



SUNNICA ENERGY FARM

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Volume 8

8.120 End of Examination Summary Position Paper

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010



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

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

8.120 End of Examination Summary Position Paper

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Introduction

Purpose of this document

This End of Examination Position Paper (Position Paper) summarises in one place the Applicant's submissions on the contentious matters arising during the course of the Examination. It does not make new points, but is provided to ensure that the Examining Authority, and ultimately the Secretary of State, are clear on the Applicant's position in relation to these matters and the remaining points of dispute that arise from them.

It is in two parts. First, it sets out the remaining key live issues in the Examination and the Applicant's position on those matters. It does not intend to rehearse the detailed case put forward either by the Applicant or relevant Interested Parties. The second part sets out other issues, which have been considered during the Examination but have not been key areas of dispute. The second part is essentially a cross referencing exercise as whilst it highlights the high-level position of the Applicant it provides the relevant cross reference to where that position is recorded more fully in the Examination documents. Neither part constitutes a definitive list of all of the issues considered in the Examination but deals with the critical points as the Applicant understands them.

1. Part 1: Key Issues

1.1. Context

- 1.1.1. No party to this examination seriously disputes the devastating effects that climate change will have – both nationally and internationally, and in the short, medium, and long term.
- 1.1.2. The compelling need for action has been reinforced during the course of the examination. On 20th March 2023, the U.N. Intergovernmental Panel on Climate Change (IPCC) published its 2023 assessment of global climate change. The report concludes that the world is likely to pass a dangerous temperature threshold within the next 10 years, pushing the planet past the point of catastrophic warming — unless nations drastically transform their economies and immediately transition away from fossil fuels. This assessment is advisory to governments.
- 1.1.3. Mission Zero, the UK government's independent review of Net Zero, published in January 2023, had already noted the significant steps the UK has taken so far to achieve net zero and deliver future energy security through the greater use of domestically generated renewable and clean sources of power. But Mission Zero strongly warned that we must pick up the pace of national decarbonisation not only to protect and secure delivery of our national climate commitments but also deliver the economic benefits of moving away from a carbon economy. Again, this report is advisory to the Government.
- 1.1.4. The Climate Change Committee has made clear, in its progress to report to Parliament in 2019, that the UK is not on track to meet its fourth (2023-2027) or fifth (2028-2032) carbon budget. This position was reinforced in the latest 2022 report which says:

The majority of the required emissions reduction for meeting the Fourth Carbon Budget (2023-2027) has sufficient plans, predominantly in the electricity supply and surface transport sectors, however, some risks remain and meeting the target will depend on nearterm macroeconomic trends. It should be noted that meeting the Fourth Carbon Budget is not sufficient to be on track for the later targets

And

There are significant delivery risks to meeting the 2030 NDC – which supersedes the Fifth Carbon Budget as the appropriate level of reduction on the way to Net Zero – and the Sixth Carbon Budget (2033-2037), as well as the long-term goal of Net Zero by 2050. There are risks in all sectors, although surface transport and electricity supply have the most credible plans.

- 1.1.5. There can be no credible suggestion that there is not a pressing need to bring grid scale solar, and its associated development Battery Energy Storage Systems (BESS), online. Nor can there be any credible dispute that there is a pressing need to do so *quickly* due to the urgency of the need. This is all outlined in the Statement of Need ES Chapter 7.1 [APP-260] and *nothing* produced in the Examination has detracted from that. This Scheme – and many others which will follow it – has a vital role to play on the world stage in the urgent human fight against climate change.

1.2. Benefits of the Scheme and Policy Compliance

- 1.2.1. The Appellant urges the Secretary of State not to lose sight of the significant benefits of this Scheme, and each part of it, as set out in both the Planning Statement Section 4 [APP-261] and the Applicant's note on the role BESS plays as AD [REP2-038] Appendix B.
- 1.2.2. The Scheme will provide 500MW of renewable energy generation capacity to the national electricity transmission system. It represents a critical part of the development of the UK's portfolio of large-scale solar generation. That is urgently required in order to provide a secure and affordable energy system, and to decarbonise the UK's energy supply in time to meet the Government's objectives for a net-zero carbon electricity system by 2035 (now less than 12 years away) and overall net zero by 2050. Moreover, the BESS provides essential associated services, allowing the best use to be made of the power generated by the panels and providing some of the benefits (frequency response, system inertia, operating reserves, and balancing mechanism participation) that renewable sources, such as solar, cannot provide. This supports the move to net zero, by displacing deployable fossil fuel generation, such as gas fired power stations.
- 1.2.3. National planning policy sets out that large scale solar projects, such as the Scheme, are essential if the Government's targets and commitments for a net zero energy supply are to be achieved. NPS EN-1, published 12 years ago in 2011, sets out at paragraph 3.3.15 that "In order to secure energy supplies that enable us to meet our obligations for 2050, there is an urgent need for new (and particularly low carbon) energy NSIPs to be brought forward as soon as possible, and certainly in the next 10 to 15 years". Draft NPS EN-1, published in September 2021, sets out that the Government's analysis shows that "a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar".
- 1.2.4. The Scheme will also deliver other benefits. These include a substantial biodiversity net gain (37% habitat units, 28% hedgerow units and 11% river units) as fields currently in a poor state following years of agricultural use become subject to management regimes specifically for the benefit of nature; c. 5km of new permissive routes for the lifetime of the Scheme; significant employment opportunities during the construction phase; substantial financial contributions of £640,000 toward the Public Rights of Way (PRoW) network and Stone Curlew research; and making the Isleham plane crash site publicly viewable for the first time.
- 1.2.5. The Scheme has been carefully designed through an iterative process, which commenced in 2015 at the initial feasibility stage and took account of environmental assessments and consultation with stakeholders. Design amendments have been made and mitigation incorporated in order to minimise and mitigate the impacts of the Scheme. The design of the Scheme incorporates substantial offsets to settlements, rights of way, roads and vegetation.
- 1.2.6. Through the Applicant's site selection, design and mitigation proposals, the Scheme avoids significant adverse effects in relation to designated landscapes, biodiversity sites or protected species or habitats; flood risk and water quality; transport networks; access; noise and vibration; soils; air quality and land uses. The site selection process has located the Scheme away from major designations and predominantly into lower quality agricultural land.

- 1.2.7. The Scheme will, of course, result in some residual significant adverse effects on landscape and visual receptors and heritage assets. Residual negative effects are largely unavoidable when dealing with energy schemes the size of NSIPs. That is explicitly understood in NPS EN-1. The issue is whether those can justify a refusal, or the removal of parcels from, this desperately needed renewable energy scheme. The evidence before the ExA indicates that they would not, as discussed below. The residual significant effects of the Scheme are acceptable in planning terms and comply with the applicable policy tests that are considered important and relevant in the context of section 105 of the Planning Act 2008. For a comprehensive policy assessment, see Section 6 and Appendix B of the Planning Statement [APP-261] to [APP-263].
- 1.2.8. There has been some suggestion that impacts should be considered “permanent” because they will last half a lifetime. The Applicant’s response to this matter is set out in its response to SWQ 2.0.2 [REP5-056] but, in any event, fundamentally, the Applicant considers that in light of the above challenges, such an approach is not only bad planning, it is a myopic approach to combatting the existential threat of climate change. The Scheme can in fact deliver very substantial benefits in terms of addressing the climate emergency, but with impacts that are largely reversible at the end of the project’s lifetime.
- 1.2.9. As to the landscape and visual impacts, the sites affected are not designated at the national or local level. NPS EN-1 and Draft NPS EN-1 acknowledge that, given the scale of energy NSIPs, adverse effects are likely, and that impacts on locally designated landscapes should not be used in themselves to refuse consent, as this may unduly restrict acceptable development. To refuse consent on the grounds of impacts on undesignated landscapes would even further restrict the development of urgently needed renewable energy infrastructure.
- 1.2.10. As to heritage, a total of three designated heritage assets would experience a time limited and reversible loss of significance to their setting. These impacts represent less than substantial harm, which would be outweighed by the vast benefits of the Scheme.
- 1.2.11. Whilst it has not been possible to avoid all impacts of the Scheme, these have been minimised through careful design and detailed mitigation strategies, in doing so responding to NPS EN-1 paragraph 5.17. The Scheme accords with the specific policy tests set out in relevant planning policy and, on balance, the impacts of the Scheme are clearly outweighed by its substantial benefits in delivering renewable energy infrastructure that is urgently needed to meet the UK’s commitments for a secure, affordable and net zero energy system.
- 1.2.12. It is against that background that this statement turns to some of the particular points in issue.

1.3. Carbon

- 1.3.1. The Applicant has prepared a lifecycle greenhouse gas impact assessment and a climate change resilience review which is presented in Chapter 6 of the ES [APP-038]. Some of the methodology and assumptions in that assessment were subject to a review by Cranfield University. In response the Applicant submitted Appendix A of the Applicant’s response to written representations [REP3A-035] and Appendix A of the Applicant’s Response to Say No To Sunnica Deadline 2,3 and 3A Submissions [REP4-036].

- 1.3.2. The responses submitted at Deadline 3A and 4 sensitivity tested some of the assumptions that had been challenged by Cranfield University. In all scenarios reported, Table 2 in **REP4-036** demonstrates a significant net carbon benefit as a result of the Scheme. Say No To Sunnica have requested that additional information is provided to it, but the Applicant is of the view that this has already been provided in **REP4-036**.
- 1.3.3. In the context of the need for the Scheme, as set out in section 1.1 above, the net carbon benefit to the Scheme should be considered an important and relevant matter in the context of the requirements of Section 105 of the Planning Act 2008.

1.4. Reduction in size of the Order limits

- 1.4.1. The Interested Parties have asked for the removal of parcels E05, E12, E13, and W1-W12. The Applicant's detailed submissions on these are found in its response to SCC's amends to Schedule 1 [**REP7-064**], its response to the 'general' theme of the ExA's Third Written Questions [**REP7-055**] and its Response to the ExA's Rule 17 Request [**REP9-0045**]. The Applicant does not, here, repeat the points it has made about the complex mechanics of any removal, but reiterates why not only is there no requirement for these parcels to be removed, but that any removal would be illogical, unjust, and manifestly contrary to planning policy.
- 1.4.2. The starting point is the desperate, urgent need for low carbon generation, as set out in the Statement of Need [**APP-260**]. The recent publications by both the IPCC and the Climate Change Committee compound this point. Time is running out, and the UK is not – yet – on track to meet either the fourth or fifth carbon budget. Bold strokes are needed, and national policy makes clear that solar is a key part of that. It is, furthermore, essential that the best and most efficient use of limited resources – such as land, and grid connections – are made given the sheer scale of the of the problem the country still has to overcome.
- 1.4.3. Almost every interested party accepts that there is a real and pressing need to combat climate change and that solar is a part of that. However, they invite the ExA to refuse development consent for significant quantities of renewable energy generation - almost 50% of the installed capacity if all parcels are removed. The reasons outlined tend to focus on one or more of landscape and visual, ecology, and heritage. None come close to justifying the removal of parcels.
- 1.4.4. At the outset, it should be noted that each of these types of harm is explicitly foreseen by national policy as a potential effect of energy infrastructure projects.
- 1.4.5. On landscape and visual effects, NPS EN-1 [para 5.9.15] and [para 5.9.18] makes clear that "all proposed energy infrastructure is likely to have visual effects", but [para 5.9.21] indicates that mitigating the landscape effects of a project by reducing its size should only be in "exceptional circumstances" where such mitigation could "have a very significant benefit and warrant a small reduction in function". Local landscape designations should not be used to refuse consent given this would unduly restrict acceptable development (NPS EN-1 [para 5.9.14]). It is clear that impacts on non-designated landscapes should be highly unlikely to ever justify the refusal of development consent for renewable energy development.

