

## CWWTPR DCO Examination

SHH 41

## Submission by Save Honey Hill Group

## ISH3 - Environmental Matters, Day 2, 11 January 2024: Summary of Oral Submissions

22 January 2024

## Introduction

This note summarises oral submissions made by Esther Drabkin-Reiter, Ian Gilder, David Yandell and Jennie Conroy for SHH at the ISH3 Day 2 on 11 January 2024.

**5. Agenda Item 5: Ecology**

- 5.1 SHH welcomes the creation of a wider Advisory Group to include the relevant agencies and developers to consider broader recreational, ecological and landscape matters, including the potential effects of increased visitor pressures arising from development and the provision of mitigation and that Quy Fen Trust is to be invited to attend.
- 5.2 SHH has now commented separately on Natural England's Letter of 8 January 2024 setting out NE's position on various matters on the ISH agenda. This is SHH 41.
- 5.3 In relation to potential recreational impacts on Stow-cum-Quy Fen SSSI, SHH notes the Applicant's continuing refusal to undertake any sort of baseline survey against which any future changes in condition/damage could be measured. The Applicant accepts that the new bridleway will accommodate and channel walkers and other recreational users towards Quy Fen.
- 5.4 SHH finds the Applicant's position on the need for the Applicant to help manage off site recreational impacts that will be a **direct** consequence of the Applicant's creation of a substantial open countryside recreational facility around the new works and the improvements to recreational access that will be delivered by the off-site footpaths and bridleway, both to be delivered as part of the DCO, to be completely illogical. The Applicant has chosen not just to undertake landscape and ecological mitigation around the works, but to make it a 70ha country park, which it will maintain, include extensive paths for walking, cycling and equestrians. The Applicant continues to claim that these are substantial planning benefits to be weighed in their favour as 'very special circumstances'. SHH would argue, as we do in the table on page 125 of SHH04 [REP1-171], that, formally, the provision of improved countryside access and enhanced recreational opportunities is necessary mitigation for the DCO, and hence of little weight as 'very special circumstances'.
- 5.5 That position is not incompatible with SHH's position that the Applicant must accept that having attracted and focussed recreational users on its core site, it must fulfil its legal and other obligations to help manage any wider impacts from their use of the wider public path network, parts of which it is creating. SHH entirely accepts that the Applicant is not generating those recreational visits, but that is an irrelevant argument. The Applicant is, at least for 30 years, accepting that it will have to manage on-site recreational use, including ensuring user safety,

tree and landscape maintenance, repair of fences and paths and the consequential litter and other behaviour.

- 5.6 SHH's position is that, just as the Applicant has put forward s106 agreements to address the potential for anti-social behaviour, parking and vehicle pressures around the site e.g. on Horningsea Road and Low Fen Drove Way, a similar commitment should be made to contributing to handling any adverse impacts of additional visitors, in particular at Quy Fen, given its status as an SSSI. SHH endorses the County Council's request that the Applicant commit through this agreement to funding the wider Advisory Group. The creation of a wider Advisory Group is a sensible way forward to look at help manage recreational impacts and it is to be hoped that other developers will play their part in contributing to any necessary mitigation. SHH supports the position of the Quy Fen Trust that it wants the comfort of a formal funding commitment.
- 5.7 SHH's view expressed in relation to the LERMP is that the Applicant must make a commitment to maintaining the land around its works for the entirety of the life of the works, including allowing continued recreational use. That there is only a 30 year ecological maintenance period specified in the Environment Act 2021 is entirely irrelevant to this argument. The Applicant, corporately, is committed to delivering the wider public good and to behaving as a 'good neighbour'. The commitment to long term public access needs to be included in the LERMP and covered explicitly in the Requirements.
- 5.8 Avoiding damage, securing mitigation and reinstatement to trees and hedgerows through the CoCP/CEMP. SHH's position, now reiterated in SHH 40, is that the dDCO and plans still do not provide adequate and clear protection to trees and hedgerows along the pipeline routes. We noted that the ExA has pointed to inaccuracies in the documents in relation to the need to remove at least one veteran/mature tree and an important hedgerow, which the Applicant has agreed to check and amend relevant documents.
- 5.9 Light spill and wildlife: SHH notes that the Applicant agrees to research and report on potential light spill effects on the LFDW Grassland and Hedges CWS. We remind the Applicant that there are still inconsistencies, notably in the ES Chapter 8 and elsewhere in relation to the proposed maximum height of lighting columns, also now referred to in SHH40.

## **6. Agenda Item 6: Water Quality**

- 6.1 Effects on water quality: SHH notes the Applicant's claim that effluent loads from the new works are a substantial improvement over those from the existing works. That may narrowly be true, in terms of effluent total loads, but the Applicant has not demonstrated that through up-to-date water quality modelling, nor has the Environment Agency signed off that assessment. Later in questioning, the Applicant admitted that it has not modelled water quality at discharge parameters that it is seeking in the final effluent permit under conditions of low flow taking account of climate change. In consequence, the Applicant accepts that there is no certainty that there will for example be phosphorus levels in say 2050, which are better or worse than at

present, nor whether these are acceptable. This aspect of water quality cannot therefore be claimed as benefits of the scheme.

