

Sunnica Energy Farm Nationally Significant Infrastructure Project: Draft Relevant Representation

Report number:	CAB/WS/22/012	
Report to and dates:	Cabinet	15 March 2022
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Decisions Plan: Due to ensuring the representation is submitted by the required deadline of 17 March 2022, with the agreement of the Chair of the Overview and Scrutiny (O&S) Committee, the call-in procedure for this item has been suspended. The Chair of the O&S Committee is satisfied that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

Wards impacted: The scheme is primarily located in Manor Ward but the scale of the scheme is such that surrounding wards may be impacted – including Icení, Mildenhall Kingsway and Market, Mildenhall Great Heath and

Mildenhall Queensway. The cable route also passes through Exning Ward.

Recommendation: It is recommended that:

- 1. Cabinet endorses the draft Relevant Representation, attached as Appendix A to Report number: CAB/WS/22/012, to be submitted to the Planning Inspectorate under s56 of the Planning Act 2008**
- 2. That the Director (Planning and Growth) in consultation with the Portfolio Holder for Planning, be authorised to make amendments to the draft Relevant Representation prior to its submission to the Planning Inspectorate**
- 3. That Cabinet grants delegated authority to the Director (Planning and Growth), in consultation with the Portfolio Holder for Planning, to fully engage with the Pre-examination and Examination stages of the Development Consent Order process in relation to the Sunnica proposals, in order to pursue the concerns identified in the Relevant Representation.**

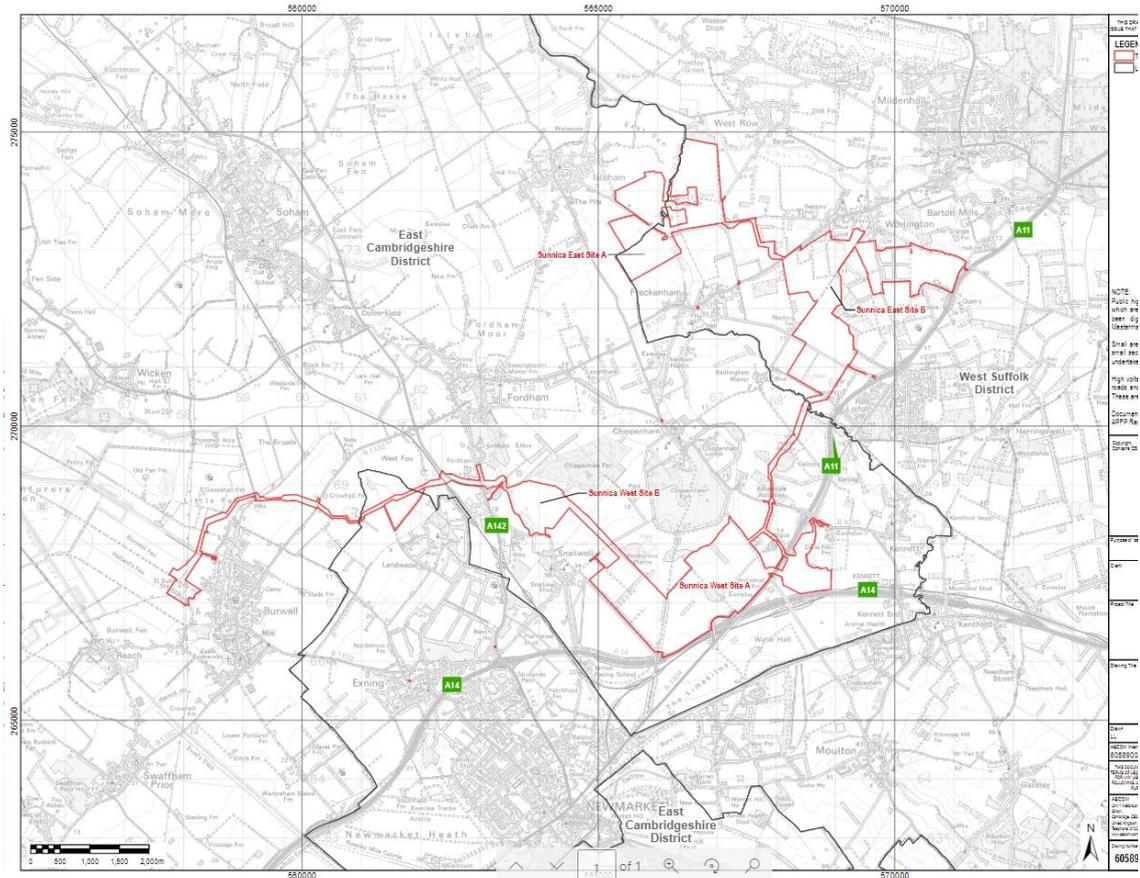
1. Context to this report

- 1.1 Sunnica Energy Farm is a scheme for the installation of solar photovoltaic (PV) generating panels and on-site battery energy storage systems (BESS) across two sites within Suffolk and Cambridgeshire. The proposal will include the infrastructure associated with the required connection to the national grid, including an extension to the Burwell National Grid Substation.