- 1.4.6. On heritage impacts, it is accepted that any harmful impacts must be weighed against the public benefits (NPS EN-1 [para 5.8.15]). However, policy only imposes an “exceptional” test for substantial harm (see NPS EN-1 [para 5.8.14]). The impacts here come nowhere close to being “substantial harm”.
- 1.4.7. For ecology and biodiversity, national policy recognises there may be net benefits for ecology and biodiversity even if a project also results in some harm (NPS EN-1 [para 5.3.6]). Appropriate weight must be attached to sites of international, national and local importance (NPS EN-1 [para 5.3.8]) but given the need for new infrastructure local designations should not be used as a reason to refuse consent (NPS EN-1 [para 5.3.13]).
- 1.4.8. **Parcel E05:** This parcel would generate 43.5MW of renewable energy – almost an NSIP in itself. The energy generated more than outweighs the limited reasons given by the Interested Parties advocating for its removal. Those are:
- Impacts to stone curlew: There is no merit in this. Natural England has confirmed that the Applicant’s mitigation proposals for this species are sufficient and their judgment on this point is clearly right [**REP8-031** and **REP8-057**]. The agreed mitigation proposals include measures in the Outline Landscape and Ecology Management Plan (OLEMP, which is secured under requirement 8 of the draft DCO), which allow for continuing monitoring and management, so any changing nesting patterns can be accounted for. Moreover, further to comments raised by the LPAs, the OLEMP and Outline Historic Environment Management Plan (OHEMP, which is secured through the OLEMP) show that that stone curlew in ECO1 and ECO2 will not be disturbed by humans, via fencing, and the permissive path proposals brought forward in parcel E05 will direct them away from the stone curlew parcels; and will be able to be undertaken alongside the Applicant’s archaeological mitigation proposals.
 - The B050 bomber crash site: Again, this is not a reason to remove Parcel E05. The Applicant has excluded the crash site from development, developed a memorial proposal which will be subject to further engagement and undertaken the proper licensing processes through the JCCC and Requirement 23 of the DCO. This is in stark contrast to the position without the Scheme – for decades there has been no formal recognition of the crash site at the location itself, and it has simply been – and would continue to be – an agricultural field. The Scheme will therefore not only not harm the heritage value of the crash site, but in opening it up its history to the wider public, will provide a heritage benefit.
 - Visual impacts from the Ark in Isleham and landscape impacts to the landscape character to the west of Lee Brook. Again, this is not a reason to remove the parcel. The landscape does not benefit from any designations, and benefits from mitigation provided in the Environmental Masterplans and considerable design iteration as set out in the Settlement Iteration Technical Note appended to the Applicant’s response to First Written Questions [**REP2-038**]. Furthermore:
 - in respect of the Ark: Paragraph 6.32 of GLVIA3 explains that susceptibility of different visual receptors to changes in views and visual amenity is mainly a function of the occupation or activity of people

experiencing the view at particular locations and the extent to which their attention or interest may therefore be focused on the views and the visual amenity they experience at particular locations. The Ark is a venue for church services carried out within the building. Although there are views from windows on the eastern façade of the building towards the Scheme, these generally relate to offices and ancillary uses, such as a kitchen. There is a community room at the northern end of the eastern side of the building. The external area adjacent is used for parking mini buses and houses a shipping container. People using this space are likely to be focused on the activities within the building. The land to the south of the church where VP4 is located (which has formed the basis of the LPAs contentions) is a large surface level car park with limited amenity. People's views are therefore focused on their activity within the church and do not involve or depend upon appreciation of views of the landscape. The Applicant has assessed the magnitude of impact on views of visitors to the Ark as high in year 1 of operation. By year 15 of operation, planting along the eastern edges of parcel E05 would have established to reduce the impact from the surface car park viewpoint to moderate. This would screen the built elements of the Scheme but would also reduce the openness of the views to the east across the middle ground, with the magnitude of impact reduce to medium. The wooded skyline would remain and distant landmarks, such as St. Mary's Church Mildenhall and St. Andrew's Church Freckenham, would not be affected. No significant impacts are predicted for long term operation of this parcel for any other visual receptors; and

- in respect of landscape impacts for this field, only at site level and one area noted in the Freckenham Neighbourhood Plan would significant effects be experienced in the long term [APP-050]. Mitigation measures have been included in the Environmental Masterplan for this parcel reflecting asks by the Councils, including permissive paths and offsets from Lee Brook as submitted at Deadline 10. The wholesale removal of this parcel is a step beyond what the Councils sought in the LIR. Throughout the Examination, SCC has sought to say that development in E05 'affects' the open landscape, but have not provided any strong justification and reasoning for why this is, either through a proper landscape and visual appraisal or any other reporting. SCC simply states that is the case, whilst also seeking to maximise a new landscape around the crash site, expand permissive paths and indicating in any event that some development may be acceptable. The Applicant considers there is therefore no clear landscape reason for removal for an area that has no designation and no protection in national policy terms.

1.4.9. There are therefore no sound ecological or heritage reasons for the removal of parcel E05. There is also no robust landscape and visual reason. To the extent there is some harm, it cannot rationally be said to outweigh the substantial benefits – including need – of the Scheme and is certainly not the kind of exceptional circumstances where there are significant benefits of removal and only a limited loss of function. There is therefore no justifiable reason why E05 should be removed.

1.4.10. **Parcels E12 and E13:** These parcels constitute 56.2MW of low carbon energy generation – the size of an NSIP in their own right. The primary reason for the

removals of these parcels sought by Interested Parties is due to ecological impacts on stone curlew. However, as with E05, Natural England has confirmed [REP8-031 and [REP8-057] that the Applicant's mitigation proposals for this species are sufficient and the OLEMP allows for monitoring and management throughout Scheme operation to deal with any changing nesting patterns. The Applicant has also made various commitments in the framework Construction Environmental Management Plan (CEMP, which is secured by requirement 14 of the draft DCO) to ensure that there are no impacts to the Badlingham Lane CWS. There is therefore no ecological reason why these parcels should be removed.

- 1.4.11. Interested Parties have also raised concerns about landscape and visual impacts arising from users of U6006. In Summer, U6006 is a highly vegetated route with strong existing planting on either side, which the Applicant is proposing to strengthen through its Environmental Masterplans. Whilst there may be some impact in Winter, the Applicant has proposed a set off-distance of 30m from the edge of U6006 within fields E12 and E13 (alongside additional planting at the northern and southern ends of U6006) to ensure that there is not a sense of 'enclosure' for users. No significant effects are predicted in the long term for users of this path. Whilst there are significant landscape effects predicted for the long term, these are localised to the site. U6006 has no special protection and is a difficult path to tread, with varying views as to its usage expressed in Examination. The parcels are suitably shielded from the nearest village of Worlington to not cause any impacts to residents. The landscape and visual impact of the parcels is therefore extremely limited in scope and is not significant.
- 1.4.12. The Secretary of State is therefore faced with the choice of losing 56.2MW of urgent new low carbon infrastructure, an NSIP in its own right, for no sound ecological reason and minimal landscape or visual benefit. That has no grounding in national policy: again, it cannot possibly be said that the adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the Scheme in this field, or that losing the benefits of such generation would lead to a significant LVIA benefit. Removal would therefore conflict with NPS EN-1 [paras 5.9.15-5.9.21]. Moreover, significant harm is avoided to biodiversity, consistent with the general principle in NPS EN-1 paragraph 5.3.8. There is therefore no sound reason why parcels E12 and E13 should be removed.
- 1.4.13. **Parcels W3-W12:** These parcels constitute 228.6MW of low carbon energy generation – the size of over four NSIPs. As with the rest of the Scheme, these parcels will make a material and significant contribution to addressing the pressing national need for new renewable energy infrastructure. The Interested Parties have highlighted ecology, landscape and visual, heritage and in combination impacts. None constitutes a reason to, in effect, refuse consent for this significant amount of renewable energy.
- **Ecology:** The LPAs and Say No To Sunnica (SNTS) have raised concerns in respect of impacts to arable flora in these parcels. The Applicant does not accept there is any likely adverse significant effect: That was concluded in the Environmental Statement and the Applicant has gone even further during the course of the examination to provide even greater mitigation in the Environmental Masterplan. Even if the Secretary of State concludes

otherwise, NPS EN-1 makes clear that local designations (which this is not but is the nearest policy analogy) should not be used to refuse consent.

- **LVIA:** The ExA has received multiple submissions on the visual impacts of these parcels, predominantly relating to the impacts to users of the Limekilns Gallops. All parties agree no further mitigation is possible for the Limekilns. As the Applicant has set out in its submissions [**REP3A-035**; paragraph 5.4 of [**REP4-030**]; [**REP5-058**] the visual impacts to the Limekilns will not impact on its ability to continue to be used for racing purposes, and the landscape in and around the Limekilns benefits from no designations. NPS EN-1 [para 5.9.14] makes clear that even if something is locally designated (which the Limekilns is not) a local landscape designation should not be used in itself to refuse consent.
- **Heritage:** There are two assets: Chippenham Park RPG and the Chippenham Barrow Cemetery. No direct harm would be caused to either, and the main parties are agreed that the harm to the setting of each will be less than substantial (see the final SoCGs with the LPAs and Say No To Sunnica submitted at Deadline 10 and [**REP8-040**] respectively). Furthermore, once the Scheme is de-commissioned, the Barrow Cemetery will no longer benefit from a 'Class Consent' and so landowners will need to obtain separate consents to undertake agricultural activities in and around the archaeological remains. (For the reasons set out at paragraph 5.4 of [**REP4-030**; **REP5-058**], the Applicant does not consider the Limekilns a heritage asset in its own right).
- **In-combination:** The ExA and Interested Parties have raised the concern that each of the impacts above cannot be seen in isolation, but that together show that enough harm is caused to potentially warrant the removal of these parcels. The Applicant does not agree. Two of the three impacts are not protected by policy in any event, and their closest analogues indicated they are not to be reasons for refusal. The third impact is less than substantial heritage harm at a medium scale. Even in combination these impacts are not enough to outweigh the significant renewable energy benefits of a parcel the size of four solar NSIPs. If parcels W3-W12 were one or four NSIPs, the impacts outlined would not be enough to refuse them. The fact they are part of a larger NSIP does not suddenly give those concerns greater weight. Overall, therefore, two negligible impacts plus a minor impact are not nearly sufficient to be an overall impact that warrants removal of the parcels.

1.4.14. In conclusion, the last few weeks of Examination has seen increased pressure asserted by Interested Parties to remove parcels from the Scheme. However, this noise has drowned out the reality that these submissions are relating to impacts that are either:

- not agreed to exist by the statutory advisor (stone curlews);
- to receptors that are not protected by policy;
- in most cases are impacts that are not significant; and
- where they are significant, the impact is localised.

1.4.15. In the context of the provisions of NPS EN-1, these impacts do not come close to being reasons for removing these parcels, and the low carbon energy generation that they will supply to meet the urgent need facing the UK and the world.

1.5. Decommissioning and Retention of Landscape and Ecological Mitigation

1.5.1. The Councils (supported by Say No To Sunnica) have consistently sought that landscape and ecological mitigation measures put in place to mitigate this temporary project should thereafter remain in place in perpetuity.

1.5.2. There are inherent difficulties in this approach, as Mr Turney outlined in ISH2 **[REP4-30]**:

- permanent mitigation for a development which is mainly temporary would not pass the policy tests that a Requirement needs to pass: it would not make the development acceptable in planning terms, nor reasonably relate in scale and kind to the development. The suggestion that a large part of the impacts of the Scheme are permanent is wrong, given the extensive mitigation replanting proposals that the Applicant has put in place. As confirmed in its Deadline 10 response to the LPAs, the tree canopy to be removed within the Order Limits equates to 0.118% of the total Order Limits area and 2.5% of the existing total canopy cover within the Order Limits;
- it would not be reasonable to require the Applicant to rely on compulsory acquisition powers to take land for longer than the Scheme's life, if it is able to secure a less intrusive interference with private rights by private agreement;
- the statutory tests for compulsory acquisition would not be met as they would not be biting on 'development to which development consent relates' and would not 'facilitate or [be] incidental' to such development; as it would not be present;
- furthermore, it is not currently known what measures would be (a) needed in detailed design or (b) needed to be kept in perpetuity at the time of detailed design, meaning there would be no compelling case to require all 'Work No. 6' land to be compulsorily acquired in perpetuity; and
- where the mitigation measures provide a BNG function, the LPAs are asking for a commitment longer than the proposed 30-year period for BNG under the Environment Act 2021.

1.5.3. Nevertheless, the Applicant has developed a proposal which goes as far as possible to meet the Councils' concerns. This is set out in the final framework Decommissioning Environmental Management Plan (DEMP, secured under requirement 22 of the draft DCO) **[REP8-012]**. The proposal places obligations on the undertaker to:

- prepare a schedule of all landscape and ecological mitigation and enhancement measures put into place by the Scheme. The undertaker will not remove any of those measures;

- further identity measures that continue to have a landscape or ecological function after decommissioning (and also those measures which do not); and
- to put forward proposals that might secure the long-term retention, for a period of 25 years, of those measures after decommissioning.

1.5.4. The framework DEMP provides that the detailed DEMP will include text making clear there is no requirement to retain any grassland planting post the decommissioning works having taken place; and stating that where owners and successors in title of land subject to the DEMP remove grassland or any of the measures referred to above it will not be a breach of the DEMP.

