



Bramford – Twinstead:

Deadline 10

- Final Position Statement

Braintree District Council (20041141) &

Essex County Council (20041299)

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1 Glossary of Abbreviations

BDC – Braintree District Council

B&MSDC – Babergh and Mid Suffolk District Councils

B2T – Bramford to Twinstead

BNG – Biodiversity Net Gain

CEMP – Construction Environment Management Plan

CTMP – Construction Traffic Management Plan

dDCO – Draft Development Consent Order

ECC – Essex County Council

ExA – Examining Authority

EXQ1 – Examiners Questions 1

ExQ2 – Examiners Questions 2

HGV – Heavy Goods Vehicle

ISH – Issue Specific Hearing

LEMP – Landscape Environmental Management Plan

LIR - Local Impact Report

OWSI – Outline Written Scheme of Investigation

PROW – Public Right of Way

SCC – Suffolk County Council

SOCG - Statement of Common Ground

SoS – Secretary of State

TA – Transport Assessment

2 Purpose Of Submission

2.1 Introduction & Format

- 2.1.1 The purpose of this submission is to provide Braintree District Council (BDC) and Essex County Councils (ECC) final position statement on outstanding matters of disagreement with the Applicant, taking into account the Applicant's Deadline 9 (D9) submissions and representations made by other interested parties. Any reference to 'The Councils' in this document is meaning both BDC and ECC.
- 2.1.2 For the avoidance of doubt, this response does not contain any new issues/comments, it is merely a summary of points that have previously been made by The Councils and other Host Authorities. This final position statement therefore aims to assist the ExA in identifying the key outstanding issues which have not been resolved during the course of the Examination.
- 2.1.3 This final position statement should be read in conjunction with all other BDC/ECC examination submissions (set out in paragraph 3.1.1 below), the Accompanying Deadline 10 submission (responding to any updates at Deadline 9) and the signed SOCG to be submitted at Deadline 10.
- 2.1.4 Examination Library references are used throughout to assist readers.

3 Summary of the Council's Position at Deadline 10

3.1 Overview

3.1.1 Essex County Council (ECC) and Braintree District Council (BDC), collectively referred to as "The Councils", have been working jointly to provide responses to the various deadlines as set out in the Rule 8 Letter [PD-003]. A list is provided below of all The Councils responses and a summary of what they include:

- **REP1-039** [*Local Impact Report*]
- **REP2-009** [*Comments on Relevant Representations and Other submissions at Deadline 1*]
- **REP3-061** [*Response to ExQ1*]
- **REP4-049** [*Response to comments on LIR and Post Issue Specific Hearings Notes and Actions*]
- **REP5-031** [*Various – TA & CTMP, ISH3 and responses to ExQ1 comments*]
- **REP6-051** [*Post hearing submissions CAH2, ISH5 and ISH6*]
- **REP7-029** [*Response to ExQ2, comments on various updated documents including Planning Statement, CTMP, PROW and hearing action points*]
- **REP8-040** [*Response to comments on D6 submissions, updated documents including LEMP and OWSI and comments on Comments on ExA dDCO amendments*]
- **REP9-071** [*response to Applicant comments on ExA dDCO amendments, Applicants Comments on ExQ2, amendments to management plans & control documents*]

