights of the structures indicated above would mean that the proposed industrial infrastructure would be prominent in the landscape, even if 1Km or more away, and this is especially so for the more open PROW and other routes (e.g., those in and around East A, as well as the Limekilns, etc).
15. SNTS considers it unacceptable that the applicant's photographic visualisations show the BESS and substation compounds as a single dark green block rather than how they would actually appear, which is as numerous significantly sized structures with an industrial appearance.
16. In Section 6 the Applicant describes a few of the routes that would be negatively affected by the scheme (noting that the Applicant's focus is only on PROW, as opposed to other routes used for recreation in this area), and where significant impacts are predicted in Year 1.
17. SNTS is of the view that these significant impacts would in all cases extend beyond Year 1 and would take at least 15 years before visibility of the industrial infrastructure begins to be filtered (in summertime) by planting, at some but not all locations. At many locations, the infrastructure will remain visible beyond 15 years in summer and especially during winter.
18. As an example, the views from the elevated footpath along the River Lark heading from Isleham towards West Row are largely open and unrestricted (contrary to the description by the Applicant in paragraph 4.2.21). Users of the footpath (and also those travelling on the river) enjoy tranquil, unrestricted views to the East/South, similar to those shown in Viewpoint 1. This is particularly the case for the stretch between the Isleham Marina and the area of bank opposite Ferry Drove (site of the Spurgeon Stone/ ruins of the Old

Ferry Inn, Figure 1), which has long reaching views to the south and south east. A small area of woodland at the site of the Ferry Inn punctuates this openness, and then gives way to a further stretch of unrestricted views up to the area where the Lee Brook meets the river Lark.

19. The Applicant accepts that there are locations along the Lark *“where more open, oblique views towards the Scheme are possible (VP1)”*; however, the assertion that VP1 *“is one of the few opportunities along the route where there are more open views across the landscape to the south”* is not correct. Rather than a single ‘point,’ there is a stretch of approximately 800m where open views to the south and south east are enjoyed, as outlined above.
20. In addition, the statement that VP1 is *“approximately 3.5km from Isleham Marina and 1.5km from West Row”* and considered by the Applicant as “remote” from settlements is not fully understood. If it is to imply that VP1 is somehow unlikely to be reached, this would also be incorrect as this is a well-used route, which also offers access to West Row along Gravel Drove, etc.
21. The U6006 is an important wildlife habitat as well as a popular PROW, for which the Applicant asserts that impacts would be reduced by planting, thus partially enclosing one of the few open areas of this valued and well-used lane. Screening planting as described at VP15A during the first 15 years would look unsightly, especially at such close proximity. It would likely take more years before the BESS and substation compounds were screened. Notwithstanding the fact that this industrial infrastructure would remain audible for the scheme duration.
22. The Applicant asserts in 6.1.4 that negative effects *“would only occur over small sections of the PROWs and would gradually reduce over time as proposed planting matures and screens views of the Scheme.”* If this is meant to indicate that the impacts from “small sections” are somehow less impactful, this is clearly wrong. A user travelling along the PROW and other routes who is continually subjected to “small sections”, or “glimpses” of their industrial surroundings will experience a persistent reminder that they are travelling within an industrialised area.
23. Each “small section” may impact a different, valued view or landscape feature and over the course of a given journey; these impacts would accumulate.
24. It is inappropriate to focus on isolated sections to assess the impacts on users; these should be assessed as a whole on users as they move throughout the area. As has been explained in several written representations by local people and by parish councils, it is not uncommon for users to move from a PROW, onto a stretch of road, and then connect to another PROW. If all of these have “small sections” of exposure to the industrial landscape, their overall experience will be of a journey through an industrial landscape.
25. The vast, spread-out nature of the Sunnica scheme means that its impacts will persist over a wide area, such that for those users who cannot travel away from the scheme area, their only recreational experience would be within an industrial landscape.