1.5.5. This deals with the concerns of the Councils as far as it is possible to do so. A full explanation is set out in: paragraphs 7.2.25 to 7.2.40 of the Applicant's Summary of Case at ISH4 [REP7-060]; its response to Third Written Questions 3.0.1 and 3.0.2 [REP7-055]; and its Deadline 10 response to the LPAs' Deadline 9 submissions. For present purposes, suffice to note:

- what the Applicant has offered is unprecedented, and goes further than any solar DCO to date;
- compulsory acquisition powers are not justified to ensure retention of identified mitigation measures. As such powers cannot meet the statutory and policy tests for compulsory acquisition as a matter of last resort (given the agreements the Applicant has signed), nor justified in the compelling case as pieces of green infrastructure;
- that question - i.e. whether acquisition is justified by a compelling case in the public interest - must be asked now, when powers are being sought. This cannot be circumvented by DCO drafting requiring the Applicant to consider the question of whether the land is required at a later date;
- as such, the proposals can only go so far as to set out proposals for how the relevant measures could be retained, in line with relevant practice at the time; and
- any proposal to indicate that grassland cannot be excluded from this retention initiative is fundamentally flawed. It would mean that the landowners would be losing a large amount of farmland that would no longer be able to be farmed. This is a completely different compulsory acquisition case to that which the Applicant proposes: "solar for 40 years and grassland in perpetuity" rather than the Applicant's case of "solar for 40 years". The Applicant does not consider a compelling case can be made out for the permanent retention of grassland, even if it is of county scale importance. Moreover, it would necessitate a different assessment of socio-economic impacts given the loss of economic land use. Finally, it would involve a permanent loss of active farmland, running against the concerns of other Interested Parties.

1.6. Location/need

1.6.1. The Applicant has been criticised that the location of the Scheme is inappropriate, and the alternatives/site selection process was flawed – being primarily driven by land ownership.

- 1.6.2. The Applicant does not accept this characterisation.
- 1.6.3. The Applicant set out in its application documentation how it followed a systematic step by step process to identify the site which came forward in the DCO application. See ES Chapter 4 (Alternatives and Design Evolution) **[APP-036]**; ES Appendix 4A (Alternative Site Assessment) of the Environmental Statement **[APP-054]**; and the Planning Statement (see in particular section 2.7) **[APP261-263]**
- 1.6.4. Stage 1 of that process was identifying an area of search for a suitable site, which focused on East Anglia due to high levels of irradiation and a generally suitable topography for a utility scale solar farm. This first stage did consider a point of connection to the National Grid as is appropriate. Multiple connection points were considered but Burwell was identified as having capacity with appropriate reinforcement. A 15km search area was identified by the Applicant from Burwell.
- 1.6.5. Stage 2 applied a planning and environmental constraints mapping process, which included planning policy set out for DCOs in NPSs. This process also included: designated and proposed international and national ecological and geological sites, agricultural land classification, urban areas, green belt and nationally designated landscapes.
- 1.6.6. Stage 3 led to the identification of potential solar development areas which were then further assessed in Stage 4. The consideration of the seven PDAs is set out in the application documentation.
- 1.6.7. The site selection process was both proportionate and policy compliant. It was not informed solely by available capacity at Burwell (although that is a factor) nor the availability of land from willing landowners. For more detail, see: Response to SNTS text on alternatives (see pages 143 – 150) and theme 7 in the Applicant's Response to Written Representations **[REP3A-035]**; Response to Snailwell PC on alternatives (see pages 208 – 211) in the Applicant's Response to Written Representations **[REP3A-035]**; and Appendix B to Written Summary of Applicant's Oral Submissions at ISH2 on 7 December 2022. **[REP4-030]**

1.7. Agreements relating to land;

- 1.7.1. The land within the Order limits is split between Sunnica East A, Sunnica East B and Sunnica West A (known as the Sites) and Grid Connection Routes A and B.
- 1.7.2. The position reached at the end of the examination in terms of the Sites is set out in the table at Appendix A.
- 1.7.3. The position reached in respect of the Grid Connection Routes A and B is that despite considerable efforts, the Applicant has been unable to reach voluntary options for easements over the grid connection land. It is common on DCO applications that voluntary easements for cable corridors are not reached. Agreement is close to being reached with the following parties:

1.7.3.1. Willa Anne Philippa Bailey

1.7.3.2. Network Rail Limited

1.7.3.3. HPUT A Limited & HPUT B Limited

1.7.4. The Applicant will provide a final update at Deadline 11.

1.8. Traffic and Transport

- 1.8.1. The Sites are located close to the Strategic Road Network, minimising the effects of construction traffic on the local road network. Construction traffic will be carefully managed via the Framework Construction Traffic Management Plan and Travel Plan ('F-CTMP') [REP7-017], which makes effective provision for avoiding placing construction traffic on the network during peak hours. The F-CTMP imposes limits on the HGV movements and caps on construction staff vehicle movements. Compliance with the F-CTMP is secured through requirement 16 of the draft DCO. For a framework document prepared prior to the completion of the detailed design of the Scheme it includes extensive detail and analysis of the suitability for proposed use of the Scheme's accesses. Taken together with other controls included in the draft DCO, there is a robust framework in place for the management traffic and transport issues during the construction of the Scheme.
- 1.8.2. In relation to operation, it should be noted that operational traffic was considered to be sufficiently de minimis during EIA Scoping that it was scoped out of detailed assessment in the scoping opinion. Nonetheless, in response to the concerns raised by the local highway authorities, the Applicant has included within the Framework Operational Environmental Management Plan (OEMP) [REP8-015] provision for advance information of planned maintenance on annual basis, together with confirmation of likely environment effects together with the environmental controls required to ensure such environmental effects are not materially worse than those assessed in the Environmental Statement. Compliance with the Framework OEMP is secured through requirement 15.
- 1.8.3. In relation to decommissioning, the Applicant has provided a Framework DEMP [REP8-012]. While the precise details of the appropriate means of managing traffic during decommissioning the Scheme after its 40 year operational life can only sensibly left to determination nearer that time, through the Framework DEMP the Applicant commits to use the measures included in the F-CTMP as its starting point, to be updated to reflect the circumstances prevailing during the period in which decommissioning is carried out.
- 1.8.4. Traffic and Transport effects have been assessed comprehensively in the Environmental Statement (Chapter 13: Transport and Access [APP-045]). This has been supported, where necessary, by further technical analysis during the examination, particularly the Technical Note: Transport and Access [REP2-041] which was submitted at Deadline 2. That note was prepared in response to points raised by the local highway authorities and covered topics including link sensitivity, construction staff assumptions and traffic flows on Saturdays. The assessment and analysis work has demonstrated that there will not be any residual traffic and transport adverse effects which are significant in EIA terms. While there some technical disagreements remain, the Applicant considers that it has demonstrated that all access proposals are safe and deliverable across the relevant phases of the Scheme, in principle, subject to further detailed design.
- 1.8.5. Outstanding issues with the local highway authorities relate to points of detailed design and the management of accesses. The Applicant has provided a comprehensive and robust set of controls for each of the construction, operation and decommissioning phases. The outstanding issues are controlled principally by the protective provisions (see paragraph below), Requirements 6 and 16 in

the draft DCO and the F-CTMP [REP7-017]. The Applicant considers that these issues can be addressed through these relevant controls after the DCO has been granted and the weight of such concerns does not merit refusal of the application and the loss of a significant quantity of secure renewable electricity generation that the Scheme would contribute.

- 1.8.6. The Applicant has also included in the draft DCO protective provisions for the benefit of the local highway authorities. The Applicant considers that these provisions provide appropriate protection for local highway authorities in respect of the Scheme, not least by requiring their approval of any works required in the highway or on land that would become the highway.
- 1.8.7. Finally, various key issues which have come under scrutiny during the examination are identified in the table below. This includes a summary of the Applicant's position on each of the issues, including where relevant reference to the key controls and measures which address the points raised.

1.9. **Agricultural land;**

- 1.9.1. The key policy requirements for the decision maker in terms of the Scheme's impact upon agricultural land are found in NPS EN-1, [para 5.10.8] (applicants should seek to minimise impacts on BMV land, being ALC Grades 1, 2 and 3a) and [para 5.10.15] (Secretary of State should give little weight to loss of ALC grades 3b, 4 and 5 agricultural land). Draft NPS EN-3 continues these requirements, stating at [para 2.48.13] that: *"Where possible, ground mounted Solar PV projects should utilise previously developed land, brownfield land, contaminated land, industrial land, or agricultural land preferably of classification 3b, 4, and 5 (avoiding the use of "Best and Most Versatile" cropland where possible). However, land type should not be a predominating factor in determining the suitability of the site location."*
- 1.9.2. Draft NPS EN-3 [para 2.48.14] confirms that "the Agricultural Land Classification (ALC) is the only approved system for grading agricultural quality in England and Wales and should be used to establish the ALC" and that "[c]riteria for grading the quality of agricultural land using the Agricultural Land Classification (ALC) of England and Wales is decided by Natural England and considerations relating to land classification are expected to be made with reference to this guidance, or any successor to it".
- 1.9.3. The relevant assessment, therefore, in order to demonstrate policy compliance with the NPS, is assessment of the ALC and the Scheme's use of ALC grades 1, 2 and 3a (i.e. best and most versatile land, or "BMV" land).
- 1.9.4. This is the assessment the Applicant has undertaken in accordance with Natural England's guidance [REP5-067]. The Applicant's assessment is set out in ES Chapter 12 [APP-044], which is summarised and presented in the context of the NPS policy in the Planning Statement, in particular section 6.2 [APP-262]. The Applicant has avoided and minimised use of BMV land, resulting in 96% of the land within the Sites being non-BMV land. For the remaining small areas of Grade 3a included in the Scheme, the Planning Statement explains how that BMV land would not be permanently lost, continuing to be agricultural land for the 40 year lifetime of the Scheme. In this respect the ES has concluded negligible effects only during construction and operation. It is noted that agricultural use of

the land will also not be lost during the operation of the Scheme as it is proposed to graze sheep on grassland created within the Sites.

- 1.9.5. The ES also identifies that for the 40-year duration of the Scheme the soil resource will remain in place and benefit from an extended fallow. The grassland cover and the suspension of cultivation will allow a return to a higher equilibrium for soil organic matter, providing a number of benefits to soil health, including moisture retention and structural stability which will benefit future agricultural productivity. The assessment concludes that there is therefore expected to be a significant moderate beneficial effect on the land during the operation of the Scheme. The Applicant expanded further in terms of the likely beneficial effects for soil health in its Written Summary of Applicant's Oral Submissions at the ISH3 **[REP4-032]** under section 4, agenda item 3, and at paragraph 4.1.5 the Applicant's position on benefit to soil health is set out.
- 1.9.6. With respect to the cable route, there would only be a temporary disturbance to the use of agricultural land, due to the laying of cables during the construction period.
- 1.9.7. Natural England is satisfied that both the methodology and classification of the land undertaken by the Applicant are reliable (see para 1.1 of **[REP7-104]**, paras 1.5 and 2.1 of **[REP8-057]**, see section on "Agricultural land use and Soils" starting on page 12 of **[REP8-031]**) and with the measures set out in the Framework DEMP regarding impacts on soil (**[REP7-034]**) see **[REP8-057]**. See too the SoCG with Natural England **[REP8-031]** which confirms that, on issues such as irrigation, the Applicant's approach is the correct one (see page 12), that the Scheme is unlikely to lead to significant permanent loss of BMV agricultural land (see page 12), and that it is content with the soil management measures in the OLEMP. Matters shown as "under discussion" in relation to the soil management measures in the Framework CEMP have been addressed in the CEMP updates at Deadline 8 **[REP8-010]** (and are recorded as being agreed in the updated SoCG with Natural England submitted at Deadline 10). There are therefore no areas of difference between the Applicant and Natural England in terms of the assessment methodology and its outcomes, the likely impact of the Scheme on BMV land, and the proposed mitigation. In light of the approach taken by the Applicant, and Natural England's agreement with it, the Applicant submits that the ExA and Secretary of State can accept the Applicant's assessment conclusions.
- 1.9.8. In light of that agreement the submissions of the Interested Parties should, with respect, fall away.
- 1.9.9. Firstly, the Applicant strongly opposes the joint suggestion of the Councils **[REP7-095]** that a Rochdale Envelope approach (or a realistic worst case) should be taken because the Councils do not have the expertise to determine which of the Applicant's or SNTS's conclusions on ALC are correct. Putting to one side the difficulty of how such an approach would be implemented in practice, when choosing between two differing positions, it is not necessary to make "realistic worst case" assumptions on ALC, as the ExA and Secretary of State can have confidence in the Applicant's assessments, in the knowledge that its assessment has been interrogated and endorsed by Natural England. Please also see the Applicant's response to the joint suggestion of the Councils given in **[REP8-023]**.