- 6.2 The Applicant claims that the Water Quality Assessment [APP-161] is not an ES or DCO document and only relates to the interim discharge permit. It is a submitted ES document and titled as such and does cover both interim and final permits at the indicative discharge standards sought by the Applicant. If this report has been replaced by a more complete and reliable assessment provided to the EA, this should be produced. Without analytical proof, the Applicant's claims about improved water quality are not proven.
- 6.3 SHH noted that the Applicant is to respond in writing to SHH's concern about higher than acceptable phosphorus/BOD and suspended solids arising in the reach of the Cam between the new outfall and Bottisham Lock. If there is new modelling to support the Applicant's position this should be produced.
- 6.4 SHH remains very concerned that the EA has reneged on its promise to the ExA at ISH2 to make information in relation to the Final Discharge Permit discussions/application available to the Examination. While we fully accept that the applications are yet to be duly made and the permits are finally to be secured under parallel legislation, it is essential that this information is before the Examination. This is order for the ExA and other parties to make an informed judgement about likely future water quality and any benefits or harm from this and to understand that this analysis has been properly reviewed and endorsed by the EA. Neither the EA nor the Applicant has given any assurances that this information will be made available before the end of the Examination, which should not be accepted by the ExA. SHH continues to take the view that the EA is not taking a 'no or little detriment to water quality' approach to the Final Effluent Discharge permit, as it should be.
- 6.5 SHH notes the substantial concerns that the EA has concerning the latest iteration of the Flood Risk Assessment. In questioning, the EA noted its general acceptance of various modelling and other reports it has received. None of this is documented or before the Examination as it should be.
- 6.6 Outline Water Quality Management Plan: SHH notes that neither Natural England nor the County Council have endorsed this yet. SHH's continuing concern is with potential spillages or infiltrated pollutants entering Black Ditch and potentially polluting Quy Fen and needs to be assured that adequate mitigation and monitoring will be in place.

## **7. Agenda Item 7: Historic Environment**

- 7.1 Clarification around effects on designated heritage assets, including Baits Bite Lock Conservation Area and Biggin Abbey Grade II\* listed building: With reference to the clarification the ExA sought from Ms Brown for SCDC of its assessment of permanent construction residual effect on Baits Bite Conservation Area, SHH interpreted SCDC LIR [REP2-053] at para 9.25 final sentence as concluding a permanent moderate adverse impact 'as per the impact magnitude criteria at

Table 2-2' [REP1-023 pg 22] and a permanent moderate adverse effect 'as defined by the significance matrix at Table 2-3' [REP1-023, pg23],

- 7.2 In relation to Baits Bite Lock Conservation Area, Biggin Abbey Grade II\* listed building and HCLA22 as referenced in SHH REP2-066 (Topic 4, Historic Environment) SHH agrees with the analysis of harm /effect set out by SCDC on these historical assets in the LIR Section 9 (REP2-053).
- 7.3 SHH agrees with Ms Brown for SCDC that the Applicant has underestimated the temporary and permanent construction adverse effects of the PD on the historical assets of Biggin Abbey and Baits Bite Lock. In particular, the Applicant has underestimated the impact on setting of the temporary construction mitigation measures themselves ie hoarding referenced para. 9.19-9.20 (REP2-053) and the permanent adverse impact of landscape mitigation measures as referenced in para 9.28 (REP2-053) and at para 71 (RR-004).
- 7.4 SHH agrees with SCDC referenced at para 9.41 (REP2-053) that the permanent impact on HCLA22, Baits Bite Lock and Biggin Abbey is cumulative and amounts to harm caused by the PD and harm to the historical agricultural setting resulting from the proposed landscape mitigation.
- 7.5 SHH agrees with SCDC that the levels of construction and permanent adverse effect on these HCLA22 and these designated assets should be assessed as being at **'the higher end of less than substantial harm.'**
- 7.6 Additional considerations in the assessment of harm: Baits Bite Conservation Area (CA). As referenced SHH REP3-068 at 8.2.8 it remains to be demonstrated whether the mitigation proposals to reinstate and maintain footpath 85/6 in its current form (natural earth and grassland) over the new roof of the proposed outfall is sustainable. Change to the setting from an organic river bank to exposed concrete of the outfall roof or alternative engineered footpath along this important and well used stretch of the riverbank would have an additional permanent significant adverse effect on Baits Bite CA.
- 7.7 SHH refers the ExA to APP-027 pg 7 Design Outfall Layout Plan. SHH notes the layout plan also includes an exposed concrete (assumed) platform across the ditch which will be highly visible from 85/6. The dotted line travelling from north to south of the layout plan is assumed by SHH to represent the existing footpath. This footpath forms part of a network of PROWs that follow the boundary and cross over Baits Bite CA in front of Biggin Abbey II\*. As referenced by the Applicant, at para 4.2.4 (REP1-024), these footpaths contribute to the CA by 'enabling appreciation of the asset'. Further, it is the only section of footpath in the Baits Bite CA directly alongside the river bank and River Cam, the river identified by the Applicant at para 4.2.5 (REP1-024) as 'making a substantial contribution to the asset's value'.
- 7.8 The temporary diversion of Footpath 85/6 away from the river bank for the period of construction of the outfall in addition to the proposed hoarding referenced by SCDC at para 9.19-9.20 (REP2-053) will have a significant temporary adverse impact on the appreciation of Baits Bite CA from Footpath 85/6.
- 7.9 Differences in assessment of the degree of harm: As referenced in SHH REP3-066 at 9 Historic Environment, the Applicant seeks to explain the differences between the Applicant and

SCDC/SHH in assessment of harm to historical assets, namely Baits Bite Lock, HCLA22 and Biggin Abbey on ‘... different points of view on the extent to which character and setting are already impacted by modern infrastructure (including, but not limited to, the A14, overhead pylons and existing activity on and around the B1047 Horningsea Road and A14 junction 34)’.