26. Recently, a group of Freckenham-based horse riders shared the routes they take on a routine basis (Appendix 1). The mixture of bridleways and roads is clear to see. Not only would these users experience the negative long term visual and noise impacts arising from the industrialisation of the area, but these routes would likely no longer be usable (especially during construction), due to the increased HGV movements along the narrow roads and the associated hazards this would create. SNTS has highlighted previously the failings in assessing impacts on recreational riders in this area, and we maintain this is a significant 'gap.'
27. For those who use the PROW as part of their daily commute or daily exercise routines, the negative experience would be a constant one, which would last a number of years until mitigation planting was established (where mitigation planting is likely to be effective). Their enjoyment of these routes and the enticement for commuters to utilise the PROW networks to travel between settlements would be significantly reduced.
28. Accessibility of these routes would also come into question during construction – not only for riders, walkers, joggers but also for commuters who use the route to travel between settlement for a variety of reasons, as noted by FCWG in REP6-063.
29. Viewpoint 41 is located at the 'open' northern end of footpath / bridleway 204/5. As explained at ASI4, it is the Applicant's intention to connect the trees at Foxburrow plantation (East) with the small cluster of trees close to the footpath. This VP41 currently offers the only open, elevated view from this path southeast over West Site A including the Avenue, and across towards Water Hall/Newmarket/Moulton (Figure 2) Indeed it is one of few long-distance views available from the local public rights of way network. Local riders have commented that these views are even more impressive and far reaching on horseback. The intention of the planting is to hide the top of any perimeter fencing / weather stations which might be visible, but the result would be to close off this (locally rare) far reaching, elevated view, as well as (by the Applicant's own admission) truncating longer distance views to the east.



Figure 2 Long reaching views from PROW 204/5 southeast down over Chippenham Park and over to Water Hall/Newmarket area

30. The Applicant's mitigation measures outlined in Section 5 are questionable. As noted at ISH4 and above, it is not possible to mitigate the impacts on the area simply by planting. In some areas this would completely change (and in some cases block) the outlook and feel of the PROW and other routes in this area. In other cases, such as planting to hide the BESS and substations, this would take so long to establish that users will either have to travel elsewhere to experience the countryside or resign themselves to their new industrial surroundings.
31. The permissive routes are of limited value, as outlined in SNTS's previous REP6-074. These have also been questioned by others including FCWG (REP6-063) and the councils (various orals and written submissions). SNTS shares their concerns.
32. The permissive route proposed to connect to Mortimer Lane (W-257/002/0) exits onto Beck Road close to a blind bend at VP11. The Applicant agrees that the impact on VP11 is significant. The current open views to the North, South, East and West, would be replaced with views to the West alongside fields of solar panels for many years (blocking views to the North) until planting established, and views to the East would be blocked through mitigation planting around the Lee Brook (Figure 3).



Figure 3. Exit of W-257/002/0 onto Beck Rd at blind bend. Views to Lee Farm (located to the left, but not visible on this image) and the distinctive tree belt lining the driveway to Lee Farm would be blocked by planting, resulting in a much restricted view to the East

33. The Section 5.1.6 d - f list of “benefits” (noting that points a - c appear to be missing) are poor compensation for the severance of far-reaching views and of a vast and all-at-once alteration of the landscape from rural countryside to industrial.
34. Additional species of vegetation along the PROW does not compensate for this loss. Indeed, users of the PROW who value the ever-changing nature of the crops in the fields, and the different colours and wildlife species that these attract, would be most disappointed to see this replaced with extra vegetation species in an attempt to hide fields of industrial equipment where they are used to seeing food and cereal crops grow. Examples here include Mortimer Lane and the U6006 amongst others.
35. The claimed enhancement of “access to the countryside with a choice of longer and shorter routes” is disputed. In part because it would no longer be “the countryside” (in the sense of a rural area), so the access would in fact be to an “industrial setting.” This would not be in keeping with either CCC or SCC’s Rights of Way Improvement Plans.
36. The paucity of permissive routes offered and lack of connectivity of these to existing PROW or settlements in some cases, means that there is little in the way of choice of routes over and above what is in place already.
37. SNTS shares the concerns of FCWG (REP6-063) about the provision of funds under a section 106 agreement in an attempt to remedy the failings of the Applicant with regards to PROW. In the first instance the Applicant must avoid harm, and then mitigate the harm to PROWs. Also, any such funds should only be seen as an attempt at mitigation (not complete mitigation), and certainly should not be seen as a benefit of the scheme.

