



Pinsent Masons

BY E-MAIL

Your Ref: EN010106
Our Ref: .661999\07003.

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30 August 2023

Dear Mr Wheadon

PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION BY SUNNICA LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED SUNNICA ENERGY FARM

RESPONSE TO REQUEST FOR INFORMATION

Pinsent Masons LLP is instructed by Sunnica Limited ("**Sunnica**") in respect of its application for an order granting development consent for the Sunnica Energy Farm ("**SEF**"). Sunnica has received your letter dated 23 August 2023 and provides a response to it below. We have adopted the headings as set out in your letter.

1. OUTLINE HISTORIC ENVIRONMENTAL MANAGEMENT PLAN (OHEMP)

In response to paragraph 3 of your letter:

1.1 No further discussions about the wording in the OHEMP have taken place since the close of the examination. This is because the Applicant considers the additional information relating to the scheduled monument in W09 is more appropriate in an archaeology Method Statement post consent, coupled with Historic England agreeing to discuss the detail in the Method Statements as set out in the Statement of Common Ground ("**SoCG**") with Historic England [REP10-028]. The OHEMP at page ii (Appendix E to the Outline Landscape and Ecology Management Plan [REP10-012]) states that "*The OHEMP is a living document that is required to be regularly updated, with APA [Archaeological Protection Areas] specific HEMP method statements....*"

1.2 In respect of construction, the Historic Environmental Management Plan Method Statements ("**HEMPMS**") will be submitted alongside the final form Construction Environmental Management Plan ("**CEMP**") (see paragraph 3.2.1 of the OHEMP). The

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CEMP is to be submitted pursuant to requirement 14 of the draft Development Consent Order [REP10-005].

- 1.3 In respect of operation, the HEMPMS will be submitted alongside the final form Landscape and Ecology Management Plan (“**LEMP**”) (see paragraph 3.3.3 of the Outline LEMP [REP10-012]). The LEMP is to be submitted pursuant to requirement 8 of the draft Development Consent Order [REP10-005]. Paragraph 3.6.4 of the OHEMP states that the HEMPMS will be consulted upon with Historic England.
- 1.4 An outline of the proposed management of W09 is presented in Section 3.3 of the OHEMP (Appendix E to the Outline LEMP [REP10-012]), which will be further developed within the above mentioned Method Statements post consent, working alongside Historic England. Paragraph 3.6.4 says: *“The HEMPMS [Historic Environment Management Plans] for APAW09 must also commit to a series of management measures to improve the protection of the Scheduled Monument throughout the life of the Proposed Scheme. The content of the draft operation phase HMPMS for APAW09 will be consulted upon with Historic England before inclusion within the final HMPMS.”*
- 1.5 Whilst a slight disagreement remained as to when the information would be provided, the signed SoCG with Historic England [REP10-028] states *“...more information on this point will be provided in the Method Statements to be provided post-consent, as set out in the updated OHEMP submitted at Deadline 10”*. It goes on to say Historic England *“welcomes that it will be consulted on the Method Statements as they are developed and the commitment to include that information.”*

2. **STONE CURLEW**

In response to paragraph 4 of your letter:

- 2.1 The Applicant has not been provided a brief by Suffolk County Council (“**SCC**”). The Applicant does not consider that a brief from SCC is required at this stage as the OHEMP (Appendix E to the Outline LEMP [REP10-012]) secures the requirement for site specific HEMPMS in areas where Stone-curlew offsetting habitat will be provided to be approved by the LPAs (in paragraph 1.1.3 of the OHEMP). In addition, any archaeological investigations will be the subject of Site Specific Written Schemes of Investigation approved by LPAs pursuant to the Detailed Archaeological Mitigation Strategy (“**DAMS**”) [REP10-052] (requirement 13 of the draft Development Consent Order secures the DAMS).
- 2.2 The meeting between SCC, Cambridgeshire County Council (“**CCC**”) and AECOM (on behalf of the Applicant) on 9th February 2023 identified that, should a topsoil strip to be necessary where arable farmland is to be reverted to semi-natural grasslands but this was unacceptable from an archaeological perspective, there is an alternative approach to achieve the same end point through a reduction in phosphate levels using, for example, a continuation of cropping without the use of fertilisers. This is included in the Outline LEMP in para 5.15.54 [REP10-012]:

“Where arable farmland is to be reverted to semi-natural grasslands, the preferred option for achieving this is by skimming off the existing ploughed topsoil which effectively reduces phosphate availability. Alternatively, options to reduce phosphate levels can include a continuation of cropping for a number of years, but without additional nutrients being added. Once ready, the soil will be subject to light harrowing to prepare for the sowing of the seeds. Whilst, natural regeneration and colonisation of



the existing seedbank may be desirable, this may take many years to establish. To achieve quicker ground coverage and establishment of the desired grassland, seeding is likely to be the most appropriate approach.”

