

From: [REDACTED]
To: [Sunnica Energy Farm](#)
Subject: Response to Examining Authority's Letter of 14/12/24 REF SUNNICA
Date: 25 January 2024 14:22:20
Attachments: [1186 BN20 DRAFT Sunnica PVD 2024 Response .docx](#)

You don't often get email from [REDACTED]

Dear Sir/Madam

Ref: Review of Responses to Examining Authority's Letter of 14/12/24

Thank you for your email advising of additional information following the Examining Authority's letter of 14th December.

I understand that the Newmarket Horseman's Group has reviewed the documents as submitted and remains of the opinion that the application should be refused. I personally also remain of the opinion that it is not an effective use of land but is an example of bad solar which causes disproportionate harm to the location, local economy, and local communities.

In particular, I fully support the representation as made by Michelle Bolger of Expert Landscape Consultancy, and submitted on behalf of the Say No To Sunnica Action Group. This representation confirms that the applicant has been unable to identify effective further mitigation measures, and in particular, has failed to recognise the national and international importance of the eminent Limekilns Gallops.

Yours faithfully

Edmond Mahony
Chairman – Tattersalls Ltd

Tattersalls Ltd

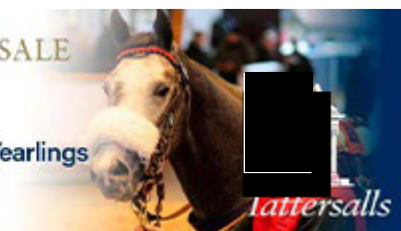
[REDACTED]
www.tattersalls.com

EUROPE'S PREMIER MIDWINTER SALE

February Sale

Fillies/Horses in Training, Broodmares and Yearlings

February 1 - 2

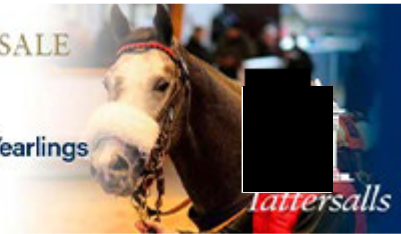


EUROPE'S PREMIER MIDWINTER SALE

February Sale

Fillies/Horses in Training, Broodmares and Yearlings

February 1 - 2



EUROPE'S PREMIER MIDWINTER SALE

February Sale

Fillies/Horses in Training, Broodmares and Yearlings

February 1 - 2



Landscape Briefing Note 20

Project: 1186 Sunnica PVD
Date: 25th January 2024
Purpose: Review of Sunnica's Responses to ExA Letter of 14/12/24
Reference: 1186 BN20 DRAFT Sunnica PVD 2024 Response .docx

Introduction

1. This Landscape Briefing Note has been prepared on behalf of Say No to Sunnica (SNTS). It responds to a Technical Note prepared on behalf of Sunnica Energy Farm (Sunnica) by Jon Rooney of Arup. The Technical Note was prepared in response to a letter from the Examining Authority (ExA) dated 14/12/23 which requested further information on:
 - 3) *With reference to NPS EN-1 paragraph 5.9.8, the Applicant is asked to:*
 - i) *provide any updates to its position on the mitigation provided for landscape and visual impacts.*
 - ii) *with the aim of minimising harm to the landscape and visual effects as far as reasonably possible, advise whether their work concluded that the proposed mitigation was the best available or if any further mitigation could reasonably be provided.*
2. The introduction to the Technical Note sets out Mr Rooney's role in the Sunnica Project. In addition, it sets out some of Mr Rooney's experience including that he was '*lead author of technical guidance on infrastructure (Technical Guidance Note 04/20), published by the Landscape Institute, which includes specific considerations for solar farm development.*' As far as we can ascertain this is the first reference to Technical Guidance Note (TGN) 04/20 during the DCO Application and Examination. We are not aware of it being referenced by any of the landscape witnesses to the Sunnica DCO. It is not referenced in the LVIA written under the supervision of Mr Rooney although TGNs 6/19 and 02/19 are referenced.