The scheme is situated across four sites:

- a. Sunnica East Site A, which is situated partly in West Suffolk and partly in East Cambridgeshire, is located approximately 3.5 kilometres (km) east of Mildenhall, 0.5km south-east of Isleham and 0.6km south-west of West Row;
- b. Sunnica East Site B, located in West Suffolk, is approximately 1.5km south-east of Mildenhall, 1km east of Freckenham and immediately south of Worlington;
- c. Sunnica West Site A, located in East Cambridgeshire, is approximately 7km to the east of Burwell, immediately north of the A14 at Newmarket; and
- d. Sunnica West Site B, located in East Cambridgeshire, is approximately 5.5km to the east of Burwell and 0.5km north of Snailwell.

All locations will comprise ground mounted solar PV panel arrays, supporting electrical infrastructure and, with the exception of Sunnica West Site B, a BESS. A cable route (including interconnection between the Sites) and an extension to the Burwell National Grid Substation are also proposed.



https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010106/EN010106-001879-SEF_ES_6.3_Figure_1-1_Scheme_Location.pdf

- 1.2 The scheme is defined as a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008 as it is an onshore generating station in England exceeding 50 megawatts (MW). Consent for an NSIP takes the form of a Development Consent Order (DCO). The application will be determined by the Secretary of State for Business, Energy, and Industrial Strategy (BEIS). The Council is a statutory Consultee in the consenting process.
- 1.3 Sunnica conducted a statutory consultation on its proposals in Autumn 2020 and the Council submitted a joint response between West Suffolk council, Suffolk County Council (SCC), East Cambridgeshire District Council (ECDC) and Cambridgeshire County Council (CCC) under s42 of the Planning Act 2008 on 17 December 2020.
- 1.4 Sunnica submitted its application for a Development Consent Order for its proposals to the Planning Inspectorate on 18 November 2021. The Planning Inspectorate made the decision to accept the application for examination on 16 December 2021 following the submission by the host authorities of the jointly prepared Adequacy of Consultation Report.

- 1.5 The application is now in the pre-examination phase. As required by s56 of the Planning Act 2008 Sunnica has notified the Council, as a person identified as falling within the categories of persons that must be notified of acceptance of the application, that the application has been accepted for examination and that the application documents are now available to view.
- 1.6 The s56 notice sets out the period in which relevant representations are invited to be made to the Planning Inspectorate. This period runs from 3 February 2022 to 17 March 2022.
- 1.7 Host authorities are encouraged to submit a relevant representation to allow their views to be considered by the Examining Authority (ExA) (comprising a panel of Inspectors convened by the Planning Inspectorate to oversee the examination) when it carries out its initial assessment of principal issues in advance of the preparation of the draft examination timetable.
- 1.8 A relevant representation should include a summary of what the local authority agrees and/or disagrees with in the application, what they consider the main issues to be, and their impact. The content of the relevant representations is used by the Examining Authority to help inform their initial assessment of the principal issues for examination.
- 1.9 The four affected Councils will submit a relevant representation on an individual basis to ensure that the Examining Authority is fully informed of the matters of concern to the Council and the communities and interests that the Council represents.
- 1.10 The examination is expected to begin in spring 2022 and last for six months, following which a recommendation will be made to the Secretary of State. The Secretary of State is expected to make a decision around spring 2023.

2. Proposals within this report

- 2.1 The Council recognises the importance of projects that will support the delivery of Net-Zero Carbon for the UK provided that any impacts are appropriately addressed.
- 2.2 Local development plan policies set out support for proposals for the generation of renewable energy and acknowledge that low and zero carbon energy generation infrastructure has different locational requirements depending on the energy source and that some types of equipment, such as wind turbines and solar arrays, can cause harm to the character and/or appearance of the area and on nature conservations sites, conservation areas or other heritage assets. Where possible developers are encouraged to site such equipment outside these areas but where this is not possible

such development must represent the highest standards of siting and design.