38. SNTS fails to see how the proposals would “*Encourage use of existing PRow*” for the reasons set out above and in previous submissions by SNTS, as well as local residents, parish councils, walking groups, etc.
39. The routes would no longer be there for “*people’s enjoyment*,” it is more likely that routes will be avoided and users will travel elsewhere to go for a rural, countryside walk or ride. Due to the extensive nature of this scheme they would have to travel some distance to do this.
40. SNTS therefore disagrees with the Applicant that the “*Scheme has been designed to as far as possible avoid impacts on the existing PRow network and on people’s enjoyment of these routes.*” Noting that regularly used routes over and above PRow have not been assessed for NMUs. We do not accept that avoidance of impacts has been achieved.
41. As a final point, SNTS seeks clarification on the following viewpoints:
 - Viewpoints 2A and 2B, listed in APP-215. The captions below the visualisations and the figure references do not match. It is not clear which viewpoints are being referred to. VP2B is listed as being from Judes Ferry pub and also from the footpath.
 - Viewpoint 9 along Mortimer Lane (W-257/002/0) also requires clarification. Currently it is indicated that the view North from VP9 is to the B1102. SNTS believes this should be Beck Road.

2) SNTS Comments on Cambridgeshire County Council Deadline 6 Submissions REP6-056 (Development and Public Rights of Way - Guidance for Planners and Developers) and REP-057 (Comments on the Applicant’s Deadline 5 Submissions)