- 1.9.10. Secondly, the Applicant has been criticised by interested parties for not undertaking a joint assessment with persons acting on behalf of SNTS. However, there is no point in undertaking a joint assessment if the basic methodology for the assessment cannot be agreed between the parties. SNTS, for example, did not agree with any of the methodological points put to it by the Applicant – going so far as to suggest in the SoCG that the availability of irrigation should be taken into account **[REP8-040]**: a position directly at odds with Natural England and the peer review that was done by LRA of SNTS’s ALC report **[REP5-065]**. The Applicant’s position that any joint assessment would not be worthwhile when even basic agreement on assessment methodology could be reached, was entirely justified.
- 1.9.11. Finally, interested parties have made submissions in relation to current use and yield of the land within the Order limits as well as claims relating to food security. Neither is particularly important to this examination – it is BMV and ALC grading which is the policy test. See the Applicant’s Response to First Written Questions **[REP2-037]** (question 1.9.8) and Response to Written Representations **[REP3A-035]**.
- 1.9.12. Overall, as set out in the Planning Statement **[APP-261]**, the Scheme’s location maximises the use of poorer quality agricultural land and will not result in the permanent loss of BMV land (noting that the loss of a small area adjacent to Burwell Substation expected at the time of the Planning Statement is now avoided due to the relocation of the substation), due to the Scheme being decommissioned following 40 years of operation. Leaving the land fallow for 40 years will also provide benefits in terms of improving soil health which the ES identifies is a significant beneficial effect of the Scheme. Therefore, it is considered that the Scheme accords with the NPS EN-1, Draft NPS EN-1, Draft NPS EN-3, the NPPF and local planning policies included in Appendix B of the Planning Statement relating to the protection and justification for using BMV agricultural land and the protection of soil resources.

1.10. Deed of Obligation;

- 1.10.1. A Deed of Obligation (“**the Deed**”) has been agreed by the Applicant, SCC and CCC, and is currently circulating for signature with a view to being completed before the end of the Examination. Sitting alongside the Deed are amendments to the draft DCO, to ensure any future transferee or grantee of the benefit of the Order is bound by the terms of the Deed. Those amendments are included in the draft DCO submitted at Deadline 10 (amendments to Article 33 and a new Article 46), and are agreed with SCC and CCC. The Deed therefore binds the “undertaker” and its successors contractually, and (whilst it will be a local land charge in respect of all freehold or leasehold interests the Sites owned by the undertaker), it will not bind the freehold land owned by parties other than the undertaker (including future beneficiaries of Work Numbers 1 and 2 as provided for in the draft DCO). This approach was proposed by SCC, adopting the approach that was taken on the Sizewell C DCO and deed of obligation. The updated Explanatory Memorandum provided at Deadline 10 provides further detail as to the drafting in the DCO proposed to supplement the Deed. The Deed secures two obligations:
- 1.10.2. The Stone Curlew Research Contribution: This is a contribution of £140,000, to be used towards “Stone Curlew Research”, which means monitoring Stone Curlew in the Breckland area and undertaking specific research projects with

such research projects to be approved by the Ecology Advisory Group (following consultation with Natural England) before they are carried out, and which shall be designed to increase understanding of the impacts (if any) of solar farm development on the Stone Curlew population within the Breckland edge landscape and how such impact (if any) may be minimised and/or effectively mitigated.

- 1.10.3. The Applicant must pay the contribution to the Royal Society for Protection of Birds (“**RSPB**”) and obtain a commitment from it that it will use the contribution towards the Stone Curlew Research. The Applicant is confident of being able to enter into such an agreement, as it is aware the RSPB requires funding for such research. However, as a fallback, if the Applicant has not been able to secure an agreement with RSPB after six months of trying, it must instead instruct a suitable qualified ecologist to undertake the research up to the value of the contribution. The Applicant must have provided evidence to the County Councils that it has complied with these requirements prior to the commencement of the development.
- 1.10.4. The Deed also includes provisions for ongoing compliance with the above obligation and updates to the Councils and the Ecology Advisory Group. The obligations continue until written confirmation is received from the Ecology Advisory Group that the Stone Curlew Research has been completed to its reasonable satisfaction.
- 1.10.5. Given the purposes for which this obligation is entered into, the parties have agreed that if any Order ultimately made authorising the Scheme does not include any of parcels EC01, EC02, EC03, E05, E12 or E13 the above obligations fall away, and this part of the Deed will have no effect.
- 1.10.6. The PRoW and Connectivity Contribution: This is a contribution totalling £500,000 (£250,000 for each of SCC and CCC, although the Councils are able to pool this contribution as they see fit). This is to be spent on enhancements to existing PRoW; creation of new PRoW or permissive paths; upgrading or providing new connectivity points and/or ancillary facilities for users of PRoW or permissive paths; and any preparatory, legal, administrative or compensation costs required in connection with any or all of the above outside the Sites in order to improve connectivity and health in the vicinity of the Development. The Councils can also use the contribution to defray or contribute towards any orders, agreements, works or maintenance and related expenses and administration that they pursue or undertake.
- 1.10.7. The contribution is payable to the Councils prior to commencement of the Development or the carrying out of any Permitted Preliminary Works (whichever is earliest).
- 1.10.8. The parties have agreed that if any Order ultimately made authorising the Scheme does not include all the parcels contained in the Proposed Scheme as applied for by Sunnica, there may be some deduction in the amount of the contribution. The Deed sets out specifically what the deduction would be in three scenarios (those being, if all of E05 was not included; all of W03, W04 and W05 was not included; or all of W06, W07, W08, W09, W10, W11 and W12 was not included), and requires the parties to reach agreement as to any other deduction

if different permutations or other parcels are excluded from any made Order. The contribution can never be reduced to lower than £410,715.

- 1.10.9. The key point of contention between the parties relates to how the contribution can be expended by the County Councils. Due to the terms of the voluntary option agreements secured by the Applicant, as required by landowners in order for agreement to be reached, the Applicant has had to put some restrictions on where the contribution can be spent. Attached to the Deed is a plan (attached to this document at Appendix B). The plan shows land that is included within the Sites, and the land owned by those landowners that is outside the Order limits – that land is shaded yellow. The plan also shows land where negotiations are at an advanced stage with landowners along the cable route (meaning a restriction on PRow on those landowners' land has already been agreed with those people as part of negotiations), and land owned by those same landowners outside of the Order limits – that land is shaded blue. Under the terms of the Deed, the Councils are not restricted from providing PRow on this land (coloured yellow and blue), however they cannot utilise the contribution without the consent of the relevant freehold owner. The Councils are free to use the contribution monies for PRow connectivity measures anywhere on the plan coloured either white (i.e. no shading) or purple, with or without the consent of the relevant landowners.
- 1.10.10. The Applicant is required to provide an update on this plan prior to the earlier of the commencement of the Development and the carrying out of any Permitted Preliminary Works. As part of that update the plan will either remain the same, or the areas of land shaded yellow or blue will be reduced (that is, there is no possibility for those areas of the plan to increase) in circumstances where: (i) any Order ultimately made reduces the size of the Scheme meaning identified landowners' land where a voluntary agreement has been reached is not required as it is no longer within the Order limits and so the Applicant does not need to draw down the lease; or (ii) the Applicant has not been granted a lease or rights over such land, meaning it needs to use compulsory acquisition powers, in which case such land is no longer required to have the same protections as the land shaded yellow or blue. The effect of any such update to the plan is clearly to allow the Councils to spend the contribution over an increased area.
- 1.10.11. Responding to comments from other interested parties, there is an obligation in the Deed on the Councils to use reasonable endeavours to consult with local organisations who represent users of the existing PRows before deciding how to use the contribution for the public access mitigation strategy measures.
- 1.10.12. The Councils have been critical of the Applicant for needing to restrict the area across which the Councils can utilise the contribution **[REP8-051]**. The Applicant does not accept that criticism for two reasons. First, there are considerable areas – any area that is white and purple – over which the contribution can be used. Moreover, the Councils can of course use their own money on the blue and yellow areas. Second, the Councils criticise the Applicant for agreeing to such considerations in their negotiations with landowners (see for example paragraphs 57 and 58 of **[REP8-051]**). This shows a complete misunderstanding of the negotiation process and apparent disregard either for the rights of landowners, or the CPO guidance requiring compulsory acquisition to be a last resort, or both. The Applicant has a duty to negotiate voluntary agreements. It is frustrating that the Councils consider that the Applicant can simply impose terms on landowners, such as insisting they take on PRow. That is not a negotiation. The Applicant

has reached terms with these landowners and landowners' ability to negotiate terms should be respected as part of that process.

1.11. PRow mitigation package

- 1.11.1. The Applicant has set out in its response to the ExA's Third Written Questions (question 3.9.11) **[REP7-055]** its position in terms of how the proposed PRow contribution provides an appropriate mitigation package for the adverse impacts identified by the Councils (which impacts are not agreed by the Applicant). The Applicant's assessment of the Scheme's likely impact on the users of the PRow network is as set out in Chapter 12 of the Environmental Statement **[APP-044]**, and has concluded that there would be a minor beneficial effect during operation of the Scheme. The Applicant has incorporated three new permissive paths as part of the Scheme (and the Applicant has been clear as to the reasons why it cannot commit to those paths being permanent PRowS, given that landowners hosting the Scheme do not agree to PRowS on their land, and in any event the Scheme will be decommissioned after 40 years and there would be no ongoing effect to mitigate after that time).
- 1.11.2. However, the Applicant has recognised the position of the local authorities as set out in the joint Local Impact Report and in subsequent submissions and hearings, that the Councils do not consider that the permissive paths proposed as part of the Scheme adequately mitigate/compensate for the disruption to the existing PRow network, and that therefore opportunities for PRow improvements, and new PRow/permissive paths during operation of the Scheme should be further explored in order to allow for mitigation for residual amenity impacts and/or legacy benefit. It is in this context that the Applicant and the County Councils have actively engaged with respect to an appropriate planning obligation towards improvements to the PRow network, and it is the Applicant's view that this has been achieved by the Deed agreed between the parties, delivering the obligations as set out above.
- 1.11.3. The Applicant considers, taking both the permissive paths to be provided as part of the Scheme, as well as a considerable contribution towards new or improved PRow and permissive paths in the vicinity of the Sites, that it has done what it can to create enhancements to the PRow network in connection with the Scheme. The Applicant's position is that it has appropriately mitigated any adverse impacts of the Scheme on PRow users and the network, and considerable weight can be given to the benefits to be delivered by the proposed permissive paths and substantial contribution.

1.12. Section 135/Section 127/Section 138

- 1.12.1. The text in this section is intended to provide an update to the Ex A in respect of the current position in respect of Crown land. It is also intended to fulfil the obligations of the Applicant in respect of the letter received from the Ex A on 22 March 2023, in relation to the first part of that letter.
- 1.12.2. There is one plot of land within the Order limits which has a Crown interest. This interest is held by the Secretary of State for Transport and is in respect of a bridge and access track below and verges adjacent. The Crown land was identified in October 2021 and forms a small part of Grid Connection Route A.

- 1.12.3. Section 135 prohibits a DCO authorising the compulsory acquisition of an interest in Crown land unless, in short, the Crown authority consents. The effect of the above provisions is that the DCO cannot authorise the compulsory acquisition of rights over plot 4-03 to the extent that the land is owned by the Secretary of State for Transport.
- 1.12.4. The Applicant has been in contact with the Secretary of State for Transport's Estates Team since September 2020 and its agents since they were appointed in September 2022. Discussions have been in respect of acquiring an easement for the cable corridor and, since October 2022, to obtain consent under Section 135 of the Planning Act 2008. The terms of the easement were drafted and issued in January 2023 and the Applicant is presently awaiting comment from the Secretary of State for Transport's agent. At present the draft Section 135 consent letter sits with National Highways legal team who has delegated authority from the Secretary of State for Transport for final approval. The Applicant has been asking the Secretary of State to issue the Section 135 consent letter as a matter of urgency for some time now. The Applicant was told on 24 March 2023 that the Section 135 consent letter is with National Highways legal department and they are aware of the need to issue the letter in advance of the close of the Examination.
- 1.12.5. Whilst working hard with the Secretary of State for Transport, the Applicant has also been looking at an alternative within the Order limits but outside the Crown land. The Applicant has identified such an alternative which would mean it can progress the cable through this area without the Crown land in the event the Section 135 consent is not forthcoming. The Applicant will provide a further update on both the Section 135 consent and this alternative at Deadline 11.
- 1.12.6. If the letter is not received by the close of the examination, then the Applicant will be required to obtain this consent during the determination period and send a copy of the consent to the Secretary of State for Energy Security and Net Zero.
- 1.12.7. Section 127 of the Planning Act 2008 provides that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land (note section 127 does not cover telecommunication undertakers) to the extent that the Secretary of State is satisfied that there will be no serious detriment to the statutory undertakers' undertakings. The Applicant identified statutory undertakers in relation to the Scheme under section 127 of the Planning Act 2008 and has been engaging with them to agree protective provisions for the benefit of their undertaking. The Applicant has reached agreement with all section 127 undertakers and the agreed protective provisions are included in Schedule 12 of the final DCO submitted at Deadline 10. This is recorded in its s127 objections tracker submitted at Deadline 10 **[EN010106/APP/8.68]** and means that section 127 is not engaged for these undertakers as the conditions in Section 127(1) are not met. It is noted that whilst section 127 of the Planning Act 2008 is currently engaged in respect of National Grid Electricity Transmission and National Gas Transmission, the agreed protective provisions will be in place, and as a result there will be no serious detriment to the undertaking, and section 127 is therefore satisfied. In any event, it is anticipated that both undertakers will withdraw their representations prior to the end of Examination.

