



Meeting note

Project name	Sunnica Energy Farm
File reference	EN010106
Status	Final
Author	The Planning Inspectorate
Date	12 October 2021
Meeting with	Sunnica Energy Farm
Venue	Microsoft Teams
Meeting objectives	Project Update Meeting
Circulation	All attendees

Summary of key points discussed, and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Order limit amendments and Consultation Update

The Applicant stated that following changes to the order limits, they had undertaken a targeted consultation with identified s42 consultees. The Applicant confirmed to the Inspectorate that the changes in the order limits were in relation to crane access required during construction. The Applicant confirmed that nine responses had been received to date. The Inspectorate queried whether the Applicant would include the justification for the targeted consultation in their Consultation Report. The Applicant confirmed this would be included in dedicated Chapters.

Draft National Policy Statement

The Applicant confirmed that as the consultation in relation to the review of the Energy National Policy Statements (NPSs) will close after submission of the application (29 November 2021), the application documents will reference s105 of the PA2008. The Applicant stated that they are currently drafting a Statement of Need document, which is being prepared based on the existing Energy NPSs. The Applicant confirmed the Planning Statement and Environmental Statement will consider the emerging draft Energy NPSs and will come to conclusions on the weight attributed to them. The Inspectorate advised the Applicant that NPS matters would be for the Examining Authority to consider should the application proceed to Examination. The Inspectorate also advised the Applicant that a clear schedule of application documents should be set out.

Figure Scales

The Applicant confirmed plans submitted in the suite of application documents would be at the appropriate scale as set out in Regulation 5 (4A) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. The Applicant stated figures in the Environmental Statement (ES) are at different scales and the Applicant queried if it that would be appropriate. The Inspectorate confirmed that it is appropriate as long as the figures are legible and easy to understand, as it is important to show clarity in order to read the detail behind figures. The Inspectorate further advised the Applicant to include enough information on the ES figures to understand its purpose. The Applicant confirmed this approach, and they will reference this in the Volume 1 documents.

Application Submission

The Applicant confirmed their intended submission date for the application is 12 November 2021. The Applicant confirmed they would use a file sharing site to transfer the Application documents to The Inspectorate. The Inspectorate confirmed the suitability of this approach and advised the Applicant to consider the length of time given to the Inspectorate to access the documents on the day of submission. The Inspectorate further advised the Applicant that there would be no opportunity to revise application documents once submitted. The Applicant queried whether a test transfer could be arranged. The Inspectorate confirmed a test run will be arranged to transfer the draft Electronic Application Index. The Inspectorate advised the Applicant that the application would not be considered until the fee is received.

PINS feedback on review of draft HRA

The Inspectorate provided the Applicant with feedback on the draft Habitats Regulations Assessment (HRA) (attached below). The Applicant stated that the relevant Statutory Nature Conservation Bodies (SNCBs) were consulted following the Preliminary Environmental Impact Report (PEIR). Recommendations for avoiding major effects have been embedded within the Scheme Design. The Inspectorate stated that where agreements have been reached with SNCBs further evidence and methodology in reaching these conclusions should be provided in the HRA.

The Applicant queried whether The Inspectorate expected a response to their comments. The Inspectorate confirmed no response was required.

AOB

The Inspectorate requested the updated GIS Shapefile from the Applicant.

The Inspectorate queried the Local Authority's readiness for the imminent submission date. The Applicant confirmed they had been in discussions and had updated the Local Authorities on the new submission date.

The Inspectorate queried whether any potential confidential information would be included in the documents. The Applicant confirmed that there will be a confidential ES annex containing the Badger Survey and Breeding Birds Report. The Inspectorate emphasised that where confidential information has been redacted that the document should include an explanation as to why the information has been redacted.

The Inspectorate advised the Applicant of the update to Advice Note 6 and confirmed that application documents must not include hyperlinks.

The Inspectorate advised the Applicant that material from the online consultation website could be referenced, without providing links to the website, by using screen shots. The Applicant asked how to reference videos held on the online consultation website and whether they can submit videos as part of the documentation. The Inspectorate stated that they could consider including detailed explanations of the content of the videos.

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Section 51 advice regarding draft application documents submitted by Sunnica Ltd for the proposed Sunnica Energy Farm.