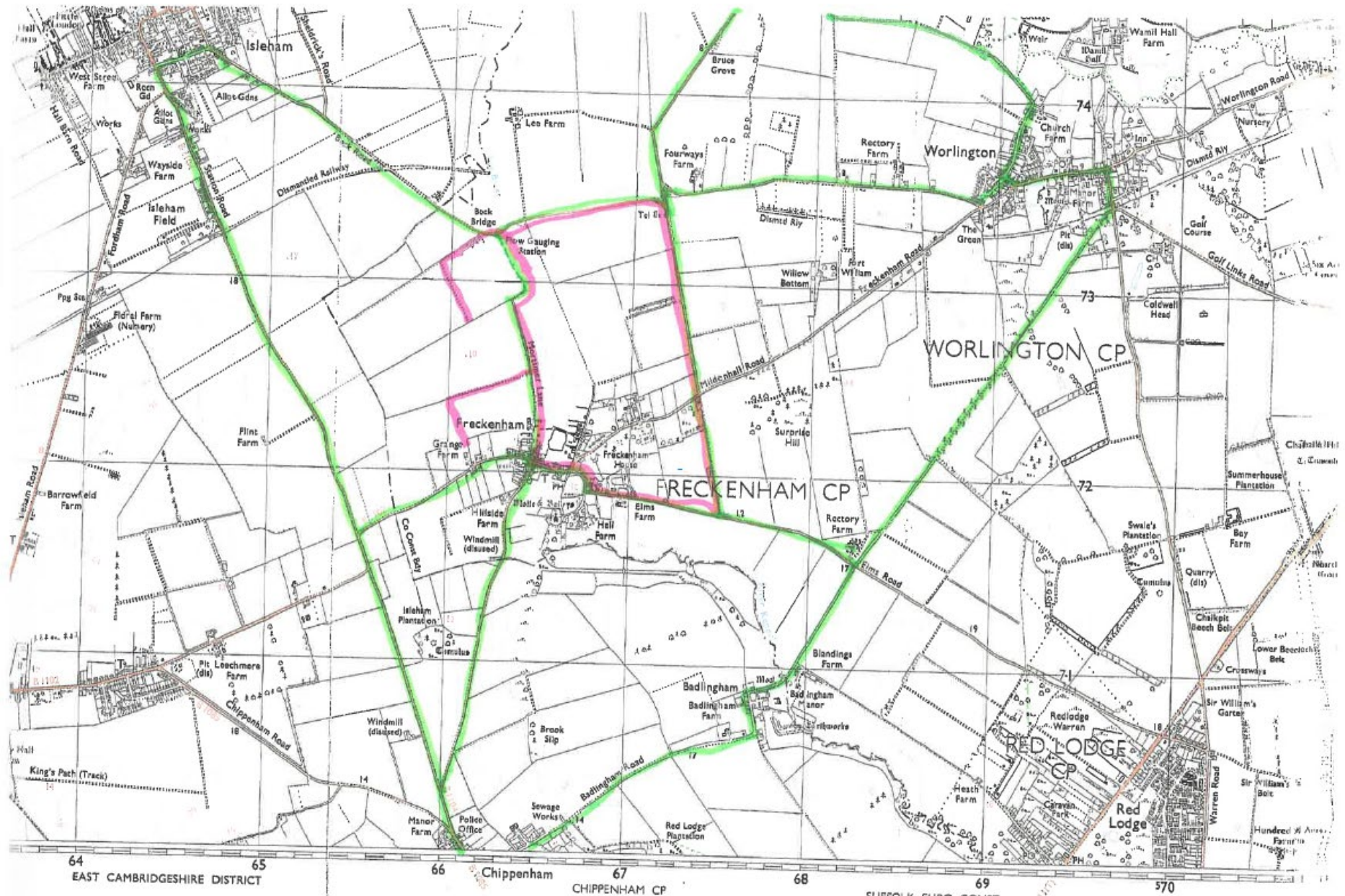
1. SNTS shares the view that PRow are an integral part of the highway network and that PRow should be safe, convenient and **inviting** to users. SNTS, as well as parish councils and other interested parties do not consider the Applicant’s permissive routes, or the adverse impacts on existing routes, would make the PRow ‘inviting’ to use.
2. SNTS has previously shared concerns about the negative impacts that the development would have on the road network and has highlighted the failure to adequately consider impacts of road use for cyclists, walkers, joggers and riders. We note that CCC also shares this concern.
3. SNTS agrees with CCC that noise monitoring during construction is helpful. This does not remove the need for noise assessments aimed at minimising the likelihood of noise related accidents involving local horse riders during construction, operation (noise from inverters, BESS compounds, substations, etc.) and decommissioning.
4. SNTS, like CCC, does not agree with the Applicant’s view that NMUs are not noise sensitive receptors. The combined adverse visual and noise impacts would significantly reduce the enjoyment of users of PRow and other valued routes in this area, and would likely lead user to seek other more attractive and tranquil countryside settings away from the scheme area.

3) SNTS Comments on Suffolk County Council Deadline 6 Submissions REP6-075 (Design Principles and Green Infrastructure Proposals) and REP6-076 (Comments on the Applicant's Response to ExA Second Written Questions)

1. SNTS agrees with the sentiment of SCC that the Applicant's consideration of the plane crash site is 'uninspired.' This site is of strong sentimental value to the parish of Isleham and should be respectfully considered.
2. SCC maintains its view that removal of some parcels of land is the only way to avoid significant and unacceptable levels of harm. SNTS agrees with this and especially for those parcels in close proximity to PROW and other well-used recreational routes (E05, E12, E13, W3-W12).
3. SNTS also disagrees with the Applicant's position that reductions to the scheme area are not possible or viable and note that SCC has presented a clear case outlining the reasons why the scheme must be able to be adapted. SNTS supports this view.

Appendix 1

Routes commonly used by local riders in Freckenham



OS Pathfinder Map 962 Mildenhall & Fordham

FRECKENHAM RIDERS

Pink: Reporter's daily route. Green: regular routes of Reporter and Reporter's friends.