-
3. Having reviewed TGN 04/20 we consider the reason that it is not referenced by any of the landscape witnesses is that it does not contain any specific guidance on undertaking an LVIA for solar farm development. On the question of undertaking an LVIA for solar farm development the section on Solar Farms (paragraphs 8.75-8.79, pages 46-47) simply refers to a BRE document '*Planning guidance for the development of large-scale ground mounted solar PV systems*'¹. The BRE document was published in 2013 and the authors of TGN 04/20 acknowledge it '*is based on advice from the Cornwall Council Landscape and Urban Design Unit and may be helpful in informing the scope and broader considerations of design, but its approach pre-dates the introduction of GLVIA3.*' (My emphasis). Not only does the BRE document predate GLVIA3, but it contains no references to valued landscapes or inevitably TGN 2/21 as it was published eight years earlier. The BRE document is now more than 10 years old. Is not helpful in assessing landscape and visual impacts of the scale or fragmented nature of the Sunnica proposals. I assume it is for this reason that it was not referred to by any of the landscape witnesses to the Sunnica DCO until this Technical Note.
 4. The 2023 revised NPSs (EN-1 to EN-5) came into force on 17 January 2024. I have therefore referred to the text and paragraph number in the 2023 revised NPSs. References to EN1 are to the 2023 version of EN! Unless stated otherwise.
 5. On a minor note, the lack of paragraph numbering in the Technical Note makes reviewing it more cumbersome than necessary.

¹ Technical Guidance Note (TGN) 04/20 Paragraph 8.78

Q 3i Updates on mitigation provided for landscape and visual impacts.

6. The ExA question with regard to mitigation refers to EN1 2011 paragraph 5.9.8. This paragraph does not appear in EN1 2023 but is split between several paragraphs including 5.10.6 which repeats the second half of EN1 2011 paragraph 5.9.8:

‘Projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.’

7. In response to this, the Technical Note seeks to rely on Paragraph EN1 (2023) 5.10.25 to justify its refusal to amend the scheme in order to minimize harm to the landscape. This reliance is based on taking Paragraph 5.10.25 in isolation rather than reading it as part of the whole of EN1. Paragraph 5.10.25 states that...*“Reducing the scale of a project can help to mitigate the visual and landscape effects of a proposed project. However, reducing the scale or otherwise amending the design of a proposed energy infrastructure project may result in a significant operational constraint and reduction in function - for example, the electricity generation output. There may, however, be exceptional circumstances, where mitigation could have a very significant benefit and warrant a small reduction in function. In these circumstances, the IPC may decide that the benefits of the mitigation to reduce the landscape and/or visual effects outweigh the marginal loss of function.”*
8. Sunnica contends that the mitigation measures recommended by SNTS and by the Councils would result in a noticeable reduction in function and, based on EN1 Paragraph 5.10.25 taken in isolation, are therefore not consistent with EN1. However, Sunnica’s claim, that EN1 should be interpreted to mean that any changes which result in more than a *‘small reduction in function’* are unacceptable, cannot reasonably be correct. If it were, virtually all changes to a submitted scheme would be unacceptable. This would be the case however poorly sited and designed the originally submitted scheme was, and however many significant harms were identified post submission.
9. We consider that EN1 Paragraph 5.9.21 is only applicable if all the earlier stages of Section 5.10 Landscape and Visual in EN1 have been undertaken correctly. With regard to the Sunnica proposals this is not the case. For example, concerning EN1 Paragraph 5.10.6 (quoted in paragraph 6 above), the failure in the early stages of siting and design to recognise the cultural and landscape value of the Limekilns Gallops means that the Sunnica scheme has not been designed carefully with regard to siting and has not minimised harm to the landscape.