- 3.1.2 The Councils have also been working collaboratively with the other Host Authorities, Suffolk County Council (SCC) and Babergh and Mid Suffolk District Councils (B&MSDC) throughout the pre-application stage and the examination of the DCO.
- 3.1.3 The Councils (BDC and ECC) note the submission of a Final Position Statement by SCC and B&MSDC at Deadline 9 [REP9-072]. The Councils are generally in agreement with the particulars set out in this Final Position Statement and will refer to this response throughout this report where issues are in commonality in order to avoid duplication.
- 3.1.4 The Councils extend their thanks to the Applicant the engagement during pre-application stages and during the examination of the DCO. However, as the examination of the DCO has progressed, it is apparent that there are still multiple areas where The Councils disagree with Applicant. Overall, while the Applicant has sought to engage with The Councils, we share the disappointment highlighted by SCC in their Final Position Statement [REP8-072], that the Applicant has made minimal effort to address and resolve concerns which have been raised throughout the examination process on a number of key issues. A summary of these areas/issues are set out in this section, with detailed comments contained in relevant sections of the letter.
- 3.1.5 Like SCC and B&MSDC, The Councils are the principal public authorities with responsibilities for safeguarding the environmental assets in their areas and as the bodies representing the communities living and working within those areas, all of which will experience the impacts of the project.
- 3.1.6 While the Councils continue to support the principle of this network reinforcement scheme, including elements such as undergrounding in the Stour Valley and the removal of redundant 132kV transmission lines, the Councils share SCC's position that the shortcomings in relation to the implementation and control of the construction phase of the development, are so significant, that we too, must formally **object** to the making of the

Development Consent Order (DCO) in the terms put forward by the Applicant in the draft DCO [REP8-005] and supported by the current suite of control documents.

3.1.7 Given the advanced stage of the Examination, and the Applicants continued reluctance to make the necessary changes, The Councils agree on the method of resolution put forward by SCC in their REP8-072 final position statement, and would urge the ExA and the SoS to consider this carefully in making their recommendation:

4- SCC recognise that a recommendation and a decision that the DCO should not be made would have serious implications for the ability of the Applicant to undertake improvements that are needed to the National Grid in a timely manner so as to assist in the transition to Net Zero but SCC do not accept that the position is in fact so stark that the only available choices are to proceed to approve an unsatisfactory project or to reject it.

5- In the first place, it would be open to the ExA to make its recommendations to the SoS on the basis that the draft DCO should include a revised Requirement 4 (as put forward in the Applicant's text in [REP7-025], which required the Applicant to come forward with detailed management plans for subsequent approval, and for the ExA to also invite the SoS to call for the Applicant to provide revised outline management plans in the period before a decision is made. In the second place, it would open to the SoS, having called for the submission of such revised outline management plans, to consider whether those plans were sufficient to provide an effective platform for the subsequent preparation and approval of detailed management plans. If the SoS was so satisfied, those revised outline management plans could then become certified documents in substitution for the inadequate documents thus far submitted by the Applicant.

6- Whilst such a process might entail some short extension to the decision-making stage (so as to allow for consultation on any draft material submitted by the Applicant to the SoS), such an extension would serve a clear purpose by enabling the application to be put into a state where it would be capable of then being approved. It would therefore enable the Applicant to proceed with the project but without imposing on either the receiving environment or the local communities unacceptable impacts that would be incapable of effective control or adequate mitigation.

7- Given that there is a practical and achievable route forward that could enable the project to proceed, without any undue delay, SCC entirely rejects any argument that might be advanced by the Applicant that the shortcomings in the project should be simply weighed in the planning balance against its benefits.

3.1.8 For the avoidance of doubt, while The Councils welcome the addition of Requirement 14 for the submission of a Soil Management Plan at Deadline 9, this does not go far enough to address the concerns highlighted above or below.

3.2 Summary of Outstanding Issues

3.2.1 In terms of a summary of the outstanding issues, these are in relation to:

***Management Plans** – Current management plans require additional detail to be acceptable, but this detail cannot come forward until a contractor is appointed. As such, a two-stage process is required. More detail on each Management Plan is set out in the Management Plans section below.*

***Working hours** – The proposed working hours remain unacceptable, and measures to assist in mitigate the impacts of the development have largely been ignored by the Applicant.*

Discharge of requirements – *Insufficient time for The Councils to determine a detailed requirement before deemed consent comes in.*

Landscape Mitigation and Compensation – *The current proposals for landscape and visual mitigation are inadequate.*