- 7.10 However, SHH has argued (SHH REP3-066 at 9, Historic Environment), in consideration of Historic England’s Good Practice Advice (Managing Significance in Decision Making at para 28 (2015)) these intrusions, rather than reducing the significance of impact of the PD, increases the significance of effect on account of the assets having been compromised in the past.
- 7.11 Consideration of the degree of harm to the significance of designated heritage assets which are both reported and not reported in Ch 13 REP1-023/024: SHH welcomes the Applicant’s agreement to the ExA request at ISH3 to provide a summary table of identified harm to designated historical assets at D4. This should clearly identify the heritage assets and capture what level of harm will occur in each case. SHH will comment on these when that table is available.
- 7.12 In response to the explanation of Mr Bowles on behalf of the Applicant that, in assessing heritage assets in the planning balance undertaken in the Planning Statement [REP1-049], he had given “limited weight” to harm to designated heritage assets other than Biggin Abbey. SHH notes that the effect of paras 205 and 208 NPPF is that **any harm** to the significance of designated heritage assets must be given great weight in the planning balance, and it is necessary for the public benefits of a proposal to outweigh that great weight. Giving designated heritage assets “limited weight” in the planning balance is therefore in breach of NPPF policy and indicates that the Applicant has given insufficient weight to the harms that the proposed development will cause. The assessment at para.4.10.20 of REP1-049 also fails to consider the harm to the significance of other designated heritage assets identified in the appendices to ES Chapter 13 as being harmed but which are not discussed in the main ES Chapter itself, to which great weight must also be given. These are fundamental **flaws** in the planning balance assessment undertaken in the Planning Statement.
- 7.13 SHH in RR-035 also noted specifically the omission of Wildfowl Cottage (HE042) from Chapter 13. This omission is considered significant as the building is set within the Baits Bite Conservation Area riverside and accessed via Horningsea Road past Biggin Abbey II\*. Further, it is SHH’s view that contrary to the HE Assessment Table (AW 5.4.13.4; AS-085) the temporary construction slight effects reported should remain recorded as such after mitigation measures.
- 7.14 The Applicant’s assessment of Poplar Hall (HE040) identifies and reports in Chapter 13 temporary construction minor impact and moderate adverse effect (significant). It does not report on permanent construction impact or effect in Chapter 13. SHH REP3-068 has drawn attention to the relevance of Historic England’s reference to a cumulative effect of harm rating over successive adverse impacts.
- 7.15 Mitigation of impacts on historic assets: SHH notes that SCDC is to respond further regarding potential improved mitigation to historic assets during construction and will also respond to this at D5.

## 8. Agenda item 8: Landscape and visual / design

- 8.1 In response to a question from the Examining Authority, SHH acknowledges that the proposed development and landscaping has been amended since the visualisation depicted at para 5.2 [REP-172] was published. However, it is noteworthy that – as acknowledged by Mrs Morrison on behalf of the Applicant – most of the structures are similar in scale, including the chimney which remain at the same height and the digester stacks which are only reduced by 5m in height. SHH emphasises that its fundamental criticism on design is that the character of the landscape is essentially rectilinear, and the Applicant has never provided a proper answer as to why the anomalous circular form was adopted instead of a more rectilinear layout that reflects that acknowledged character of this open landscape.
- 8.2 Overall design concept: Regarding the choice of rectilinear/non-rectilinear design, SHH's position, backed up by the analysis presented of the three design options on pages 72 and 73 of the Design and Access Statement, is that the triangular design was reported to be the 'best and most appropriate in landscape terms' and could have been improved and developed as a more rectilinear design. The so-called 'rotunda' design even when viewed from ground level does not seek to work with or minimise impact on the landscape character. As the landscape design has developed, the adoption of what would read visually as dense woodland planting, has if anything, worsened the fit with the landscape. The three designs considered were never subject to public consultation nor was the advice given by the Design Council Panel ever made public. The case for a more rectilinear form was made by SHH members, notably Ian Gilder, in later consultation, but was never addressed. SCDC also told the hearing that it was not consulted on that crucial design choice.
- 8.3 The circular earthwork around the works (which has none of the characteristics of the cited historical examples, which are linear features) is a crucial part of the landscape and other screening of the works. It therefore needs to be included in Schedule 14 to the dDCO, giving both minimum height and width parameters. This point has been raised several times by SHH with the Applicant who has made some other changes to the dDCO but has not responded to this point. While SHH notes that there may be limitations with regard to making the earth bund higher, a further small amount of excavation e.g. 1 metre, would have delivered more material and allowed a higher and shallower bund. The minimum height of 5m needs to be delivered as well as reasonably shallow slopes (to give trees the best chance of survival). Mr Prior, in questioning agreed that parameters will be included in Schedule 14. SHH has included details of its request in SHH 40.
- 8.4 Need to improve the submitted landscape design as shown in the LERMP: SHH agrees with SCDC that the submitted landscape design needs to be improved. It has too extensive deep blocks of planting and the 'rides' at only 20m width are too narrow to provide longer views, as soon as the planting takes hold.

