

Date Monday 14<sup>th</sup> August 2023

From Alan Smith [REDACTED] Email address  
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Planning Inspectorate Identification number 20030110.

To Mr John Wheadon Head of Energy Infrastructure Planning Delivery Department for Energy Security and Net Zero

Dear Mr Wheadon

**Re Sunnica Energy Farm ref EN010106 Your Public Letter 27<sup>th</sup> July 2023 on behalf of the Secretary of State to Sunnica Ltd para, 4 BESS Design and Hazardous Substance Consent (HSC)**

### **INTRODUCTION**

I refer to WR dated 13<sup>th</sup> October 2022 to the Planning Inspectorate in which I reserved the right to add further information as it became available.

I exercised that right on the 26<sup>th</sup> June 2023 in a letter to Rt Hon Grant Shapps sent via the Planning inspectorate.

This is another addition to that letter and I have pleasure in attaching section "C" for ease of referral, headed Additional information re BESS Liverpool Fire.

I have been a resident of Worlington for the last 7 years, 4 years of which have been lived under the cloud of the Sunnica proposal and the consequences for local residents if the proposal was granted planning consent.

The plan is for 75 acres of BESS located in a triangle around local villages, including Worlington, but within a small radius of 5 miles affecting a population of some 20,000 people if a fire and explosion catastrophe ever happened and evacuation was required.

During the Planning Inspectorate process over the last 3 years I have been deeply involved with the risks involved with BESS fires globally especially the Carnegie Road Liverpool BESS fire and explosion that happened in September 2020. The developer was Orsted Ltd.

I have been a committee member of the Say No To Sunnica Action Group Ltd specialising in 2 subjects, BESS risks and the Funding Statement, (my career was 40 years in Corporate Finance).

Therefore I have a special interest in your above letter to Sunnica Ltd and the reply of the 10<sup>th</sup> August 2023 from Pinsent Masons on behalf of the applicant.

Frankly I find the reply from the Solicitors totally unsatisfactory and it does not answer the questions you put forward.

The local community are not going to be so naïve as to accept that the design and regulations were not possible to put in place prior to the final date of the examination 28<sup>th</sup> March 2023.

The decision whether it is safe to place 75 acres of BESS locally has to be based on fact and evidence. All the evidence says BESS are unsafe.

Therefore the HSE regulations 1999 and/or 2015 have to be in place before consent is given. The final design has to be known so accurate calculations can be done on the explosion risk on an anticipated BESS development described as one of the largest in the world. Cont.

## **LIVERPOOL BESS FIRE.**

I would now like to comment further on the Liverpool BESS fire in 2020. The developer was the Danish company Orsted which is 51% owned by the Danish Government. It was their first onshore BESS development in the UK. The fire and explosion happened 12 months after commissioning and became the first BESS fire experienced in this country.

I now refer to my Attachment (C) of the letter dated 26<sup>th</sup> June to the SoS. I see no reason to comment further here as to the content only to say the Judge has still not heard my case. The bundles went to the panel last week for reading and a written decision from the Judge is not now expected until October.

However last week when searching Companies House Register for the Sunnica 4 UK Companies there appeared to be a link with Orsted and Sunnica.

## **TIMELINE**

- September 2020 Liverpool Fire.
- November 2020 Merseyside Fire and Rescue Service (MFRS) issue an interim fire report to National Fire Chiefs Council (NFCC), The Home Office and Health and Safety Executive (HSE).
- August 2021 Orsted Onshore UK Ltd changes name from Brookfield Renewable UK Ltd.
- December 2021 Merseyside Fire and Rescue Service (MFRS) main report is completed and sent to Orsted for comment.
- December 2021 to March 2022 a period of 13 weeks Orsted makes changes to the MFRS reports.
- March 2022 MFRS releases their 2 final Fire reports.
- January 13<sup>th</sup> 2023 Sunnica delays the 2022 audited accounts for all 4 UK companies until June 30<sup>th</sup> 2023 with Companies House.
- March 28<sup>th</sup> 2023 Planning Inspectorate 6 month examination closes.
- May 4<sup>th</sup> 2023 One Earth 740 SPV Ltd incorporated Co no 14847053.
- June 27<sup>th</sup> 2023 Padero Solaer Ltd has a charge registered at Companies House between itself as seller, to Orsted Onshore UK Ltd as buyer, as to the entire issued capital in One earth 740 SPV Ltd.
- June 28<sup>th</sup> 2023. The last day for the Planning Inspectorate to make their recommendation to the SoS.

## **PADERO SOLAER LTD**

The directors are Glenn Lockhart and Adrian Mozas.

Adrian Mozas is a director of Sunnica Ltd

The shareholders are Padero Solar Ltd and Sumando Ltd.

Padero Solaer Ltd is included in the organogram as part of the Sunnica Ltd Funding Statement as part of the corporate structure.

Cont.

## ONE EARTH 740 SPV LTD

The company was incorporated on the 4<sup>th</sup> May 2023 and has three current directors one of whom is Matthew Justin Hazell who was appointed on the 4<sup>th</sup> May 2023. He is a director of Sunnica Ltd.

Companies House records note;

- **Nature of Business.** Activities of other holding companies not elsewhere classified.
- **The registered Office** of the company is the same as Sunnica Ltd.
- **Initial shareholdings** quote Padero Solaer Ltd as the shareholder with 10,000 shares.

SPV in the company title stands for Special Purpose Vehicle which many companies use for investment purposes or the sale and purchase of a business.