In response to paragraph 5 of your letter:

- 2.3 The relevant archaeological consultees referred to are CCC and SCC. As highlighted above, the Applicant discussed appropriate methods for creating and managing Stone-curlew plots with the relevant archaeology consultees with the LPAs during the examination, culminating in the final submitted OHEMP (Appendix E to the Outline LEMP [REP10-012]). The SoCG with the LPAs does not indicate any concern of the LPAs in respect of that document.

In response to paragraph 6 of your letter:

- 2.4 It was identified early on in developing offsetting measures for Stone-curlew that it was necessary to apply slightly different establishment and management techniques in ECO1 due to sensitive archaeology and that these did not follow the details of plot creation and management provided by the RSPB information Note ‘*Managing nest plots for stone-curlews*’ to the letter. Therefore, to avoid any confusion, reference to this guidance was removed for ECO1 and site-specific requirements adopted. These were broadly in line with the RSPB guidance.
- 2.5 Natural England confirmed in its signed SoCG at Deadline 10 [REP10-027] that it is satisfied with the Stone-curlew mitigation proposed (see page 8 which says “*Following the Applicant’s Examination submissions and information shared with Natural England, Natural England is now satisfied that...the proposed mitigation and management of the offsetting land as set out in the Landscape and Ecology Management Plan of the Environmental Statement [REP7-016] and the Offsetting Habitat Provision for Stone-curlew Specification [REP5-046] [REP5-047] is sufficient*”. (Note – the SoCG does contain an error where it notes on page 17 that mitigation measures “*are appropriate to avoid, prevent, reduce, manage, control and (where necessary) monitor the adverse effects of the Scheme. The exception to this is the stone curlew offsetting land which is still under discussion.*” However, the last sentence is a hang-over from previous drafts of the SoCG. Through discussions during the examination, Natural England and the Applicant agreed the stone curlew offsetting land. This is made clear in Tables 3 and 4 of the SoCG, which confirm that no items remain under discussion or not agreed. Natural England is satisfied with the Offsetting Habitat Provision for Stone-curlew).
- 2.6 With reference to CCC’s response at Deadline 6 [REP6-057, page 22], CCC requested that the wording in the Offsetting Habitat Provision for Stone-curlew was updated to reflect this position. The Applicant can confirm that this has been amended within the Outline LEMP [REP10-012] (see para 5.15.36 and Annex F of the Outline LEMP (Offsetting Habitat Provision for Stone-Curlew Specification)).
- 2.7 As agreed with Natural England, the techniques do not strictly follow all of the guidance in the RSPB Information Note (‘*Managing nest plots for stone-curlews*’) and the requirements set out in the Countryside Stewardship Higher Tier Guidance Note (‘*AB4: Nesting plots for Stone-curlew*’). However, the habitat provided is broadly in line with what is set out in these notes but adapted to site specific circumstances (as must be the case for all mitigation).
- 2.8 This explains why the Outline LEMP (Annex F, Section 4) states that creation of plots within ECO2 and ECO3 will follow guidance provided by the RSPB and the Countryside Stewardship Higher Tier, but not ECO1.



3. FINAL POSITION REACHED WITH LANDOWNERS AND COUNCILS

In response to paragraph 7 of your letter:

- 3.1 As detailed in the Schedule of Negotiations and Power Sought which it submitted at Deadline 11, the Applicant has exchanged on the Option Agreements for Leases/Easements in respect of the development of Sunnica East A and B and Sunnica West with: -
- 3.1.1 Cara Rohays Stoney and Robin David Barclay
 - 3.1.2 Richard Martin Tilbrook, Heather Kelly Tilbrook, Joanna Reeks, Charlotte Caroline Tilbrook
 - 3.1.3 Richard Martin Tilbrook and Joanna Reeks
 - 3.1.4 EFG Trust Company Limited, EFG Nominees Limited, Hugo Edward Upton, Harry Charles Buscall and Charles Donald Crole
 - 3.1.5 Rebecca May Nicolle, Mills & Reeve Trust Corporation Limited, David William Barclay
 - 3.1.6 James Samuel Ford Mortlock and Richard Joseph Mortlock
 - 3.1.7 Moulton Manor Farm
 - 3.1.8 James Edward Waters and Jonathan Robert Waters'
- 3.2 The above means that the Applicant has concluded option agreements with all of the freehold landowners of Sunnica East A and B and Sunnica West and there are no outstanding objections from any of these landowners. This includes the landowners at paragraphs 3.1.2 and 3.1.3 and we include with this letter, for ease of reference, the removal of those landowners' previous objection which was enclosed with our client's letter dated 26 June 2023.
- 3.3 Save for comments made below, in respect of the cable corridor the position remains as reported in the Schedule of Negotiations and Powers Sought.
- 3.3.1 Richard Martin Tilbrook and Joanna Reeks have also completed an option for a cable easement [Plots 09-06, 10-17, 10-28, 10-33 and 11-01] within the cable corridor.
 - 3.3.2 The Applicant can now confirm that it has concluded an Option for an Easement over land under the ownership of HPUT A Limited and HPUT B Limited (Plots 16-03, 16-04 and 16-07). The outstanding objection from HPUT A Limited and HPUT B Limited was withdrawn on the same date as this letter. For ease, we enclose a copy of that withdrawal.
 - 3.3.3 In respect of the cable corridor the Applicant is in the process of negotiating an Option Agreement and Easement with Network Rail and the documents