- 8.5 SHH notes that SCDC believes this can be addressed at detailed design. SHH disagrees. This along with other concerns about the LERMP needs to be addressed prior to any grant of a DCO, since the LERMP is to act as the benchmark for approval of more detailed planting designs and maintenance protocols.
- 8.6 Planting and Ongoing Maintenance: Regarding the survival of trees and hedgerows, as local residents, SHH have a good idea of which species thrive as well as the continuing effect of drier spring and summer seasons over the last decade, on vegetation growth. SHH have produced examples of planting that has taken place near to the site, including at the present Junction 34 and the tree belt opposite Horningsea Cemetery, which has not thrived or remains stunted. This is particularly an issue where planting is to be on top of the narrow earthwork and will suffer from run off of much of the rain that falls. Without sustained watering or the opportunity to intervene, it is very unlikely that trees will thrive (although they may just about survive). What will visually be a single line of planting at the top of the bund makes it critical that this planting thrives as a key part of the permanent screening of the works.
- 8.7 Early stage planting is limited to some very narrow tree belts along part but not all of the outer boundary to the works site and some very limited street tree planting on Horningsea Road, as shown in Figures 3.5 and 3.7 of the LERMP (AS-066). These belts are all to be no more than 7.5m in width. Experience elsewhere shows that narrow tree and hedge belts do not effectively obscure winter views. There is sufficient room on site for wider early stage tree and hedge belts, up to say 15m in depth, which will have greater and earlier screening effect. SHH maintains its view that additional off site planting to partly block views from Horningsea Road and High Ditch Road should be added to the scheme.
- 8.8 SHH has noted various changes to the LERMP, made in AS-066, in relation to watering and replanting. The measures being adopted by the Applicant are welcome as a starting place to address the challenges of planting, especially on the made ground banks. SHH accepts that a long term replanting intention is buried in the drafting of AS-066. SHH believes that the Applicant should commit to going further and make these commitments entirely clear in the LERMP in para 4.2.2, Section 4.3 and the tables. In particular: (i) the commitment in para 4.2.2 to watering should be for routine watering of trees on top of the bund for five years and for two years for all other trees and hedges planted. There should be supplemental watering if there are prolonged dry periods in spring and early summer which should extend for a further 3 years (ii) where replanting has to take place, these watering commitments must restart for that planting.
- 8.9 SHH takes the strong position that the commitment by the Applicant as owner to maintain the landscape and permit public access must extend to the operational life of the plant and not just for 30 years.
- 8.10 Design Code: SHH welcomes the intention to provide a Design Code and to a commitment by the Applicant to taking independent advice at detailed design from the Cambridgeshire Quality Panel. SHH will respond to the Design Code once seen.

## 9. Agenda Item 9: Green Belt

- 9.1 Inappropriateness: SHH's position is that the whole of the built development including the earth bank, the access road and car park are all inappropriate development in the Green Belt. We are not aware of properly comparable Green Belt cases where individual sub-components of a built part of a development that is 'inappropriate' have been declared 'not inappropriate'.
- 9.2 On the consideration of non-Green Belt alternatives, SHH made the following points. In summary:
- 9.2.1 In the circumstances of the present application, there is a legal requirement on the Examining Authority and decision-maker to consider non-Green Belt sites as alternatives to the proposed development.
- 9.2.2 That requires the relative merits of the non-GB sites to be considered by the ExA alongside the alternative sites in the GB which are discussed by the Applicant in ES Chapter 3 [AS-018].
- 9.2.3 There has been no or inadequate consideration of non-Green Belt sites by the Applicant for a number of reasons set out in SHH's RR [RR-035] and WR [REP1-171], including the lack of any real assessment of the feasibility of the retention of works on the existing site, and flawed methodology in considering non-Green Belt alternatives through the site selection process.
- 9.3 With regard to the legal tests, these are set out at SHH RR [RR-035] para.5.5. *R (Save Stonehenge WHS Ltd) v Secretary of State for Transport* [2021] EWHC 2161 (Admin), [2022] PTSR 74 at para.259 confirms that the common law jurisprudence on consideration of alternatives applies and must be complied with **in addition** to the provisions on alternatives in the Environmental Impact Assessment Regulations and the guidance on alternatives in NPSWW.
- 9.4 Para.269 of *Stonehenge* explains when alternatives become mandatory material considerations for a decision maker:
- 9.4.1 Where there are clear planning objections to development upon a particular site "it may well be relevant and indeed necessary" to consider whether there is a more appropriate site elsewhere.
- 9.4.2 That is particularly so where the development is bound to have significant adverse effects and where the major argument advanced in support of the application is that the need for the development outweighs the planning disadvantages inherent in it.
- 9.5 In terms of the adequacy of consideration of alternatives, where the common law requires consideration of alternatives, para.277 of *Stonehenge* confirms that the Examining Authority



and the Secretary of State need to consider the relative merits of the different alternatives, and not just accept the Applicant's assessment of them.

9.6 SHH relies on the combination of the following factors to support its position that there is a legal requirement in this case for the Examining Authority and Secretary of State to consider non-GB alternatives:

9.6.1 The fact that the proposed development involves a significant quantum of inappropriate development in Green Belt resulting in harm to the Green Belt (both definitional and to openness and its purposes).

9.6.2 The other significant adverse effects identified in the Environmental Statement, including harm to heritage assets.

9.6.3 The agreed position that there is no operational need for the development and therefore no presumption in favour of granting it development consent under the NPSWW.

9.6.4 The LPAs position that there are no exceptional circumstances which justify changing the Green Belt boundaries in their areas (see, for example, [REP2-052] SCDC LIR para.6.62).

9.6.5 There are therefore strong planning objections to the development at the Honey Hill site. The need relied on to overcome those objections – housing need – is need which the LPAs consider does not justify GB release, because they consider housing need alone does not give rise to exceptional circumstances.

9.6.6 In those circumstances, the possibility of locating the WWTP other than on the GB must be considered.

9.7 In relation to the Applicant's justification of the exclusion of non-GB sites on grounds of cost [AS-018 – ES Ch.3 para.2.2.24 on p.18] it must be noted that in *Stonehenge* the fact that longer tunnelling options were rejected at an early stage of options appraisal due to these being unaffordable did not make it lawful to exclude those options from consideration by the Examining Authority and Secretary of State – see paras.247, 262 and 277.