Aftercare, Landscape and Ecological Mitigation & BNG – *Despite changes at Deadline 9 in the LEMP, the Host Authorities consider that the provisions for aftercare do not go far enough in the current iteration of the scheme including the delivery of BNG.*

Economic Development, Skills and Tourism – *The Councils note that Socio Economics and the impact of the same were Scoped out of the EIA which accompanies the EIA. The lack of the same is disappointing but the Joint Councils note and welcome that the applicant is to progress a deep dive into this in accordance with their Regional commitment to skills and employment opportunities following the closure of the ExA.*

4 **Management Plans**

4.1 **Overview**

4.1.1 This section sets out specific comments on each of the management plans and signposts to various documents contained in the Examination Library.

4.2 **Construction Traffic Management Plan (CTMP)**

4.2.1 There are a number of specific outstanding items relating to the assessment of traffic generation and subsequent management of traffic in the Construction Traffic Management Plan (CTMP) [REP8-018]. The Councils consider that the below items should be included in the final version CTMP, notwithstanding that the Councils consider that a two-stage process (outline and detail) should be used via requirement:

- *The need for a unique identifier within the windscreen of construction vehicles.*
- *The need for a review mechanism within the CTMP as a result of shift patterns not reflecting those assessed within the Transport Assessment [APP-061], as per our historic responses including item 15.5.2 at Deadline 6 [REP6-051] and paragraph 3.92 Deadline 8 [REP8-040].*
- *Controls on HGV movements and securing vehicle movements by access, particularly on sensitive routes not designed for HGV traffic as per our historic responses including Section 6 of Deadline 5 [REP5-031] response.*
- *Restrictions on HGV timings outside of the core working hours and on Saturdays, Sundays and bank holidays, as per our historic responses including our comments on the ExA's proposed changes to Requirement 7 at Deadline 8 [REP8-040] and Section 3.5 of Deadline 9 [REP9-071].*

- *The need for management of a requirement for wheel washing facilities as per our historic responses including paragraph 15.8.2 at Deadline 6 [REP6-051] and paragraph 6.2.1 at Deadline 9 [REP9-071].*
- *The absence of an assessment of the hour of greatest change for traffic, as per our historic responses including paragraph 3.13.1 at Deadline 8 [REP8-040] and particularly section 5.10 of Deadline 6 response [REP6-051].*
- *The assessment of the proportional change in HGVs, as per our historic responses including paragraph 5.10.5 of our Deadline 6 response [REP6-051] and item TT 2.13.8 at Deadline 9 [REP9-071].*

4.2.2 Finally, the Councils would reiterate its position regarding access design as per our historic responses including Deadline 6 [REP6-051] and Deadline 9 [REP9-071].

4.2.3 The Councils maintain their overall position that for some accesses evidence has not been submitted that the proposed access arrangements, including appropriate visibility can be accommodated within the existing road layout including provision of a Stage 1 RSA. However, the Applicant has undertaken some work to alleviate some of our concerns on the deliverability of some accesses.

4.2.4 Fundamentally the concern relates to the deliverability of those accesses and the potential recourse if it is determined that only a substandard access is deliverable. These key concerns are covered in detail by Suffolk County Council particularly at points 6c and 7b in their Deadline 8 response [REP8-047].

4.3 Outline Written Scheme of Investigation [REP9-046]

4.3.1 The Historic Environment Advisor (ECC Place Services) has reviewed the revised OWSI document submitted as REP9-046 on behalf of Essex County Council and Braintree District Council (ECC & BDC). The document is still not considered acceptable primarily due to:

- *the proposed mitigation strategies,*
- *the exclusion of a programme of further archaeological trial trench evaluation, and*
- *the removal from the scope of investigation areas that have not been subject to adequate archaeological evaluation.*

4.3.2 For previous detailed comments, these can be found in The Councils Deadline 7 [REP7-029] and Deadline 8 [REP8-040] submissions, as well as comments in our accompany Deadline 10 submission, which comments on any other submissions at Deadline 9.