1.12.8. Section 138 of the Planning Act 2008 states that a DCO may only include provision for the extinguishment of relevant rights or the removal of the relevant apparatus if the Secretary of State is satisfied that the extinguishment is necessary for the purpose of carrying out the development to which the DCO relates. The Applicant has sought to minimise the amount of land within the Order limits to what is required to bring forward the development. However, there is the potential for there to be statutory undertakers' assets within the land which the Applicant is unable to avoid and therefore it may require the ability to extinguish those rights or remove that apparatus. The Applicant has identified and been engaging with s138 statutory undertakers and has reached agreement with all affected undertakers that have engaged with the Applicant during the DCO process. This is further set out in the Applicant's schedule of s138 representations submitted at Deadline 10 [EN010106/APP/8.55]. With respect of the statutory undertakers that have not engaged with the Applicant, the standard protective provisions for the benefit of undertakers will provide them with the necessary protection required for their undertaking. The Secretary of State can be satisfied that the extinguishment of the relevant right or removal of the relevant apparatus is necessary for carrying out the development and that they are suitably protected as a result of the protective provisions within the DCO. As a consequence the condition in section 138(4) of the Planning Act 2008 is satisfied

1.13. Heritage

- 1.13.1. The Applicant and Interested Parties have debated at length the impacts to Chippenham Park RPG, but all agree that the harm created is less than substantial harm, with Interested Parties considering it is of a greater scale than the Applicant. This harm relates to impacts to the setting of the heritage asset, with direct impacts able to be avoided, as committed to in the framework CEMP and shown in [REP7-058]. The impact on the setting of the RPG is limited to the area around the remnant avenue, which does not form the entrance to the RPG, and which is not seen from within the main park and garden or its approaches. The main historic interest of the RPG is within the walled gardens, which are entirely unaffected.
- 1.13.2. The Applicant considers that this less than substantial harm, alongside the less than substantial harm (a harm judgement that is agreed by all Interested Parties) to barrows at Chalk Hill and Chippenham barrow cemetery, is far outweighed by the benefits of the Scheme.
- 1.13.3. Appropriate mitigation measures have also been put in place in relation to:
- archaeology generally, through the Detailed Archaeological Mitigation Strategy [REP5-066 and updated at Deadline 10], which is understood to have no objections from the LPAs;
 - the integration of archaeology and ecological mitigation requirements through the development of the outline HEMP, which prescribes a framework for management of the archaeological protection areas through the Scheme for the construction, operation and decommissioning stages.;
 - impacts to the BO50 crash site, through the provisions of the OLEMP and the commitments in Requirement 23 of the DCO;

- heritage assets at Snailwell, through the removal of West Site B; and
- impacts to archaeology and built heritage through the commitments in the framework CEMP, outline EMP, framework DEMP and outline LEMP.

1.13.4. Through the design of the Scheme and the implementation of the above mitigation measures, the Applicant has minimised the heritage impacts of the Scheme and, whilst residual effects do remain through the impacts to the burrows and Chippenham Park RPG, these are not sufficient in policy terms to overturn the urgent benefits of the Proposed Scheme.

1.14. Landscape and visual impact

- 1.14.1. The question of the landscape and visual impacts of the Scheme has been one that has been a key focus of the Examination and where very limited positions have been agreed with Interested Parties in relation to the assessment methodologies, its conclusions, and to its mitigation proposals.
- 1.14.2. This has led to the suggested removal of some parcels on the basis of landscape and visual impacts. The Applicant strongly refutes this suggestion for the reasons discussed in section 1.4 of this paper.
- 1.14.3. In relation to its assessment methodologies, the Applicant has defended various technical aspects of it in submissions and continues to insist that the assessment has been carried out in the appropriate fashion and, as set out in its previous LVIA position statement at **[AS-321]**, that the assessment has been carried out in accordance with best practice, and developed during the pre-application process in consultation with the LPAs.
- 1.14.4. As a result, the Applicant also stands by its assessment results, and confirms that the various additional mitigation matters that have been discussed and developed during the Examination have not changed the fundamental assessment starting point set out in the ES.
- 1.14.5. At Deadline 10, the Applicant has submitted the final versions of the OLEMP and Environmental Masterplans that it wishes to be certified for the purposes of the DCO and which constitutes its final form of mitigation 'offer' for the Scheme. This is accompanied by responses to the LPAs' Deadline 8 comments on those documents setting out the Applicant's final position on the additional matters that the LPAs have sought to be included in those documents but which the Applicant has determined should not be included. This builds on the Applicant's submissions on the parcel by parcel schedule **[REP7-063]** and **[REP8-026]**.
- 1.14.6. The Applicant considers that it has brought forward an appropriate Scheme that has been mitigated to reduce impacts and in a manner which responds to the local character of the locality in and around the Scheme. It has therefore complied with paragraph 5.9.17 of NPS EN-1; and in so doing has also ensured that impacts to areas that are protected by national policy are avoided.
- 1.14.7. This Scheme design has built on a site selection process which has led to a suitable site being identified that accords with the important and relevant planning policy tests, and appropriate consideration of landscape and visual

impacts at each stage. This is set out further in the submissions cross referenced to in part 2 below.

1.15. Ecology

- 1.15.1. There has been much debate about the impacts to ecology arising throughout the Examination. The Applicant's starting position is to note and emphasise that in general terms, whilst there are some impacts from the Scheme, it is creating an improvement to the baseline position, both qualitatively in terms of the general understanding of changing farmland to vast areas of land managed specifically to promote biodiversity outcomes, or as a secondary benefit of the management of the developable area; and quantitatively as expressed in the BNG calculations, as finally submitted at Deadline 10, being 37% habitat units, 28% hedgerow units and 11% river units.
- 1.15.2. No adverse effects to integrity arise in relation to designated sites, as concluded by the Applicant's HRA documentation. This conclusion, and the mitigation measures for stone curlews which help enable that conclusion, are also agreed by Natural England [**REP8-031**] and [**REP8-051**].
- 1.15.3. [**APP-050**], the Summary of the ES, confirms that there are no residual effects to biodiversity during all temporal phases of the Scheme.
- 1.15.4. The Applicant's mitigation proposals have developed further over the course of the Examination and are set out in the final framework CEMP, outline LEMP and Environmental Masterplan submitted at Deadline 10, with final responses to the LPA's comments also submitted at that deadline explaining why no further changes are thought felt to be necessary. These additional mitigation measures do not change the original conclusions of the ES.
- 1.15.5. The Applicant considers that these mitigation measures are sufficient to mitigate impacts and has committed to the establishment and funding of an Ecology Advisory Group to provide oversight to the monitoring, management and maintenance of operational measures, including remediating any issues with those mitigation measures that may arise. Any changes to the provision will be able to be taken forward through amendments to the detailed LEMPs – not doing so would be a breach of the DCO (as the requirement to comply with the existing LEMPs would not be able to be complied with), and as such no specific provision for a contingency fund is required.
- 1.15.6. Finally, whilst the Applicant notes that the LPAs and other Interested Parties have raised concerns about assessment methodologies (e.g. in respect of farmland birds) and the extent of mitigation proposed (e.g. for arable flora), Natural England has not raised the same concerns, and the Applicant has robustly defended its approach throughout the Examination, including in its Position Statement [**AS-320**], its summary of case from ISH2 [**REP4-30**] and ISH4 [**REP7-060**] and its response to SNTS at Deadline 6 [**REP6-036**] and Deadline 8 [**REP8-022**].
- 1.15.7. In light of all of the above and in considering the application of the policy, the Scheme creates no significant negative impacts to ecology in EIA or HRA terms and creates a quantitative biodiversity net gain. None of the policy tests in the NPS EN-1 (or indeed the NPPF) which may reduce or prevent development therefore apply to the Scheme.

1.16. BESS

- 1.16.1. The Scheme includes the development of BESS on Sunnica East A, Sunnica East B and Sunnica West A. The BESS has given rise to a considerable amount of interest from many parties to the Examination. The focus of that attention has primarily been focused on the following areas:
- Whether the BESS gives rise to a risk to the public, primarily through the risk of fire and whether the outline battery fire safety management plan (BFSMP, secured under requirement 7 of the draft DCO) is adequate to mitigate that risk.
 - Whether the BESS gives rise to a requirement for the Applicant to obtain Hazardous Substances Consent/Consent under COMAH and if it does should that consent be sought alongside the development consent order
 - Whether the BESS is Associated Development.
- 1.16.2. Turning to the first point, the Applicant submits that the outline BFSMP as submitted at Deadline 10 is one of, if not the most, developed outline BFSMPs submitted with any DCO application. The Application version of the outline BFSMP was a detailed plan, but through important contributions from interested parties it has evolved into a very detailed plan which the ExA should have confidence in. The ExA should also place weight on the fact that the outline BFSMP has been peer reviewed by Paul Gregory (Battery safety and testing consultant at BST+T Consultancy), an industry expert with very considerable experience and expertise in this area. The Applicant has also responded to the issues raised by interested parties in the Applicant's Response to BESS Safety Issues Raised During ISH3 [**REP4-044**]
- 1.16.3. Secondly, Dr Fordham, supported by others, has submitted that the Applicant must obtain Hazardous Substances Consent and consent under the COMAH regulations prior to development consent being granted. The Applicant submits that this simply is not possible for this BESS or for any other BESS at the planning permission stage. In order to make those applications detailed design is required to have been undertaken in respect of the BESS which at this stage it has not gone through. It is also key that the Applicant considers that Dr Fordham's interpretation of the relevant regulations is misconceived. The Applicant has provided detailed submissions on this at page 68-73 of Applicant's Response to other Parties Deadline 5 submissions [**REP6-036**]. It has also provided a further response to Dr Fordham's submissions at Deadline 10 in its document Applicant's responses to other parties Deadline 8 submissions.
- 1.16.4. The Applicant notes the ExA's request under Rule 17 dated 22 March 2023. The ExA notes that NPS EN-1 at paragraph 4.12.1 states that Hazardous Substances Consent can be left until post consent: however, pre-application consultation with HSE is nevertheless required and details must be included in the DCO (NPS EN-1, footnote 94). The footnote states: 'However, the guidance in 4.12.1 still applies i.e. the application should consult with HSE at the pre-application stage and include details in their DCO'. The ExA comments that the implication of the guidance might appear to suggest that full details of hazardous materials and the hazard assessment must be considered in the Examination. The Applicant does not accept that NPS EN-1 can be read in that way. All that it requires is that the HSE was consulted pre-application, which it was. The Applicant was compliant

with this requirement as evidenced in the Consultation Report and confirmed by the HSE at Deadline 7 [**REP7-112**].

- 1.16.5. The Applicant is clear that the BESS is associated development and complies with the guidance on associated development applications for major infrastructure projects (DCLG April 2013). This was explained in the Planning Statement [**APP-261**] at paragraphs 3.2.3 to 3.2.10 and Table 10-1 of the Statement of Need [**APP-260**]. The Applicant made additional submissions on this in Appendix B to the Applicant's response to first written questions [**REP2-038**].

2. Part 2 Summary of other issues

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
Alternatives			
Alternatives Methodology	<p>The Applicant has followed a systematic step by step process to identify the site which came forward in the DCO application.</p> <p>The Applicant is of the view that the site selection process was a wholly proportionate and policy compliant approach to site selection. It plainly was not informed solely by available capacity at Burwell (although that is a factor) nor the availability of land from willing landowners.</p>	<p>Chapter 4 (Alternatives and Design Evolution) [APP-036]</p> <p>Appendix 4A (Alternative Site Assessment) of the Environmental Statement [APP-054]</p> <p>Planning statement (in particular section 2.7) [APP261-263]</p> <p>Response to SNTS text on alternatives (pages 143 – 150) and theme 7 in the Applicant's Response to Written Representations [REP3A-035]</p> <p>Response to Snailwell PC on alternatives (pages 208 – 211) in the Applicant's Response to Written Representations [REP3A-035]</p> <p>Appendix B to Written Summary of Applicant's Oral Submissions at ISH2 [REP4-030]</p> <p>Considerable submissions on the need for the project – the Applicant prepared a Statement of Need [APP-260]</p>	No change.