On 18 August 2021, Sunnica Ltd submitted the following draft document for review by the Planning Inspectorate as part of its Pre-application Service¹:

1. Appendix 8M: Habitats Regulations Assessment: Report to Inform an Appropriate Assessment

The advice recorded in the table comprising this document relates solely to matters raised upon the Planning Inspectorate's review of the draft application documents, and not the merits of the proposal. The advice is limited by the time available for consideration and is raised without prejudice to the acceptance or otherwise of the eventual application.

Sunnica Ltd are reminded in particular that any Examining Authority will be mindful, inter alia, of the advice in para. 15.2 of Advice Note 15² that:

"The law and policy relating to planning conditions, imposed on planning permissions under the TCPA1990, will generally apply when considering Requirements to be imposed in a DCO in relation to the terrestrial elements of a proposed NSIP. Requirements should therefore be precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects."

¹ See <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>

² Advice Note fifteen: *Drafting Development Consent Orders*, July 2018

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

Ref No.	Paragraph/ Section	Comment/Question
2.1	General	The document makes reference back to chapters and appendices in the Environmental Statement (ES) for additional information, such as the baseline data (and methodology for collection of baseline data) that were used. These documents were not submitted as part of this review, so we have not commented on whether the links provide appropriate information to support the HRA report.
2.2	General	Although the report contains links to maps and figures in the ES, it would be helpful within the HRA for there to be figures, such as those to illustrate the sites and the study area.
2.3	Section 1.2, The Scheme	The report is missing a description of the operational stage of the proposed development and it is not clear what operational stage effects were considered in the scope of the assessment?
2.4	1.3.6	How have alternatives been considered where LSE are identified?
2.5	Section 2, Method	The HRA report is currently missing details of the engagement, feedback and agreement from any of the Statutory Nature Conservation Bodies (SNCBs) or other relevant Interested Parties (IPs) across all stages of the assessments. What consultation has been carried out and what agreements have been reached with SNCBs / other parties? Are / were there any areas of disagreement and do any remain that have not been resolved? The report indicates that there has been some consultation, but no details.
2.6	Table 3.2	What is the current condition status of the sites presented in the table?
2.7	Paragraph 3.5.5	The paragraph provides the conclusions in relation to EIA only? Mitigation to avoid impacts on the River Snail (ie use of non-intrusive watercourse crossing methods such as tunnelling) is described. Has this change been implemented specifically to avoid surface water effects on the Fenland SAC, Chippenham and Wicken Fen Ramsar sites? What are the views of the SNCBs and other relevant parties as well as the Internal Drainage Board on this effect and mitigation measure?

Ref No.	Paragraph/ Section	Comment/Question
		Have non-intrusive methods of cable laying also been considered for example for their effects on ground and surface water?
2.8	Section 4.4	Further information would help to understand the rationale behind the conclusions of the in-combination assessment, with reference to each of the projects identified along with evidence of discussion with the relevant consultation bodies. This would help to understand views that have been received on the list of projects considered in the in-combination assessment and agreements on its conclusions. What areas of the in-combination assessment are not or yet to be agreed?
2.9	Paragraph 5.3.7	Has the extent of the impact on the qualifying features at Breckland SPA before proposing mitigation been quantified and how did this inform the decisions about mitigation (and what other options were considered)? What evidence is there to support the conclusions that this mitigation might be successful? The report indicates that measures have been discussed with Natural England and the RSPB, what are their views and what agreements were reached on the conclusions, both for the scale of the impact and on the mitigation? Are there elements where agreement has not yet been reached?
2.10		How will the mitigation measures identified be secured and delivered?
2.11	Annex A	We noticed that there are impacts listed in the table in Annex A that have not been discussed in the main body of the text – for example, the spread of invasive non-native species during construction. With reference to ID 2.3 of this advice, are there other operational effects that should also be included in the assessment?

General

1. Where references are provided to other draft application documents it would be beneficial to provide the full title thereof inclusive of document reference number. Should further draft documents be provided for review, Sunnica Ltd may wish to consider providing a full list of known application documents (for the purpose of signposting) as well as their respective reference number.
2. [\[MHCLG\] Application form guidance](#), paragraph 3, states: *"The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6."*