4.3.3 In summary, The Councils support and agree with the outstanding issues submitted by SCC at Deadline 9 [REP9-072] and support the SCC Deadline 10 response which is to be submitted, along with those issues set out in the final statement of common ground.

4.4 Landscape and Ecological Management Plan (LEMP) [REP9-044]

4.4.1 The Councils support the comments made by SCC in their Deadline 9 Final Position Statement [REP9-072] in relation to the LEMP and these will not be repeated here.

4.4.2 The Councils have also reviewed the updated LEMP [REP9-044]. Overall, it is considered that that insufficient changes have been made to overcome the fundamental concerns identified by SCC at Deadline 9, as well as address The Councils previous fundamental concerns with the LEMP which have been set out on previous submissions including those contained in REP5-035.

4.4.3 Notwithstanding this overall objection to the LEMP as drafted, The Councils have provided some further detailed comments on the updated LEMP and these can be found in our accompanying Deadline 10 submission, which responds to any changes made at Deadline 9.

4.5 Construction Environmental Management Plan (CEMP) [REP9-033]

4.5.1 In summary, the Councils agree with the SCC response in identifying issues with the CEMP:

SCC (Landscape) considers that there remains a fragmentation of information across control documents. This also affects the Construction Environmental Management Plan (CEMP) [REP8-012], resulting in a risk of relevant information not being found/ easily accessible or ignored, if this suite of documents had to be relied on onsite during construction. Further, the language remains vague. Detailed comments were provided in SCC Responses to Comments on Local Impact Report Annex A – Control Document Review in Relation to Landscape and Visual Impacts [REP4-008].

4.5.2 The Councils had previously raised concerns with the lack of a soil management plan at Deadline 8 [REP8-040] - this has now been addressed by the inclusion of Requirement 14, which requires a soil management plan to be submitted at each stage of development. The Councils have some concerns about the wording of this Requirement, however this is set out in our accompanying Deadline 10 submission, on any other documents at Deadline 9.

4.5.3 The Councils had also welcomed the additional mitigation measures put forward by the Applicant to protect the amenity of residents from noise and vibration, and the work which was completed in identifying those additional properties listed in 14.3.10 of the CEMP [REP9-033], as well as the general non-binding commitment to alternative weekend working. The Councils

however consider that additional mitigation should go further, including restricting all piling on Sundays and bank holidays in working hours, not just percussive piling, as well as restricting HGV movements at these times [See comments in section 3 on REP9-071 for more details].

- 4.5.4 In any case, the CEMP commits to using Best Practice Means to reduce the impacts of the development, however no detailed noise assessment for specific activities has been submitted, so it is difficult to ascertain the true effect of the construction phase of the development on residents. Further details on activities at each Temporary Construction Compound could be submitted once a contractor is appointed through a two-stage process [See response to NV2.11.24 on REP7-029 for more details].
- 4.5.5 In addition, The Councils consider that the CEMP should be adjusted to notify residents of any potentially disruptive works in advance of commencing the work [See 6.5 of REP8-040 for more details].

5 Working Hours

5.1 Overview

5.1.1 This particular topic has been the subject of significant discussion at the ExA and between the applicant and the affected Council's and remains an issue that remains not agreed upon.

5.2 Detailed Comments

5.2.1 The proposed working hours are excessive - 0700-1900hrs Monday to Friday and 0800-1700hrs Saturdays, Sundays and Bank Holidays - and The Councils do not consider that they are reasonable. This has been a consistent theme throughout our examination submissions.

5.2.2 While the Applicant has sought to justify the longer working hours through the urgent need to meet electrical outage windows, this should not be at the expense of the amenity of neighbouring properties and businesses.