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
Greenhouse gas emissions and carbon			
<p>Whether the Applicant's assessment of the impact of the Scheme on greenhouse gas emissions can be relied upon. Will the Scheme have a net carbon saving over its lifetime.</p>	<p>The Applicant considers that its assessment in chapter 6 of the ES, supplemented by Appendix A of the Applicant's response to written representations [REP3A-035] and Appendix A of the Applicant's Response to SNTS Deadline 2,3 and 3A Submissions [REP4-036] provides an accurate assessment of greenhouse gas emissions and can be relied upon by the ExA.</p>	<p>Chapter 6 of the ES [APP-038] Appendix A of the Applicant's response to written representations [REP3A-035] Appendix A of the Applicant's Response to SNTS Deadline 2,3 and 3A Submissions [REP4-036]</p>	<p>The Applicant considered the Cranfield University report and responded to its observations on Sunnica's assessment. See Appendix A to the Applicant's Response to Say No To Sunnica Action Group Ltd Deadline 2, 3 and 3A Submissions [REP4-036].</p>
Ecology			
<p>Arable Flora</p>	<p>All arable margins have been captured within higher distinctiveness habitat bands for the purpose of BNG calculations and the ES. The arable flora surveys carried out are suitably robust and there are no significant gaps in the baseline used to undertake the impact assessment.</p>	<p>Ecology Position Statement [AS-320] The Applicant's response to the LPAs at Deadline 7 [REP7-057] and Deadline 8 [REP8-023] BNG statement [REP7-041] and submitted at Deadline 10.</p>	<p>Following discussions with stakeholders, the Applicant has significantly extended the areas for arable flora, including within W09 with a continuous undisturbed buffer around the entirety of the field. This is set out in the Environmental Masterplans, including the final versions submitted at Deadline 10. This does not change the assessment presented in the ES, but rather takes on board comments from stakeholders and considers the practicalities of creating and maintaining</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
<p>Stone curlew mitigation and monitoring proposals and HRA matters more generally</p>	<p>All suitable habitats within and around the Order limits were surveyed, and the mitigation hierarchy has been applied appropriately, to secure the population of Stone-curlew within the Order limits.</p> <p>A separate contingency fund is not required in relation to stone curlew provision. The Applicant is confident in its proposals and in any event, if amended provision was needed, this would be done through an update to the LEMP and stone curlew specification to avoid the Applicant being in breach of the DCO.</p>	<p>Statement of Common Ground with Natural England [REP8-031]</p> <p>The Applicant's response to the LPAs at Deadline 6 [REP6-036] and Deadline 8 [REP8-023].</p> <p>Offsetting Habitat Provision for Stone-Curlew Specification [submitted alongside the final OLEMP at Deadline 10].</p> <p>Summary of Case at ISH4 [REP7-060].</p>	<p>continuous strips, rather than individual plots, during operation.</p> <p>Through engagement with Natural England, the Applicant has refined its stone curlew mitigation proposals through updates to the LEMP and Offsetting Habitat Provision for Stone-Curlew Specification.</p> <p>Natural England agrees [REP8-031] that all relevant impact pathways have been considered and suitably mitigated.</p> <p>The Applicant's position on the contingency fund has not changed, but it has provided more detail in the OLEMP submitted at Deadline 7 [REP7-015] and Deadline 10 on the role of the EAG in working with the Applicant moving forward to ensure that stone curlews are monitored, and remedial actions taken.</p> <p>The Applicant has stood by the conclusions set out in its HRA documentation submitted with the application throughout Examination. All HRA matters are agreed with Natural England [REP8-031] and the Applicant has set out the position on all</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
			matters in its response to the REIS [REP8-024].
Farmland birds	The Applicant has not identified evidence to suggest that the criteria and sources of its assessments of the populations of certain declining farmland bird species within the proposed DCO limits, are incorrect and thus, warrant a re-assessment.	The Applicant's response to SNTS at Deadline 6 [REP6-036] and Deadline 8 [REP8-022] and its summary of oral submissions at ISH2 [REP4-030].	No change.
BNG Assessment and OLEMP documents.	The Applicant submitted a BNG Report and OLEMP with the Application that have been subject to comments throughout the Examination process.	The Applicant has also defended its approach to both documents in all of its responses to Say No To Sunnica throughout the Examination, e.g. REP1-016, REP2-040, REP3A-035, REP4-036, REP5-058, REP6-036, REP7-056, REP8-022, REP9-004	<p>Both documents have been updated multiple times throughout the Examination, but the final documents have been submitted at Deadline 10, with final responses to the LPAs on their detailed comments on both documents submitted at Deadline 10.</p> <p>The Deadline 8 Cover Letter [REP8-001] explains that the BNG assessment is consistent with the approach to on-site mitigation and additionality expressed in the Government's recent response to its consultation on BNG.</p> <p>With these measures in place, and in light of the matters discussed above in respect of farmland birds, and further to the Ecology Position Statement [AS-320], the Applicant considers that its assessment is robust and</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
			adequately identifies the residual effects of the Scheme.
Effects on the horse racing industry			
Whether or not the Scheme will give rise to unacceptable impacts on the horse racing industry.	The Applicant has provided clear evidence to the examination that there will not be an unacceptable impact to the horse racing industry.	<p>Horse Racing Industry Impact Assessment [REP2-039]</p> <p>Applicant's response to comments on Horse Racing Industry Impact Assessment [REP4-039]</p> <p>Paragraph 4.2 Written Summary of Applicant's Oral Submissions at the Issue Specific Hearing [REP4-032]</p> <p>Paragraph 7.7.80 of Chapter 7 [APP-039] and paragraph 12.6.54 Chapter 12 [APP-044] of the ES</p>	No change.
Glint and glare			
Whether there will be adverse glint and glare impacts on horses / equestrians	Glint and glare could only possibly occur for very short durations for part of the year; would not introduce a hazard for equestrian users; and is sufficiently mitigated and the potential impact is assessed as low. No further mitigation is therefore required for equestrian users.	Glint and Glare Assessment [APP-121], particularly Appendix J	<p>No change.</p> <p>The Applicant has engaged horse behavioural specialists. The advice received confirmed that even in the absence of mitigation, it is unlikely a horse would be affected by glare given the location, distance and direction of travel of Limekiln gallops in relation to the solar panels [REP1-016].</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
Whether there will be adverse glint and glare impacts on equine facilities	The only facility where glint and glare would be geometrically possible is Snailwell Gallops. No impacts are predicted due to screening in the form of existing vegetation and proposed planting surrounding and within the Order limits.	Glint and Glare Assessment [APP-121] Environmental Masterplan [REP7-054] OLEMP as submitted as Deadline 10.	No change.
LVIA			
LVIA Methodology	The Applicant considers that its assessment methodology is robust and in accordance with best practice.	Response to First Written Questions Appendix L [REP2-038] Response to Written Representations [REP3A-035] Response to Local Impact Report [REP3-019] Response to Other Parties' Deadline 6 Submissions [REP7-056].	N/A
Whether the landscape and visual mitigation proposals for each parcel and more generally in the OLEMP and Environmental Masterplans are sufficient to address adverse effects.	The Applicant accepts there is disagreement with the Local Authorities on some aspects of the proposed mitigation for the Scheme. As outlined in the OLEMP [REP7-015], the Applicant has designed the Scheme to respond positively to local landscape character and mitigate impacts on views and visual amenity.	Landscape Mitigation Parcel Schedule [REP7-063] Applicant's position on 'parcel by parcel' mitigation and residual effects [REP8-026]	The Applicant has worked with the Local Authorities to agree mitigation to reduce the landscape and visual effects of the Scheme to an acceptable level, including in particular amendments to the Outline LEMP and the Environmental Masterplans submitted throughout Examination and for the final time at Deadline 10. In its Deadline 10 submission responding to the LPA's Deadline 8 submissions, the Applicant has set out its final

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
			position and why it considers further detailed amends suggested by the LPAs to the OLEMP and Environmental Masterplans are not appropriate.
Whether the Applicant's site selection methodology is appropriate and robust in terms of consideration of landscape and visual impacts.	The Applicant maintains its position that the site selection process followed for the Scheme has led to a suitable site being identified that accords with the important and relevant planning policy tests.	<p>Planning Statement Part 1 [APP-261]</p> <p>Environmental Statement - Chapter 4 - Alternatives and Design Evolution [APP-036]</p> <p>Environmental Statement - Appendix 4A - Alternative Sites Assessment [APP-054]</p> <p>Response to FWQs Appendix A: Settlement Design Iteration Note [REP2-038].</p> <p>Pages 138 to 150 of the Applicant's Response to Written Representations [REP3A-035]</p> <p>Written Summary of Applicant's Oral Submission at ISH2 Appendix B 'LVIA and the Site Selection Process' [REP4-030]</p>	The parameters of the Scheme have been refined in response to concerns raised by Local Authorities and interested parties throughout the Examination. Additional landscape mitigation and visual screening has also been included to provide further reduction of potential impacts.
Whether or not the Scheme will give rise to unacceptable impacts on trees.	The Applicant considers that the approach to the assessment provided in the Arboricultural Impact Assessment report [REP7-047] is proportionate to the scale of the Scheme and the outline nature of the reference design. Further detailed work is also secured by the Framework CEMP [REP7-032] along with a commitment to avoid and retain any veteran trees should they be encountered.	<p>Arboricultural Impact Assessment [REP7-047]</p> <p>Framework CEMP [REP7-032]</p> <p>Draft DCO as submitted at Deadline 10.</p>	<p>The FCEMP (latest version at Deadline 10), has been updated to include controls to manage potential impacts on trees.</p> <p>Requirement 6 of the draft DCO, as well as articles 36 and 37 as submitted at Deadline 10, have also been amended in response to matters raised by the Local Authorities, and to ensure that there are appropriate controls on potential impacts on trees.</p> <p>In its Deadline 10 submissions responding to the LPA's</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
			Deadline 8 submission, the Applicant has also provided final comments defending its approach to tree impacts.
Heritage			
Whether or not the Scheme will give rise to unacceptable impacts on the Chippenham Park RPG	The Applicant has confirmed there will be no physical harm to the designated asset as a result of the Scheme. In terms of impacts on the setting, these will be limited to changes to the Avenue. The Applicant considers that the authenticity of the designated asset will be preserved and an understanding of the functional relationship between the Park and the Avenue will be retained.	<p>Report on Current Status of Heritage Aspects of the RPG [REP5-060]</p> <p>Applicant's Response to LPA Deadline 6 Submissions [REP7-097]</p> <p>Summary of Case at ISH2 [REP4-030]</p> <p>Responses to SNTS at every Deadline during Examination: REP1-016, REP2-040, REP3A-035, REP4-036, REP5-058, REP6-036, REP7-056, REP8-022, REP9-004.</p>	<p>The Applicant's position that less than substantial harm is caused to the RPG has unchanged throughout the Examination.</p> <p>More information was provided to demonstrate that no direct impacts would be caused to the setting of the RPG (and specifically impacts to trees through cabling).</p> <p>This was confirmed at ISH4 [REP7-060], committed to in the FCEMP (latest version at Deadline 10), and shown on the Cable and Vehicle Access Across Chippenham Park Avenue plan submitted in [REP7-058].</p>
Whether or not the Scheme will give rise to unacceptable impacts on the Isleham Crash site	The Applicant's position has been consistent since the introduction of the second Change Application to the Scheme and Requirement 23 to the draft DCO – irrespective of whether or not a licence is granted by the Joint Casualty and Compassionate Centre (JCCC) the	<p>Response to Rule 17 Request [REP9-005]</p> <p>Outline LEMP [REP7-015]</p> <p>Draft DCO (including as submitted at Deadline 10).</p> <p>Written Summary of Applicant's Oral Submissions at Issue Specific hearing 4 (ISH4) [REP7-060]</p>	The OLEMP submitted at Deadline 7 [REP7-015] and Deadline 10 has also been updated to set out more information on the landscaping and interpretation arrangements that will be brought forward in and around the crash site in

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	<p>Applicant has accepted a minimum 50m exclusion zone around the crash site. If the licence is granted, the exclusion zone will be 50m. If not, it will be 100m (in line with JCCC guidance).</p> <p>An interpretation scheme is to be developed and approved by the LPA, following consultation with Isleham Parish Council.</p>		<p>response to discussions with stakeholders.</p> <p>This will be developed further in the detailed LEMP relevant to parcel E05.</p>
<p>Managing the archaeological protection areas, especially where they overlap with ecological requirements.</p>	<p>The OLEMP has been updated to incorporate an OHEMP, which deals with those issues. The latter document, via references to it in the CEMP and DEMP, and reference to it in the OLEMP, will ensure that these protections are in place throughout the construction, operation and decommissioning works stages.</p>	<p>OLEMP (including final updates to the OHEMP) submitted at Deadline 10.</p>	<p>The text within these documents ensures that multi use parcels will be able to achieve the intended outcomes for ecology and heritage.</p>
Noise			
<p>Whether NMUs of PRowS are to be treated as noise receptors</p>	<p>While the Applicant acknowledges that NMUs are noise sensitive receptors and that short-term exposure to construction noise effects can cause disturbance, given the linear nature of PRowS, the range of noise impacts forming the ambient noise environment, and the transient usage of PRowS, no significant adverse effects on</p>	<p>Applicant's Response to LPA Deadline 6 Submissions [REP7-097]</p>	<p>Table 3-6 of the Framework CEMP [REP7-032] (further updated at Deadline 10) has been updated to include a requirement that, where noise complaints are received from NMUs, noise monitoring is to be undertaken to assess noise levels.</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	NMUs have been identified as arising from the Scheme.		NMUs have also been added to the list of parties with which engagement is required to be undertaken as part of the Communications Strategy.
Whether there will be adverse construction noise impacts on horses / equestrians	The Applicant considers that noise associated with the Scheme will not cause disturbance to horses or equestrian bridleway users.	Applicant's Response to Other Parties' Deadline 7 Submissions [REP8-022]	Table 3-6 of the Framework CEMP [REP7-032] (further updated at Deadline 10) has been updated to include a requirement to engage with equestrian groups on scheduling of construction activities with potential for generating high levels of noise in the vicinity of PRoWs or other highways frequently used by horse riders.
Funding statement			
Whether or not the funding statement is sufficient and compliant with guidance.	The Applicant's position is that the funding statement is sufficient and compliant with Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the "APFP 2009") and the Department of Communities and Local Government guidance 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (September 2013).	APP-023 and revised at Deadline 5 [REP5-004] and Deadline 7 [REP7-007] . This document should be read in conjunction with the Statement of Reasons [EN010106/APP/4.1] .	The document has been revised to update company information and following the CAH1. The Applicant's position remains that the funding statement is sufficient and compliant with guidance. The Applicant has included additional information surrounding the costs associated with land acquisition, the corporate structure of the company funding the Application and additional consolidated accounts.