9.8 With regard to the Planning Inspectorate's Guidance on alternatives, Advice Note 8, to the extent this is relied on by the Applicant, it must be noted that this guidance was last updated in June 2020, prior to the decision in *Stonehenge* which was handed down over a year later.

9.9 On the release of Green Belt for housing or other uses, it is well-established that the requirement to establish very special circumstances in order for inappropriate development in the Green Belt to be permitted is a stricter and more demanding test than the requirement for exceptional circumstances to justify Green Belt release through the planning process (see, for example, *R (Luton Borough Council) v Central Bedfordshire* [2015] EWCA Civ 537 per Sales LJ at

paras.54 and 56. In short, if there are no exceptional circumstances for Green Belt release, there are no very special circumstances either.

- 9.10 SCDC and CCC (at para.6.62 of their LIRs [REP2-043]; [REP2-052] have made it clear that 'exceptional circumstances' do not exist for releasing this or any other substantial GB site around Cambridge for housing. They accept that such circumstances may exist in relation to the Cambridge Biomedical Science Campus and at Babraham, but only in relation to scientific and medical research facilities, which are of **national and international** importance. No such discussion appears anywhere in emerging policy in relation to the relocation of the WWTP or the Honey Hill site, or in the MWLP, which was adopted well after HIF funding was granted.
- 9.11 SHH disputes that SCDC and the City Council could not between them have lawfully allocated the Honey Hill site for waste water development in the emerging Greater Cambridge Local Plan. Their local plan powers as set out in the Planning and Compulsory Purchase Act 2004 extend to all forms of development, whether or not the decision maker is the plan making authority. This is unlike the circumscribed powers of the Minerals and Waste Planning Authority. They could have identified a site and amended Green Belt boundaries as an 'exceptional circumstance' and included other policies to govern the relocation as part of a coherent local plan led process to give effect to NECAAP. The fact that they have not done so through the GCLP process is telling.

## CWWTPR DCO Examination

SHH 46

## Submission by Save Honey Hill Group

## ISH3 - Environmental Matters, Day 1, 10 January 2024: Summary of Oral Submissions

22 January 2024

**1. Introduction**

1.1 This note summarises oral submissions made by Ian Gilder for SHH at the ISH3 Day 1 on 10 January 2024.

**2. Agenda Item 2 – Application Documents**

2.1 It was confirmed that SHH notes on errors and inconsistencies in the ES Chapter 2 have been shared with the Applicant.

**3. Agenda Item 3 – Traffic and Transport**

- 3.1 Abnormal Indivisible Loads (AIL). For the main works site, AIL will normally travel entirely on the strategic road network (SRN) and these are not a concern to SHH, provided that Clayhithe Road/Horningsea Road north of the A14 are not used for these if there are blockages on the SRN. Certain very large loads for the Waterbeach Pipeline North will need to use either Bannold Road or Station Road/Clayhithe Road from the A10. These will include large cranes and the HDD rigs for the River Cam crossing both of which will need to use Clayhithe Bridge, which has a humped vertical alignment and may be weight restricted. The HDD rigs will be on or above the size limits for normal road haulage. In SHH's view, the times when AILs can be moved through Waterbeach and Clayhithe needs to be restricted to times when obstruction to general use of these roads can be avoided and are likely to require temporary parking restrictions and traffic control. The Applicant agreed during questions to check and confirm that Clayhithe Bridge is adequate for large loads on low clearance trailers.
- 3.2 Waterbeach and Horningsea Construction Routes: The Applicant has confirmed that a commitment not to take construction or operational HGVs through Horningsea village was given during pre-application consultation and has been the basis for design and assessment of traffic in the DCO, ES and management plans. SHH believes strongly, as does Horningsea Parish Council, that this commitment must be maintained. Routing all or some of the construction HGV traffic for the section of the Waterbeach Pipeline between the Cam river crossing and Horningsea village through Horningsea village would not be acceptable.
- 3.3 This means that there will be construction traffic impacts in Waterbeach and Horningsea, north of the village, which need to be mitigated as far as possible. SHH is satisfied with the Applicant's response during questions that it is unlikely to be practicable to make any use of haul roads provided for Waterbeach New Town for the construction of the Waterbeach pipeline between the Waterbeach WRC and the River Cam. The relevant construction traffic routes and access points are shown on Figure 19.2 of the Traffic and Transport Figures [REP3-022] and the analysis of construction traffic movements on pages 106 and 107 in Tables 7-7 and 7-8 of the TA Part 1 [REP3-034]. There are two routes through Waterbeach, one from the A10 using Denny End Road

and Bannold Road and the other through the heart of the village along Chapel Street and Station Road. SHH noted that Waterbeach Primary School no longer sits on a construction traffic route, since it is some 200m south of Bannold Road with the main access from High Street.