5.2.3 Notwithstanding this, the Councils welcome the Examining Authority's amendment to restrict the working hours for piling and HGV movements as discussed in the CEMP section above. However, The Councils respectfully suggest that it would be appropriate for this to be expanded to include Saturday afternoons, in addition to Sundays and Bank Holidays as proposed. This arrangement would align with the working hours that are used for quarries and related workings, which are consented and controlled by County Councils in both Essex and Suffolk, and we note that this is a concern shared by Suffolk County Council [See comments in REP9-071 section 3 for more detail].

5.2.4 Whilst The Council's recognise the primary rural location of the site, it also contends that both the amenity of affected residents and the peace and tranquillity of the area should be preserved for residents and users of this rural location.

6 Discharge of Requirements

6.1 Overview

6.1.1 The Council notes that the Applicant continues to maintain its position that the time period in paragraph 1(1) of Schedule 4 to the draft DCO [REP8-005] for the discharge of requirements should remain at 28 days and argues that that period is “appropriate, necessary, and proportionate”. The Council’s, as well as Suffolk County Council, respectfully disagree with this position and for the reasons previously set out in previous submissions, the details of which are already with the ExA.

6.2 Detailed Comments

6.2.1 Whilst the Applicant continues to argue that extending the time available to the Local Authorities to give effective scrutiny to its various submissions seeking discharge of requirements could impact on the Applicant’s ability to meet its construction timetable, the remedy for that concern lies in the Applicant’s own hands by earlier submission of the required details for which approval is sought. The Applicant is in control of when it undertakes the work to prepare its discharge submissions and if it knows that the period available to the discharging authority is 56 days, as is sought by The Councils and SCC and the other local authorities. It therefore knows when it needs approvals to be in place to achieve the construction programme. The Councils see no compelling reason why the Applicant cannot programme its preparation work accordingly.

6.2.2 The Councils also note that this DCO comes forward following a considerable period of abeyance. Whilst the urgency of implementing this development, which would be significant in securing the UK’s energy infrastructure is supported is noted, this should not, in the opinion of The Council’s, to cause short term potentially unacceptable adverse impacts and lead to the now perceived urgency.

6.2.3 The Councils are of the view that that it is in the public interest that the matters that are the subject of the discharge submissions are given thorough and effective scrutiny by the discharging authority, and that outcome is likely to be frustrated if the period of time available is inadequate. The Council's therefore do not accept the Applicant's arguments for retaining a 28 day period for the Discharge of Requirements and maintains its position that 56 days is needed which is standard practice.

7 Adequacy of Landscape Mitigation and Compensation

7.1 Overview

7.1.1 This section comments on The Councils concerns around landscape mitigation and compensation.

7.2 Detailed Comments

7.2.1 The Councils support SCC's comments made in their final position statement [REP9-073] in relation to this matter:

The Host Authorities do not consider that the current proposals for landscape and visual mitigation are adequate, they consider that a strategic landscape restoration scheme for the project is required, to fully mitigate and to compensate for the adverse effects on the landscape and the communities affected by the scheme. To avoid any potential delay in the determination of the applications, the Host Authorities would be content that this could be secured by an additional Requirement to Schedule 3 of the draft Development Consent Order. 31.

The wording for such an additional Requirement is proposed by SCC in its D9 submission Responses to the Applicant's draft Development Consent Order and Applicant's response to the ExA's recommended amendments to the dDCO in Table Item 24 of Table 1.

8 Control and Supervision of the execution, and of the aftercare, of Landscape and Ecological Mitigation and Biodiversity Net Gain, plus Confusion with Environment Gain

8.1 Overview

8.1.1 This section comments on specific elements of the LEMP to do with aftercare, ecological mitigation and the Environment Gain plan.

8.2 Detailed Comments

8.2.1 The Councils note the submissions of SCC on this matter [REP9-073] and agree with the conclusions. While there have been some amendments in the LEMP submitted at Deadline 9 [REP9-039] these do not go far enough to address concerns:

Para 8.4.12 The text has not been changed re ploughing/subsoiling as part of natural regeneration.