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
Socio-economics			
<p>Whether the baseline employment figures presented in the socio-economics assessment were appropriate and as such whether the benefits of the scheme are accurate.</p>	<p>The Applicant's position is that the approach taken to the assessment of employment generation and the baseline conditions relating to this presented in Chapter 12: Socio-economics and Land Use of the Environmental Statement [APP-044] is appropriate and the potential benefits of the Scheme are considered to be accurate.</p>	<p>Chapter 12: Socio-economics and Land Use of the ES [APP-044]</p>	<p>The Applicant has engaged with the Councils to attempt to resolve the differences between their positions regarding the baseline and impact assessment.</p> <p>This has resulted in an agreement between the parties to 'agree to disagree' on these matters and focus on an appropriate approach to mitigation by means of the outline skills, supply chain and employment plan (OSSCEP).</p> <p>The OSSCEP was submitted with the application for DCO [APP-268] and revised at Deadline 2 [REP2-034], Deadline 3 [REP3-017] and Deadline 7 [REP7-043]. Comments received at Deadline 8 has resulted in revisions to the document to be submitted at Deadline 10.</p>
<p>Adequacy of the OSSCEP</p>	<p>The Applicant's position is that the OSSCEP submitted for Deadline 7 [REP7-043] is a well-developed plan and should be broadly supported by the Councils given</p>	<p>APP-268 and revised at Deadline 2 [REP2-034], Deadline 3 [REP3-017] and Deadline 7 [REP7-043]. A final version was submitted alongside this document at Deadline 10.</p>	<p>The OSSCEP was submitted with the application for DCO [APP-268] and revised at Deadline 2 [REP2-034], Deadline 3 [REP3-017], Deadline 7 [REP7-043] and Deadline 10 in</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	that it has been updated to reflect concerns raised.		<p>response to the Councils comments.</p> <p>The document has been revised to respond to comments from the Councils and is now agreed with the Councils.</p>
Traffic and Transport			
The level of detail provided in respect of site accesses affected by and required for the Scheme.	The Applicant has provided a lot of information on this point – indeed more information than would normally be expected at this stage in a DCO application – and has worked proactively with the local highway authorities to address any issues. For example, illustrative Site Access Drawings are included in the Framework CTMP [REP7-017], and these drawings have been discussed at length with the local highway authorities.	Annex C - Site Access Drawings of the Framework CTMP [REP7-021 to REP7-027] and Requirement 6 of the dDCO as submitted at Deadline 10).	<p>The Applicant took account of comments made by the local highway authorities by introducing illustrative Site Access Drawings in the Framework CTMP at Deadline 3A [REP3A-010 to REP3A-023], which have subsequently been updated with the latest versions being provided at Deadline 7 [REP7-021 to REP7-027].</p> <p>The approval of detailed design of accesses is provided for in Requirement 6 in the dDCO, and approval of technical plans and specifications is required under the local highway authority protective provisions.</p>
Information on AIL routes to be used	The Applicant has provided the local highway authorities with more than sufficient information on this point. The Framework CTMP [REP7-017] includes information on	Section 5 and section 7 of the Framework CTMP [REP7-017], updated from previous versions of the Framework CTMP: [APP-118], [REP3-013], [REP3A-004] and [REP5-015].	The Applicant has provided further information on AIL routes in the Framework CTMP [REP7-017] (further updated at Deadline

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	<p>the relevant assessment carried out.</p> <p>Moreover, in response to local authority concerns, the Applicant has commissioned a haulier, Allelys, to undertake a High-Level Route Summary [REP8-025] for ALLs to determine feasibility of routes from Ipswich Docks to the Sites. This report confirms that the proposed routes are feasible and deliverable.</p>	<p>Appendix D of the Framework CTMP - Crane and ALL Routes Review Drawings [REP7-028], updated from previous versions of Appendix D ([APP-118], [REP3-013], [REP3A-024] and [REP5-035])</p> <p>Appendix G of the Framework CTMP – Abnormal Indivisible Loads required for Sunnica Energy Farm [REP7-031]</p> <p>High Level Route Summary [REP8-025]</p>	<p>10) and the High-Level Route Summary [REP8-025].</p>
Cap on HGV deliveries	<p>As requested by local highway authorities the Applicant introduced a cap on HGVs, secured under the Framework CTMP [REP7-017]. This ensures that the level of HGV traffic generated does not exceed that assessed within Chapter 13 of the Environmental Statement [APP-045].</p>	<p>Chapter 13: Transport and Access of the ES [APP-045]</p> <p>Section 7 and Table 7-1 of the Framework CTMP [REP7-017].</p> <p>Statement of Common Ground with local authorities [REP8-029]</p>	<p>The Applicant has agreed to introduce a cap on HGV deliveries. This was discussed with the local highway authorities following Deadline 3A to ensure that the cap proposed was acceptable to them. The cap was introduced at Deadline 7 [REP7-017] and to provide additional confidence to the local highway authorities. This will mean that the level of HGV traffic generated does not exceed that assessed within Chapter 13: Transport and Access of the ES [APP-045]. Table 7-1 of the Framework CTMP [REP7-017] sets out the cap per access.</p>
Cap on construction staff vehicle numbers / staff vehicle impact	<p>The Applicant has agreed to include a cap on construction staff vehicle numbers. The cap is linked to an average occupancy of 1.5</p>	<p>Chapter 13: Transport and Access of the ES [APP-045]</p> <p>Technical Note: Transport and Access [REP2-041]</p>	<p>To ensure effectiveness of the CTMP and to give additional confidence to the local highway authorities, a cap on construction</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	<p>persons per vehicle, which the Applicant has demonstrated would not result in a significant effect in EIA terms. This measure is secured under the Framework CTMP [REP7-017]. Compliance with this cap can be achieved through a range of measures in addition to car sharing.</p> <p>The Applicant has confirmed that the key control measure of staff working hours is secured through the Framework CEMP [REP8-010].</p>	<p>Section 7 of the Framework CTMP [REP7-017], updated from previous versions of the Framework CTMP: [APP-118], [REP3-013], [REP3A-004] and [REP5-015].</p> <p>Framework CEMP [REP8-010], updated from previous versions including [APP-123], [REP2-026], [REP3-015], [REP5-043] and [REP7-032].</p> <p>Statement of Common Ground with local authorities [REP8-029]</p>	<p>staff vehicles numbers was introduced to the Framework CTMP at Deadline 3 [REP3-013]. The cap was initially set at an average occupancy of 1.3 persons per vehicle. This level was revised to 1.5 at Deadline 5 [REP5-015] and has been retained at this level [REP7-017].</p>
Condition surveys	<p>The Applicant has committed to undertaking condition surveys of the local highway network, including Public Rights of Way, for HGV routes. The Applicant has committed to funding proportionate and cost-effective preventative measures to limit the potential damage to the highway as a result of the construction of the Scheme (if such measures are considered beneficial following analysis of the survey findings) [REP7-017].</p>	<p>Framework CTMP [REP7-017], updated from previous versions of the Framework CTMP: [APP-118], [REP3-013], [REP3A-004] and [REP5-015].</p>	<p>Specific reference to undertaking relevant condition surveys on PRoWs was provided for in the version of the Framework CTMP [REP3A-004] submitted at Deadline 3A, as requested by the local highway authorities. This has been retained in the latest Framework CTMP [REP7-017]. A new requirement has also been added into the draft DCO at Deadline 10 (requirement 24).</p>
Reinstatement of Public Rights of Way	<p>As requested by the local highways authorities the Applicant has included a new Requirement in the final version of the dDCO, providing that the Applicant cannot exercise its powers under article 11(1) or</p>	<p>Requirement [24] of the dDCO as submitted at Deadline 10</p>	<p>The Applicant has agreed to introduce a Requirement to the dDCO on this issue and this is provided for in the version at Deadline 10 (Article 11(8) and Requirement 24).</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	<p>article 11(3) of the dDCO until a reinstatement plan has been submitted and approved by the relevant county authority or authorities.</p>		
<p>Avoiding closure of Public Rights of Way</p>	<p>The Applicant has committed under the Framework CTMP [REP7-017] to closing temporarily PRow only where there is no reasonable alternative that would enable the works to be carried out safely and expeditiously within the limits of deviation for that work. Alternative proposed methods, e.g. use of marshals, are referred to in the Framework CTMP.</p> <p>In addition, the relevant local highway authority or authorities will be consulted on PRow management or closures in accordance with article 11 of the dDCO.</p>	<p>Public Rights of Way Closure Note [REP5-068] Section 6 of the Framework CTMP [REP7-017], updated from previous versions of the Framework CTMP: [APP-118], [REP3-013], [REP3A-004] and [REP5-015].</p> <p>Draft DCO as submitted at Deadline 10</p>	<p>The Applicant's Framework CTMP [REP7-017] states that several PRows may need to be closed temporarily for a maximum of three weeks, as a worst-case scenario. In addition, it acknowledges the local highway authorities' preference to avoid PRow closures where they are required for vehicles to cross a PRow, with other solutions such as marshals being possible alternative options. The Applicant has also clarified in the document that PRow will only be closed temporarily in the event there is no reasonable alternative to closure that would enable the relevant works to be carried out safely and expeditiously within the limits of deviation for that work.</p> <p>The local highway authorities have confirmed in their Deadline 8 submission [REP8-051] that they are content with this wording in the Framework CTMP.</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
Approval of traffic regulation measures by the relevant local highway authority	The Applicant has agreed to this point. Under article 44(1) of the dDCO, the Applicant is required to obtain the consent of the relevant local highway authority when carrying out the measures provided for in article 44(1) of the dDCO for the purposes of construction, maintenance and decommissioning of the authorised development. Consent is also required under article 44(2) where the Applicant wishes to temporarily place traffic signs and signals in relevant roads in connection with construction, maintenance and decommissioning.	Draft DCO as submitted at Deadline 10	The Applicant has accepted the position and incorporated in the version of the dDCO [REP4-004] submitted at Deadline 4 the requirement to obtain the consent of the relevant local highway authority for the purposes of article 44(1) and 44(2).
Road safety	The Applicant has addressed each specific concern raised by the local highway authorities on road safety through technical evidence and analysis. The local highway authorities have accepted that those concerns have been addressed. To provide further confidence, the Applicant has committed to monitoring road safety where relevant under the Framework CTMP [REP7-017].	Framework CTMP [REP7-017], updated from previous versions of the Framework CTMP: [APP-118], [REP3-013], [REP3A-004] and [REP5-015] Statement of Common Ground with local authorities [REP8-029]	In response to local highway authorities' concerns around road safety, the Applicant introduced at Deadline 3 [REP3-013] a commitment to monitoring road safety where relevant [REP7-017].
Operational activities / movements	The Applicant has a suitable mechanism to address any concerns about the scope of	Operational Environmental Management Plan [REP8-014]	Paragraph 2.1.1 of the Operational Environmental Management Plan submitted at Deadline 7 [REP7-036] provides