are currently being progressed. with a view to reaching agreement on the terms.

3.3.4 Negotiations have continued with all landowners along the cable route since the close of the examination but no further option agreements have been completed.

3.4 As a further update to our letter on behalf of our client dated 10 August 2023, the Applicant has continued its discussions with SCC and CCC in terms of side agreements relating to highways matters. In relation to SCC, engrossments are in circulation and both parties are making arrangements to execute the documents. For CCC, the relevant side agreement is in agreed form and arrangements are being made for issuing engrossments and execution. We will write to you again when the agreements are concluded.

In response to paragraph 8 of your letter (Plots 09-07, 11-05 and 11-06)

3.5 These plots currently are existing hedgerows along La Hogue Road. However, the Applicant (pursuant to the Outline LEMP and its associated Environmental Masterplans) has included proposals to reinforce the existing hedgerow with new planting for the purposes of landscape mitigation and as such it needs to acquire the freehold of this land to ensure control over the landscape mitigation it needs to deliver for the development to meet its commitments in the Outline LEMP as required by the DCO. It therefore does not consider that acquisition of rights over this land would be sufficient. The Applicant does not consider any changes are required to the application documents.

In response to paragraph 9 of your letter (Plots 01-02, 01-03 and 05-11)

3.6 In respect of plots 01-02 and 01-03 the Applicant requires powers to maintain the visibility splays required for the access in this location as well as to deliver access improvements. It is content that those powers can be delivered by compulsorily acquiring necessary rights through the DCO to undertake vegetation management and that compulsorily acquisition of the freehold would be unnecessary. It has updated the following documents to give effect to this:

3.6.1 draft Development Consent Order (clean and track changes). The amendments made are explained below;

3.6.2 amended Land and Crown Plans which turns Plots 01-02 and 01-03 blue from pink; and

3.6.3 amended Book of Reference (clean and track changes) to account for both of the above.

3.7 In respect of plot 05-11 this plot is currently occupied by an existing belt of trees which the Applicant needs to retain for the purposes of mitigation. As per plots 01-02 and 01-03 it is content that those powers can be delivered by compulsorily acquiring necessary rights through the DCO to undertake vegetation management and that compulsorily acquisition of the freehold would be unnecessary. It has updated the documents referred to above to give effect to this change.

3.8 By way of explanation, the amended draft Development Consent Order submitted with this letter is an amendment to the DCO submitted at deadline 10 [REP10-005] and not



the without prejudice DCO also submitted at that deadline [REP10-034]. The changes are minor but cover the following:

3.8.1 In Schedule 8 we have:

- (a) reordered the definitions so that crane rights appears alphabetically; and
- (b) inserted a definition of vegetation maintenance rights and applied that to plots 1-02, 1-03 and 5-11.

3.8.2 In Schedule 10 we have:

- (a) inserted amendments to the versions of the book of reference and land and crown plans as a consequence of submitting revised versions of these documents with this letter; and
- (b) made amendments which were set out in our client's letter dated 26 June 2023 which sought to correct typographical errors. They were:
 - (i) the campus plan was incorrectly dated;
 - (ii) the crash site exclusion area plan was incorrectly dated;
 - (iii) the Deed of Obligation has been dated; and
 - (iv) the revision number of the FRA has been updated.

Yours faithfully

This letter is sent electronically and so is unsigned

Enclosure:

- 1) Removal of objection letter from Tilbrook
- 2) Draft DCO (in clean and tracked)
- 3) Land and Crown Plans
- 4) Book of Reference (in clean and tracked)
- 5) Schedule of Changes to the Book of Reference
- 6) Removal of objection letter from FHPUT