- 3.4 The construction traffic assessment is unhelpful, since it does not deal with the likely pattern of construction activity along the pipeline which is likely to take place in sections and move generally from north to south during the construction period. This means that there will be a period when Bannold Road needs to be used heavily and then, probably later, when all traffic will need to use Station Road. Table 7-7 gives typical daily movements, 62 – 82 HGVs per day at most, but Table 7-8 presents a higher daily total of 108 HGVs per day, 10 per hour excluding peak hours and the post school hour. It is not clear how often this latter high level of movements is likely to be required. Given the nature of the construction, there are likely to be periods possibly for several weeks when particular activities, such as haulage of stone for work areas and pipe bedding are concentrated.
- 3.5 Station Road Waterbeach is narrow, with several stretches of one way working caused by parked cars and particularly in and around the peak hours is heavily used by pedestrians accessing the station. Under normal circumstances, very few HGVs use this road. SHH asked in the hearing whether the Applicant would agree to a restriction on the hourly numbers of construction HGVs using Station Road. The ExA requested that SHH make a specific practicable proposal in writing on this point.
- 3.6 Our considered view is that there needs to be defined periods when Station Road is not to be used for HGVs. Those shown in Table 7-8 are not the most relevant hours, which we believe should be from 0800 to 0930 and 1600 to 1800. The post school hour is not relevant. We accept that setting an hourly maximum is not especially practicable and would involve holding HGVs in places where there are no obvious off road holding areas. Instead, we would ask the Applicant to commit to a daily maximum total, well below 108 vpd. Our suggestion is 75vpd. There may need to be temporary parking restrictions or traffic control during weeks of high activity, and these will certainly be required for the movements of AIL.
- 3.7 Operational traffic: SHH noted that the ExA has asked for further analysis of operational traffic movements at J34, focussed on the 'shoulder' hours before and after the defined am and pm peak hours and on any mitigation necessary.
- 3.8 SHH raised concerns about whether restrictions on HGV movements in the CTMP can be properly enforced and monitored, when the vehicles are operated by third party sub-contractors, noting that this is a problem encountered on other schemes.
- 3.9 SHH believes that there should be representatives of Horningsea and other directly affected Parish Councils on the CTMP Forum.

- 3.10 SHH noted that there is still an error in Schedule 9 Part 2 of the dDCO relating to prohibited movements at the works access junction at J34 and will include this in a further schedule of changes requested to the dDCO. This is SHH 45.
- 3.11 Parking Provision: Following the ExA's detailed exploration of the numbers of staff and likely modes of transport, it appears likely that on most days, there will only be 25 to 30 staff vehicles using the 71 parking spaces on site. The Applicant's answer that the amount of parking meets the SCDC parking standards is a nonsense, given that this is a very specific form of business floorspace and the Applicant knows how many of their staff will be on site and their likely use of private cars. In our view, parking provision should be reduced to no more than 40.

#### **Agenda Item 4 - Carbon**

- 4.1 SHH submitted an extensive critique of the construction and operational carbon assessment in Chapter 10 of the ES in SHH 04 Chapter 9. The Applicant in REP2-038 Responses to SHH WR did not provide any response to these substantive criticisms. It did note the demolition assessment by SHH and its own assessment as similar results. ES Chapter 10 now updated by Applicant in REP3-019 and in Appendix REP3-032 and SHH is commenting against these.
- 4.2 Carbon Assessment, including baseline, sludge, uncertainty over future emissions: SHH has noted that the assessment timeframe now extended to 2090 is welcome and notes that it takes account of substantive although undefined upgrades in years 23 and 46. The Applicant confirmed in questioning that these allowed for plant replacement, but not for any capacity expansion beyond the Phase 2 scheme.
- 4.3 Applicant's benchmark for construction carbon reduction is the DM0 CHP Design, noting that the proper baseline for assessing gross construction emissions should be zero. Both of these are now done in Chapter 10, which is acceptable as numerical analysis. SHH criticism that the DM0 design had oversized tunnels in it is now accepted by the Applicant, noting that the carbon reductions up to DCO Design does also include for change of tunnel materials to composites allowed by smaller bores.
- 4.4 Chapter 10 does set out both gross and net operational emissions from the new plant, so full impacts can be considered, subject to uncertainty about future emissions factors. It would be helpful to see an assessment of carbon emissions from the existing works, not just the average emissions by volume for existing plants in Table 4-5.
- 4.5 SHH believes that two components of operation should be in the new plant carbon assessment (i) pumping of sewage from Waterbeach and (ii) operation of the sludge transport from other works. The Applicant claims that the latter will not change from existing, which has always seemed unlikely since production of sludge at satellite works will increase over time.
- 4.6 SHH accepts that there are considerable uncertainties over the emissions assessed for the Gas to Grid or other biomethane options. This arises principally because there is no agreed national 'roadmap' to decarbonising gas delivered through the national grid; legitimate differences of view as to how to account for burning of fossil gas and uncertainty about what final use the

biomethane will be put if not injected into the grid. Noted that the Applicant to answer whether alternative biomethane solutions apart from gas to grid can be assessed in the ES.