-
10. This failure in the *‘early stages of siting and design, where site choices and design principles are being established’*² means that it was impossible for the applicant to *‘demonstrate in the ES how .. negative effects have been minimised’*³. The only way of minimising the negative effects on the landscape of the Limekilns Gallops is to remove development that is visible from it. This will inevitably result in more than a *‘small reduction in function.’* As the Applicant discovers when trying to retrofit the scheme (described on page 7 of the Technical Note with regard to the creation of a 4m bund along the edge of the scheme) post hoc mitigation is never as effective as making the right choices in the *‘early stages of siting and design, where site choices and design principles are being established’*⁴
11. Sunnica continues to resist recognising the value of the importance of the Limekilns. The Technical Note on page 2 refers back to Sunnica’s response to *‘second written questions (see Q2.0.6 in REP5-056)’*. Sunnica’s response on Page 27 of REP5-056 states that *‘it has been made clear that the Limekilns cannot be considered to be a ‘highly valued landscape.’* Firstly, this is the opinion of Sunnica, it is not an established fact as this sentence suggests. Secondly, it is not clear what Sunnica means by a *‘highly valued landscape’* as discussed below.
12. EN1 at 5.10.11 says *‘Outside nationally designated areas, there are local landscapes that may be highly valued locally.’* However, the term *highly valued landscape* does not appear in the NPPF, EN1 or the Landscape Institute’s TGN 2/21. It is indisputable given the evidence to the Examination that the Limekilns Gallops is *‘highly valued locally’* but we accept that this is insufficient on its own for a landscape to be defined as a valued landscape and have therefore carried out a full assessment as recommended in TGN 2/21. The term *‘highly valued landscape’* is used by Sunnica in its response to the written questions and by being placed in inverted commas suggests, inaccurately, that it is a quotation from somewhere. However, it appears that the term has been coined in order to claim that the Limekilns is not one, even though no definition of a *‘highly valued landscape’* has been provided.

² EN1 (2023) paragraph 5.10.18

³ EN1 (2023) paragraph 5.10.18

⁴ EN1 (2023) paragraph 5.10.18

-
13. There is clearly a disagreement between ourselves and the authors of the LVIA as to whether the Limekilns Gallops meets the definition of a Valued Landscape in TGN 2/21 (not a *'highly valued landscape'* for which there is no definition). The definition of a Valued Landscape in TGN 2/21 is *'an area identified as having sufficient landscape qualities to elevate it above other more everyday landscapes.'*⁵ We consider that the value of the landscape is high and it should be considered as a valued landscape for the purposes of NPPF. Even if the authors of the LVIA do not agree that the landscape qualities of the Limekilns are sufficient to meet the test, there should be no disagreement that it is close to meeting the test given all the evidence that has been provided by (among others):
- MBELC - Landscape and Visual Issues Paragraph 7.24 Annex A of SNTS's representations submitted at Deadline 2;
 - SNTS's heritage witness; and
 - The equestrian industry.
14. Even if the authors of the response to the second written questions considered that the Limekilns Gallops does not qualify as an NPPF valued landscape, it is hard to understand how they go from concluding that the Limekilns is not a *'highly valued landscape'* to a judgement that it is a landscape of *'low status'* (Q2.0.6 in REP5-056 Page 27). This is particularly so given the weight of evidence that the Limekilns Gallops does have value from landscape, heritage and community perspectives. Whilst the exact value of the landscape of the Limekilns may be a matter of dispute, the Limekilns is clearly not a landscape of low status.
15. The failure to recognise the value of the Limekilns Gallops and therefore the very significant landscape and visual benefits that would be derived from omitting development that would be visible from the Limekilns appears to be at the root of the Applicant's contention that *'the removal of the parcels proposed by the Councils would not result in a very significant landscape or visual benefit'*.⁶
16. Section 1.2 (the response to the ExA's question 3i) concludes that *'there is no further mitigation which would reduce the adverse effects reported in the Environmental Statement'*. The reasoning behind this conclusion is set out at the end of the paragraph as follows: *'additional planting would either not further reduce the magnitude of impacts or would introduce additional changes to the character of the landscape and would not therefore be reasonable or appropriate.'* This entirely ignore the substantial further

⁵ TGN 2/21 Page 42

⁶ Technical Note, Page 2 second to last paragraph

mitigation that would result if the scheme were amended to omit parcels identified by SNTS and the Councils.