Para 9.15 The Councils welcome the commitment that a Local Authority rep will be present at the final inspection before maintenance by the Applicant ceases (LV04) but this is still insufficient.

Para 9.16 The Councils welcome that the commitment that the Applicant will provide copies of the post consent vegetation (aftercare monitoring) surveys to relevant Local Authorities (LV05) but this is still insufficient.

Overall, the length of aftercare is still insufficient to support delivery of BNG and promised condition of habitats. As such, the lack of control afforded to the relevant local authorities in the process of aftercare, for mitigation and Biodiversity Net Gain, and consequently, the inability for the Host Authorities to monitor and secure satisfactory outcomes on behalf of the communities they represent, is wholly unacceptable.

- 8.2.2 There is also confusion between Environment Gain (EG) and BNG. The Applicant has defined what the difference between ENG and BNG is in the Environmental Gain Report, but this substantially focusses on the outputs of BNG not ENG. Section 6 deals with so-called Environmental Areas which are still substantially dedicated to BNG.
- 8.2.3 There also remains a confusion between reinstatement, landscape and visual mitigation, ecological mitigation and BNG in the LEMP. The nature and quantity of landscape and visual losses as opposed to biodiversity loss remains unclear and so the role of the specific projects identified for landscape and visual gain to compensate for these losses remains uncertain. There are concerns the so-called enhancements are not addressing landscape and visual issues in a strategic way. BNG gains are not necessarily landscape and visual gains.

9 Economic Development, Skills, and Tourism

9.1 Overview

9.1.1 The delivery of Net Zero in the UK by 2050 is expected to require a variety of both generation and connection projects in Essex in the short to medium terms. Essex is currently considering an additional connection project, and two additional NSIPs are proposed off the Essex coast, which will themselves make landfall in Essex prior to transmission to the overall Grid Network. As such there will be significant changes for the economy, environment and communities of Essex which will result because of the variety, complexity and impact of these schemes when viewed cumulatively.

9.2 Detailed Comments

9.2.1 The Councils, in noting that the socio-economic implications were scoped out of the eventual EIA which accompanies this DCO proposal by the Planning Inspectorate, have maintained our strongly held view that the submission does not provide a thorough, evidence based, examination of the likelihood of local employment opportunities on the project. We have requested throughout that the Applicant defines the skill sets needed within its workforce and compares this to the skills available within the local labour market, this would provide an evidence-based approach to assessing likelihood of socio-economic skills impacts. The Councils hold the view that such DCO proposals should have a positive impact on the local job market to maximise the benefits to Essex's economy and supply chains, employment opportunities, skills and training provision. With the proliferation of similar projects within Essex, and with the rates of growth expected across all forms of development which are coming forward at pace, Essex needs to have sufficient workforce to respond to local labour challenges as it recovers from the Covid-19 pandemic.

9.2.2 The Councils continues to have the strongly held view that due to the impact of this development when considered on its own and when looked at

cumulatively with other likely projects which share the skill sets to be used in the implementation for the same, the impact of this development on jobs/skills should not be underestimated. The Councils would look to establish the likelihood of impacts to ensure if there are any negative impacts they are properly mitigated and to maximise positive opportunities for the local community and that until such a workforce profile is provided.

- 9.2.3 During the Examination discussions with the applicant on this topic have been on-going. The Councils look forward to working with the Applicant and their associated supply chains, contractors and local partners to recruit and train local people ahead of the construction period which will ensure that they develop their skills and are enabled to move between roles and different types of contracts as we see further grid replacement and reinforcement work coming forward. This project, as part of the wider energy infrastructure construction projects in Essex and the wider East of England region, is an opportunity to generate skills and employment outcomes and subsequently contribute to the achievement of both national and local policy objectives.
- 9.2.4 The Councils also note the comments as made by SCC on the potential impacts of the development in terms of tourism, which contributes significantly to the local economy of the Region.