- 4.7 SHH notes the Applicant's acceptance that the existing works could be made operationally net zero and that the SHH estimate that this would involve c17,000tCO<sub>2</sub>e construction emissions is reasonable. SHH noted the Applicant's intention to review the dDCO drafting to check it allows for other forms of gas export e.g. by liquefaction and transport by tanker.
- 4.8 Whole life carbon assessment: Scope, net zero targets and carbon offsetting: SHH primary concerns about carbon assessment remain that:
- (i) The DCO design only achieves 45% construction reduction from a false DMO baseline. This relied on an exaggerated reduction in tunnel specification, also relevant to consideration of alternatives. This reduction is well below Applicant's corporate across the estate capital carbon target of 70% reduction.
  - (ii) We are not convinced that G2G will prove feasible. Total net emissions are c37,000 tCO<sub>2</sub>e for the CHP option for the operational life of works. This is a net excluding offsetting estimate and again falls well short of AW 2030 corporate target of operational net zero.
- 4.9 Applicant stated in questioning that a detailed approach to carbon reduction and monitoring is to be included in the Design Code. This needs to be enforceable and take account of design progression and carbon minimisation during construction. Applicant suggests it may commit to a 55% carbon reduction target, which we will review alongside Design Code.
- 4.10 Applicant's position on solar is that any shortfall in meeting operational net zero will be delivered by just as much solar as is needed to balance the books. This is a very peculiar position to adopt from a corporate or project perspective and it is questionable that it can properly monitored except at a single point in time, given continuing reductions in grid electricity emissions. The Applicant has not demonstrated what area of solar is needed to meet present estimates. The Applicant in questioning raised the possibility that solar installation may be limited by availability of local grid connection capacity, but has not evidenced this.
- 4.11 SHH believes that any operational carbon target of net zero must be delivered on site including operations from the site. Carbon offsetting via carbon credits/remote tree planting etc is not legitimate/effective.
- 4.12 Design refinement and GHG emissions commitments: Requirement 3 as revised requires commitment to CHP or G2G in phasing scheme prior to main works. Needs clearer commitment in Requirement 3 to demonstrating in phasing scheme that design to be built will achieve 70% capital/construction carbon reduction from an agreed baseline. Wording of this depends on what is in Design Code.
- 4.13 Requirement 21 as revised requires detailed carbon management plan prior to operation of gas recovery...which requires 'operational net zero'. Requirement 21(2) will need amending to at least include words 'from operations on site or conducted from the site'. Requirement 21 also needs amending to ensure that a decision about solar to be made prior to bringing into use of gas recovery. This would allow solar to be installed as part of main works design/contract. Needs clearer specification of what operational net zero means (i.e. not off site offsetting/credits) and

whether requirement should be to go beyond net zero to net positive 'as far as is reasonably practicable.'

Ian Gilder MA MRTPI FRSA

**CWWTPR DCO Examination**

SHH 45

**Submission by Save Honey Hill Group****CAH1- Compulsory Acquisition Hearing 1, 9 January 2024: Summary of Oral Submissions****22 January 2024****1. Introduction**

1.1 This note summarises oral submissions made by Ian Gilder for Save Honey Hill Group at the CAH1 on 9 January 2024.

**2. Agenda Item 2: The Applicant's Case for CA and TP**

2.1 There is no demonstrable need for the relocation. The Applicant therefore has to rely on para 13 of the Compulsory Acquisition Guidelines that 'public benefits outweigh private loss'. The Applicant has provided no examples of DCOs granted that rely on an 'enabling' case, where the subsequent development is not part of the DCO.

There is no 'compelling case...for the land to be acquired compulsorily' which is the principal test in s122 of the PA 2008.

2.2 Inter alia, the Applicant has not met the test in para 8 of the DCLG Compulsory Acquisition Guidelines, 2013. It has not 'demonstrated...that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.' The latest SHH response to the matter of alternatives is in 4.5.1 – 4.5.9 of SHH34 [REP3 -068] the SHH Response to the Applicant's Responses to Written Representations 8.13 REP2-038, which clearly demonstrates in combination with its RR [RR-035] and WR SHH04 [REP1-171] that all reasonable alternatives have not been explored.

2.3 The Applicant has not provided adequate information to confirm that enough funding is certain to be available to deliver the project and has therefore not met the requirements in paras 17 and 18 of the CAG.

**3. Agenda Item 3: Site Specific Issues**

3.1 SHH as an organisation has no interests in land covered by the scheme, although individual members of SHH do have land interests. Submissions made only relate to matters of principle raised by the ExA's site specific questions, in particular the Waterbeach pipeline South and the 'permissive' bridleway.

3.2 Depending on the timing of demand from Waterbeach new town, the Waterbeach pipeline South may never need to be built, as noted in ES Chapter 2. Although a 'late programme' completing it in 2027/8 is shown in Figure 3.11 in Chapter 2 of the ES [REP3-0170], in reality, the Waterbeach pipeline South would not be built unless demand arises much earlier than that. If it is built, it is intended to be made redundant on opening of the new works and at most will be in use for a period of no more than two or three years. The pipeline is not to be removed. Compulsory acquisition powers are not justifiable for this element and should not be granted for land required solely for this element of the scheme, on either side of Horningsea Road in Fen Ditton.



3.3 The Applicant has not committed to making the new bridleway along the old railway a dedicated public right of way, preferring to pursue an agreement with the landowner for it to be permissive. SHH believes strongly that this is not a matter for the adjoining landowner to dictate and that a permissive bridleway, with a limited life of 30 years, is not sufficient as mitigation. SHH believes that the bridleway should be a permanent dedicated PROW and remain available in perpetuity. This is a view shared by the County Council, as highway authority, responsible for such public rights of way.

#### **4. Agenda Item 4: AP Representations**

4.1 SHH notes the commitment given by the Applicant to consult with residents of eg Poplar Hall regarding the length and timing of occupation of land in the immediate vicinity of their residential properties.

#### **5. Agenda item 5: Statutory Undertakers**

5.1 No submission.

#### **6. Agenda Item 6: Crown Land**

6.1 No submission

#### **7. Agenda Item 7: Funding**

7.1 Certainty and adequacy of funding has been a substantive concern raised by SHH both during pre-application consultation and in submissions to this Examination in particular in SHH22, SHH28 and SHH34. The Applicant has, for example in 8.14 REP3-054, Sections 2.5 and 2.9, given partial and incomplete answers to valid points made by SHH.

7.2 SHH has been accused of conflating the HIF and the funding of the relocation. This is not correct, although the debate has been made difficult by the complexity and interlocking nature of the funding arrangements and the reluctance of the Applicant and the public bodies involved to provide clear unredacted information about project governance and funding.