17. The final paragraph on page 4 begins: *‘The LVIA clearly shows that, although there will be some residual impacts on the landscape, these are clearly outweighed by the benefits of the Scheme and in particular the provision of a significant amount of low carbon energy in accordance with the Government’s energy policy.’* This is simply not something that an LVIA can show.
18. It is not the role of the LVIA, or the landscape architect, to undertake the planning balance as described above. It is for the landscape architect to identify and quantify the degree of harm/benefit to the landscape and to visual amenity. Where there is harm, as in this instance, it is for others to balance this harm against the benefits of the scheme. As stated throughout the DCO process we consider that the harm to the landscape has not been adequately identified and quantified by the Applicant and that a key element in that failure is as a result of the underestimation of the value of the Limekilns which are assessed by us to constitute an NPPF valued landscape and assessed by the Applicant to have *‘low status.’*

Q 3ii whether the proposed mitigation was the best available or if any further mitigation could reasonably be provided.

19. In response to question 3ii the Technical Note (Section 1.3.1, page 4 third paragraph) refers to EN3 (2023) Paragraph (3.10.86) that ‘ *whilst it may be the case that the development covers a significant surface area, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography, the area of a zone of visual influence could be appropriately minimised.*’
20. The Technical Note claims that the scheme achieves this due to the character of the existing landscape and the design of the scheme (e.g. substantial setbacks). There is no reference to the fragmented nature of the scheme which inevitably results in a more extensive, dispersed zone of visual influence than would result from a more compact scheme. The fragmented dispersed nature of the scheme means that its zone of visual influence (which has consequences for landscape character as well as visual amenity) has not been appropriately minimised. This is because of early decisions made about the siting and design of the scheme and cannot be addressed by additional mitigation planting.
21. In support of this claim the Technical Note states (also third paragraph on page 4) that ‘ *only one residual visual effect, which is considered to be of moderate significance, has been identified in year 15 of operation.*’ SNTS do not agree that there is only one remaining significant visual effect at year 15 (MBELC - Landscape and Visual Issues Paragraphs 10.22-10.24 submitted at Deadline 2). In addition, the Technical Note does not make clear that this is not a single viewpoint but representative of views from the whole of the Limekilns Gallops, described in the LVIA and this Technical Note as Viewpoint 38. Although the views will vary depending on which part of the Limekilns Gallops the viewer is situated in, the reality is that users of the Limekilns Gallops are likely to be moving through the whole area and therefore likely to experience a range of significant adverse visual impact even at year 15. As noted above, we consider these views to be from a valued landscape.

-
22. The fact that this viewpoint represents a large group of receptors is acknowledged in the Technical Note Section 1.3.3.3 page 7 paragraph 3 which describes the consideration of further mitigation with regard to the *‘significant residual visual effects identified for users of the Limekilns Gallops.’* This involved *‘modelling an earthwork bund on the southern side of Parcels W05 and W07, parallel with the A14 trunk road. Various heights were tested, up to 4m above the existing ground level.’* The Technical Note concluded that the bund would have only a marginal benefit due to the topography, *‘the Limekilns Gallops extends to above 50m Above Ordnance Datum (AOD), whilst the land within Parcels W05 and W07 is approximately 25m AOD.’* In addition, it *‘would be incongruous in the predominantly flat landscape’* and consequently it *‘would not be reasonable or appropriate.’* We agree with these conclusions. It is not possible to mitigate the impact on the Limekilns Gallops through retrofitting because the impact is an inevitable consequence of the decisions made at the siting stage of the scheme when the value of the Limekilns Gallops was not recognised. The only effective mitigation is the omission of areas within the scheme as identified by SNTS and the Councils.

Summary and Conclusions

23. The Applicant has been unable to identify effective further mitigation measures because the landscape and visual effects of the scheme are a consequence of poor decisions made in the siting and design of the scheme. Of particular consequence were:
- The decision to pursue a dispersed fragmented scheme which would inevitably result in more widely dispersed effects dispersed.
 - The failure to recognise the value of the Limekilns Gallops.

End of Note.