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	<p>'maintain' under the dDCO in terms of transport effects and informing the relevant planning authorities of its annual maintenance plans.</p>	<p>Requirement 15 in the dDCO as submitted at Deadline 10</p>	<p>that every 12 months from the date of final commissioning, the Applicant will submit a planned maintenance schedule for the year ahead to the relevant planning authorities (excluding unforeseen emergencies). That schedule will include e.g. details of transport requirements, and will confirm that the environmental effects (and environmental controls to be implemented) from that maintenance are not materially worse than those reported in the ES.</p>
<p>Monitoring, reporting and enforcement of proposals / measures</p>	<p>The Applicant has taken account of comments raised by local highway authorities on this issue and has produced a robust and deliverable Framework CTMP [REP7-017].</p>	<p>Framework CTMP [REP7-017], updated from previous versions of the Framework CTMP: [APP-118], [REP3-013], [REP3A-004] and [REP5-015].</p>	<p>The Applicant has introduced throughout the examination further monitoring and enforcement measures under the Framework CTMP [REP7-017]. This ensures that the proposals and relevant measures are robust and deliverable.</p>
<p>Traffic data</p>	<p>The Applicant considers that it has included a robust transport evidence base within its assessment. This is despite it not being possible to collect new traffic data for the assessment due to restrictions relating to the pandemic.</p> <p>To provide further confidence to the local highway authorities, the</p>	<p>Chapter 13: Transport and Access of the ES [APP-045]</p> <p>Technical Note: Transport and Access [REP2-041]</p>	<p>The Applicant's position on this issue has remained consistent throughout.</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	<p>Applicant collected additional data at agreed locations to provide greater data coverage.</p> <p>In addition, WEBTris data on the Strategic Road Network was collected for 2022 and compared against data from 2019. The Applicant considers using 2019 traffic flows in Chapter 13: Transport and Access of the ES [APP-045] is robust due to those flows being higher than in 2022.</p>		
<p>Non-Motorised Users (NMUs) assessment</p>	<p>The Applicant undertook some additional surveys on the PRow network, as presented in the Technical Note: Transport and Access [REP2-041]. The findings substantiate the conclusion within the Environmental Statement (Chapter 13: Transport and Access of the ES [APP-045]) that there is no significant impact on NMUs as a result of temporary closures of relevant PRow during the construction phase.</p>	<p>Chapter 13: Transport and Access of the ES [APP-045]</p> <p>Technical Note: Transport and Access [REP2-041]</p>	<p>The Applicant's position on this issue has remained consistent throughout.</p>
<p>Saturday assessment</p>	<p>The Applicant has undertaken some additional survey work for Saturday traffic flows (see the Technical Note at [REP2-041]) which demonstrates that the use of average Monday-to-Friday traffic is robust for the purposes of the</p>	<p>Chapter 13: Transport and Access of the ES [APP-045]</p> <p>Transport Assessment [APP-117]</p> <p>Technical Note: Transport and Access [REP2-041]</p>	<p>The Applicant has addressed a concern raised by the local highway authorities by undertaking further survey work, which has demonstrated the transport assessments are robust.</p>

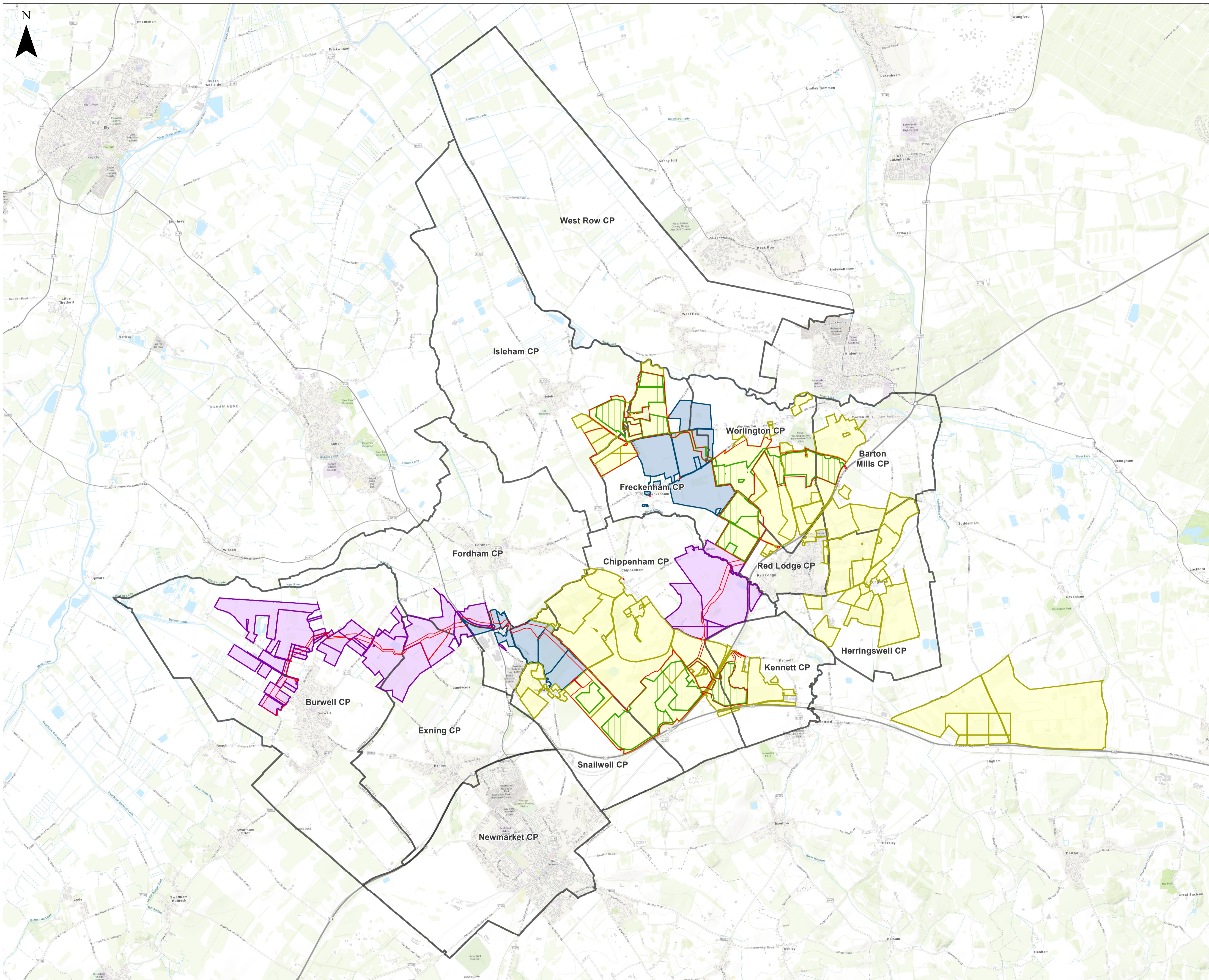
Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	assessment undertaken in Chapter 13: Transport and Access of the ES [APP-045] and the Transport Assessment [APP-117]).		
Assessment – link sensitivity	The Applicant considers that its assessment undertaken within Chapter 13: Transport and Access of the ES [APP-045] in terms of link sensitivity is robust. It has reviewed and responded to comments made by the local highway authorities (see Technical Note: Transport and Access [REP2-041]). This issue is also noted under “matters agreed” in the Statement of Common Ground with local authorities [REP8-029].	Chapter 13: Transport and Access of the ES [APP-045] Technical Note: Transport and Access [REP2-041] Statement of Common Ground with local authorities [REP8-029]	Following a request from the local highway authorities, the Applicant provided a link sensitivity plan in the Technical Note [REP2-041] it submitted at Deadline 2. The most recent SoCG with the local authorities includes this entry in ‘matters agreed’.
Side agreement	<p>The Applicant and the authorities have worked proactively and constructively with a view to addressing concerns around the practicalities of the implementation of the streets and related powers in the draft DCO.</p> <p>While those discussions are progressing at pace and are close to reaching an agreed position, in the event that such a position is not arrived at by the close of the examination, the Applicant has proposed protective provisions which would in the Applicant's view</p>	The Applicant's first draft protective provisions were accepted as additional submission AS-319.	<p>None, the Applicant has consistently sought to reach terms and proactively sought to agree heads of terms of with the local highway authorities prior to the beginning of the examination period.</p> <p>In relation to the protective provisions, the Applicant has taken on board comments made by the local highway authorities in its Deadline 10 development consent order. The principal outstanding issue relates to the giving of an indemnity, a matter in relation to which it is envisage would be concluded at the same</p>

Topic/Issue	Applicant's position	Cross references to examination library	Applicant's change in position during the Examination
	<p>appropriately protect the local highway authority's interests.</p> <p>Discussions with the local highway authorities on the terms of the protective provisions have progressed in parallel with negotiations on the side agreement.</p>		<p>time as the side agreement is completed.</p>

Appendix A - Land Owner Summary

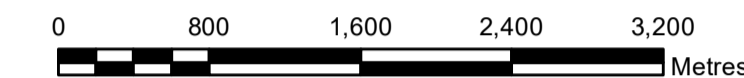
Land plot numbers	Owners	Position reached
Sunnica East A		
1-01 2-02 3-01 3-03 3-04 3-05 3-06 3-11 4-01	James Edward Waters, Jonathan Robert Waters	Option for lease completed
Sunnica East B		
5-03 5-05 5-07 5-12 6-01 6-03 6-04 7-01 7-03 7-04 7-05 7-08 8-01	Richard Joseph Mortlock, James Samuel Ford Mortlock	Option for lease completed
	Hugo Edward Upton EFG Nominees Limited EFG Trust Company Limited (as trustees of Colonel P V Upton's 1965 (no.3) settlement)	Documents agreed and engrossments issued for signing and completion.
	Harry Charles Buscall and Charles Donald Crole (as trustee of HE Upton 1997 Children Settlement)	Documents agreed and engrossments issued for signing and completion.
	Moulton Manor Farm	Option for lease completed
Sunnica West A		
9-08 9-09 10-06 10-07 10-08 10-09 10-10 10-11 10-21 10-22 11-07 11-08 12-01 12-02 13-02 13-03 13-04 14-01 14-02 14-03	Joanna Reeks, Richard Martin Tilbrook	Option for lease not yet agreed. However, agreement is anticipated to happen imminently. The Applicant will update the Ex A at Deadline 11.
	David Norman Chastel De Boinville, David William Barclay, Mills & Reeve Trust Corporation Limited (as trustees for Mrs D A Crawley's Will Trust)	Documents agreed and engrossments issued for signing and completion.
	Rebecca May Nicolle	Documents agreed and engrossments issued for signing and completion.

Appendix B - Deed of Obligation Plan



**The Sunnica Energy Farm Order
S.106 Agreement Land Plan**

- Key**
- Order limits
 - Principal Sites (Work No. 1 & 2)
 - Parish Boundary
 - Principal Site Landownership
 - Cable route titles to be identified in the s106 agreement
 - Remaining cable route titles



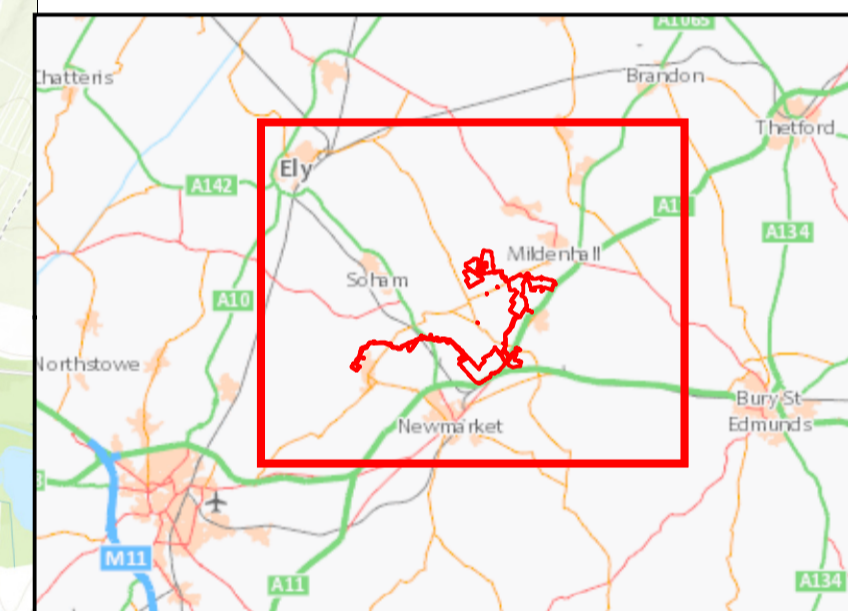
Notes
1. All dimensions are in metres unless stated otherwise

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Ver	Date	Description Of Change
00	MAR 2023	SUBMISSION FOR DEADLINE 7

DRAWING STATUS: **DRAFT**



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PROJECT: Sunnica Energy Farm Development Consent Order (DCO)

TITLE: Sunnica S.106 Agreement Land Plan

SCALE @ A1: 1:40,000	CHECKED: MF	APPROVED: VB
PROJECT No: 70050915	DESIGNED: NM	DATE: 20/03/2023

DRAWING No: 70050915-230301-WSP-PLN-DCO-001-BS	REV: 00
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