7.3 SHH has noted that the Applicant only submitted the long-awaited HIF Business Case to the Examination on the day before this hearing, but has still not provided a clear summary of the key aspects of the funding as it relates to the proposed relocation.

7.4 SHH's key concerns remain unanswered by the Applicant's answers to the ExA's questions at this hearing and were presented to the hearing as below:

- (i) This is, from the DCO perspective, a free-standing project which is being funded through a complex set of joint venture development agreements with the local authorities and third parties. The relocation, as the Applicant makes clear at every turn, cannot be funded (except in relation to Waterbeach capacity and the pipeline) from the Applicant's primary regulated asset business, which is the Applicant's principal source of revenue. The only source of funding declared by the Applicant is the HIF grant. This makes certainty of funding far more important to this Examination than where public sector promoters are bringing forward infrastructure projects, which are operationally necessary or desirable and/or are funded by ongoing public funding programmes.

- (ii) Funding under HIF is a ringfenced cash sum of £227 million at 2018 prices. The relevant sum that should have been approved was £167 million, since the site selected is a 'short tunnel option', the cost of which was estimated based on a site at Milton just north of the A14, understood to be near Site 2. £227 million was calculated in the HIF Bid to allow for a 'long tunnel option', which might have been to the north of the Geen Belt.
- (iii) The HIF Grant was given based on 2018 prices and there has been substantial and continuing inflation in construction costs. SHH has estimated this based on published price indices for Civil and Other Construction Costs as being around 32% between 2018 and 2023. The Applicant is refusing to provide an up to date cost estimate, including fees, for the project on the grounds that this has to remain confidential to avoid compromising the procurement of the main works contracts. This is not acceptable. It is normal practice for up to date cost and viability estimates to be sought and presented in Funding Statements for Development Consent Orders. These are normally estimates without detailed breakdowns. In the case of publicly funded projects, there will be a range of other preliminary cost estimates in the public domain, including budget costs, investment decision costings, economic and development appraisals or even tender price ranges, published prior to tender. An up-to-date cost estimate for the relocation, including fees, at likely outturn prices, must be provided by the Applicant. This will not compromise the procurement process, which will be by competitive tender. The Applicant accepted, in questioning by the ExA, that the 'budget of £227 million would be tight'. This makes it even more critical that the Applicant provides those estimates to the Examination so that the likely extent of any cost overruns can be assessed.
- The ExA will be aware of other Compulsory Purchase Order cases, notably the Vicarage Field, Barking, decision (APP/PCU/CPOP/Z5060/3278231, October 2022), where the compulsory acquisition was refused for several reasons, but, in particular, because there was no credible up to date assessment of the project's viability and of funding available to the development partner.
- (iv) The applicant accepts in its response to ExQ1 8.25 that the commitment from the 'parties to the GDA' only extends to meeting up to a 5% cost overrun above the Maximum Sum, as set out in the GDA at 6.6.4, but that discussions are ongoing about how any larger cost overrun could be met and are expected to conclude before the end of the Examination. The Applicant in questioning said that this further commitment will be provided to the Examination, but without a timescale. It is essential that this is done well before the end of the Examination so that other parties, such as SHH can respond properly.
- The Applicant has suggested that cost overruns might be met from the uplift in the development value of the core site land that is owned by the Applicant. The Applicant cannot at this stage claim that (i) there will be any substantial surplus land value that the Applicant will receive, since all of the long term costs of developing the NECAAP sites over up to 20 years will have had to be met, before capital receipts are crystallised (ii) there is no viability appraisal of the redevelopment available and (iii) it is our understanding that the majority of any surplus from land receipts is already committed by agreement to be redistributed for affordable housing through the Cambridgeshire and Peterborough Combined Authority. The Applicant may only receive a small sum based on the existing use value of the core site.

- (v) It was recently revealed in FOI responses to SHH that spending on the defined 'enabling phase' for the project has already reached close to the Homes England approved budget maximum of £31.8 million. Spend at end October 2023 on a defrayed basis is reported as £28.8m. The Applicant in questioning suggested a slightly different figure, but since this information was provided by the City Council as administrator of the grant, it must be accepted. The Applicant has not said how any overruns in funding for enabling works and fees prior to the start of the 'delivery phase' are to be met.
- (vi) The CA Guidelines are clear in paras 17 and 18, in particular. In this instance, these need to be rigorously applied. The Applicant has not, to date, demonstrated that the funding for the project is either sufficient, nor is it clearly certain to be likely to be available.

7.5 SHH believes, based on published evidence leading estate agents of recent agricultural land disposals, on the open market, that the Applicant's estimate of £5 million for compensation, including disruption and blight, as set out in the Applicant's response to ExQ1 8.32 is an insufficient amount. This is without considering the development 'hope value' that attaches to the main site and other adjacent land in the same ownership. On some of that land, south of the A14, that landowner has pursued release of that land for housing as recently as part of the South Cambridgeshire Local Plan 2018 preparation. This is a matter SHH leaves to the ExA to pursue, since we cannot provide specific professional evidence on this point.

## 8. Other Matters

8.1 Prior to closing the hearing, the ExA chose to take Item 2 from the ISH3 hearing agenda, relating to inconsistencies and errors in Application Documents. SHH had noted errors and inconsistencies that remain uncorrected in the ES Chapter 2 and gave an example of these. SHH's list of errors has subsequently been provided to the Applicant and will be submitted, for the record, as SHH39.

Ian Gilder MA MRTPI FRSA