What we see at the moment is the name Orsted being linked to Sunnica. Therefore with the facts as quoted in my attachment "C" of my letter dated 26<sup>th</sup> June 2023 it feels only right to draw this to the attention of the decision makers for the Sunnica application.

I must stress there is no evidence provided of what the legal charge relates to.

## SUNNICA LTD

The directors are Matthew Justin Hazell, Adrian Mozas and Marcus Luke Murray.

## SUMMARY

Orsted have never produced their own fire report on the Carnegie Road Liverpool BESS fire and explosion despite many requests. They did not agree a Battery Energy Safety Management Plan with MFRS prior to the site being commissioned.

Orsted were responsible for that fire and the cause has never been identified.

It will be noted from the timeline how information from Sunnica Ltd has been released after relative closing dates set by the Planning Inspectorate. This means important information to enable the Inspectors to make their recommendation has been missing.

Therefore, in my opinion, Pinsent Mason's response to your letter of the 27<sup>th</sup> July 2023 is unacceptable. The final design and all safety regulations should be in place BEFORE consent is given to the Sunnica Ltd application to include 75 acres of BESS installation.

I note Pinsent Masons on page 3 (2.6) makes mention of Longfield and Cleve Hill NSIPs.

Every NSIP for Solar has to be judged individually. Cleve Hill consent was given May 28<sup>th</sup> 2020, 4 months before the Liverpool fire and explosion took place. Longfield is not similar in size to Sunnica and therefore Pinsent Masons should not quote those 2 consents as a precedent for Sunnica Ltd.

Yours sincerely

Alan B Smith Worlington Suffolk.



**BESS**

**BATTERY ENERGY STORAGE SYSTEMS**

**(C.1)** The ExA has heard during the 6 month examination of serious concerns on safety issues from myself, in my written representation dated 13<sup>th</sup> October 2022 (Planning Inspectorate REF REP2-098a) Appendix No 6 Paras 6-16 to 6-28, and from Academics.

**(C2)** The Academics reports can be viewed in the Library ref;

- **REP2-098d** ResearchGate Safety of Grid Scale Lithium-ion BESS
- **REP2-098e** Hazardous Assessment of BESS by Ian Lines Atkins Ltd.

My WR also indicated I reserved the right to send in further evidence as and when received.

**(C3)** There is now further information available re the Liverpool BESS fire and explosion September 2020 which I wish to share with the Secretary of State.

- February 2021 I lodged a complaint with Merseyside and Rescue Service (MFRS) and requested information under the Freedom of Information Act.
- March 2022 I refer my complaint to The Information Commissioners Office (ICO).
- December 2022 I receive the ICO final report upholding the MFRS decision not to release certain "so called sensitive information" under the FOI.
- January 2023 I appeal the ICO decision with the General Regulatory Chamber-First-tier Tribunal.

**(C4)** The 2 MFRS fire reports can be viewed in the Library ref;

- **REP2-098b** MFRS Incident Investigation team Fire report.
- **REP2-098c** MFRS Significant Incident report.

**(C5)** As at the date of this report The Judge and Tribunal at The First Tier Tribunal have not met to make a decision on my appeal to the Commissioners decision.

This should be available by the end of July so I reserve my right to correspond with the Secretary of State when the decision is published.

**C6) REASONS FOR APPEAL**

MFRS under the Freedom of Information Act would not disclose to me a report dated November 2020, some 2 months after the incident in Liverpool in September 2020.

In December 2021 I was advised the report on the fire was ready for signing off by management at MFRS and was also going to Orsted for comment.



The report was not released until March 2022. I then requested all correspondence between MFRS and the developer Orsted,( A Danish Company) over a 2 year period until march 2022.

I was told there was sensitive information that would affect the trading position of Orsted.

The Commissioners report stated that the sensitive information as quoted by MFRS was in fact inaccuracies as quoted by Orsted. Having accepted Orsteds arguments MFRS subsequently made amendments to some sections of the report before completing it.

What is disturbing is the degree of control potentially exercised by the operator Orsted over the content of the draft report. Orsted were in a powerful position to influence content, going beyond "inaccuracies". The long delay between the incident (September 2020) and the release of the reports (March 2022) has already indicated to close observers an unwarranted degree of suppression of information, which even Members of parliament were unable to release.

Whatever the Judge decides in my appeal, there is clear evidence that MFRS is accountable to the British public and not Orsted.

#### **(C7) NATIONAL FIRE CHIEFS COUNCIL (NFCC)**

The Lead Officer for the NFCC covering Alternative Fuels and Energy Systems is Matthew Deadman. In 2021 he advised me ;

- The NFCC works to drive sector improvement but does not have a role in instructing individual fire and rescue services, or local planning matters.
- Therefore the 51 County Fire regions each train their own staff which means the NFCC has no national policy for training fire fighters for BESS fires and explosions.

On the 21<sup>st</sup> April 2023 the NFCC issued their final Grid Scale BESS Planning Guidance for Fire and Rescue Services. However it has to be emphasised these are purely guidance notes.

The fact it is 21/2 years since the Liverpool Fire and Explosion and 12 months since the MFRS 2 Fire Reports were published it is considered this is far too long a period for such a serious incident.

Academics are of the opinion, the safety controls required for grid-scale BESS should not primarily be the responsibility of Fire and Rescue Services, but of the "COMAH Competent Authority (CA)" administering the Control Of Major Accident hazards (COMAH) Regulations 2015.

#### **SUMMARY**

I request the Secretary of State to please take into consideration the 3 sections of this report when reading the recommendation of the Planning Inspectors and making the final decision on the Sunnica Ltd application..

Yours faithfully

Alan B Smith