- 2.3 National Policy Statement (NPS) EN-1 (the overarching policy for energy) was published in July 2011. This sets out the UK Government's commitment to increasing renewable generation capacity and recognises that, in the short to medium term, much of the new capacity is likely to come from onshore and offshore wind. Solar is noted within the document as being an "intermittent" renewable technology.
- 2.4 NPS EN-3 (the National Policy Statement for Renewable Energy Infrastructure) does not include solar power or electricity storage within its scope. NPS EN-3 suggests that, at the time of designation in 2011, other types of onshore renewable energy generation were not technically viable at a scale of more than 50MW, and that the Government would consider revisions to NPS EN-3 or separate NPSs to cover such technologies should the situation change.
- 2.5 New drafts of EN-1 and EN-3 have been published recently, which are notable in that the draft EN-3 now contains technology-specific policy for large-scale solar projects. These policy documents have been subject to consultation by Government and it is possible that they may be formally designated before the conclusion of the Sunnica examination.
- 2.6 Elements of the NPS for Electricity Networks Infrastructure EN-5 are also relevant to assessment of impacts arising from the cable route.
- 2.7 Officers have continued to work collaboratively with the other host authorities since the application was accepted for examination and the draft Relevant Representation appended to this report is the result of on-going discussions between technical officers. Provisional agreement has been reached with Suffolk County Council (SCC) that it will take the lead on matters within its jurisdiction, including transport and access, flood risk and drainage and archaeology. Notwithstanding this provisional agreement, the Council will continue to assess and comment upon these matters so far as they impact the district of West Suffolk and the communities the Council represents.
- 2.8 SCC's Cabinet is due to consider its draft Relevant Representation at its Cabinet meeting on 1 March 2022. SCC is expected to state that it is unable to support the proposal as it stands and considers that development consent should not be granted for the proposal as submitted. SCC are expected to cite concerns regarding the scale of the proposals and that the applicant has failed to justify the project lifespan of 40 years. In addition, SCC raise concerns regarding the scope and quality of the landscape and visual impact assessment and transport assessments undertaken by the applicant. Concerns are also raised in relation to socio-economics and land use, community impacts, cultural heritage/archaeology and ecology and nature conservation.

- 2.9 The appended draft Relevant Representation sets out the concerns of this Council and states that the Council does not support the proposal as it stands and considers that development consent should not be granted for the proposal as submitted.
- 2.10 Key concerns remain in a number of areas in relation to the likely environmental impacts, the quality of assessment of these impacts and the lack of mitigation in a number of topic areas.
- 2.11 In relation to landscape and visual amenity, concerns remain that the scale, longevity and geographical distribution of the proposed development are likely to result in significant adverse impacts as a result of intra-cumulative and accumulated effects. Due to the way evidence is presented, and cumulative impacts are considered, the Environmental Statement tends to under-estimate impacts. Mitigation proposals are not sufficiently tailored across a variety of landscape character types and are not ambitious enough to sufficiently deal with the degree of harm caused by the project.
- 2.12 In relation to ecology and nature conservation it is considered that it should be possible for the applicant to avoid the most sensitive habitats, deliver appropriate mitigation and compensation as well as ecological enhancements. However, the success of any proposed measures is highly dependent on future management and monitoring. A number of framework management plans lack the detail required to demonstrate that the mitigation hierarchy has been appropriately applied and to give confidence that the overall residual impacts, taking into account future maintenance, will be beneficial for biodiversity across the extent of the application site and in line with the principle of biodiversity net gain.
- 2.13 SCC has stated in its draft Relevant Representation that the submitted material in relation to transport and access is not acceptable and that there are deficiencies in the highway-related provisions in the draft Development Consent Order. The impact of the proposals on non-motorised users and users of the public rights of way network has been significantly underplayed and no significant sustainable travel measures have been included, either for construction traffic or for the benefit of all road users. This Council supports this view.
- 2.14 A project of the scale and nature proposed will radically change the sense of place, the place attachment of the residents, and the recreational amenities of the affected villages and communities, over a long period of time. It is considered that the applicant's submission does not recognise this, and the need to mitigate/compensate for these impacts.
- 2.15 The draft Relevant Representation also raises concerns in relation to cultural heritage and the assessment of non-designated heritage impacts, the acceptability of the applicant's noise assessments and assessment of impacts on soil and land use. In addition, the ExA's attention is drawn to

the need to thoroughly examine the suitability and safety of the Battery Energy Storage Systems and the need to fully assess the impact of the proposal on the horse racing industry.

- 2.16 The draft Relevant Representation will continue to be finessed as further reviews of the application documentation are undertaken and technical officers continue to work with their counterparts at the other host authorities. Delegated authority is therefore sought to enable the Director (Planning and Growth), in consultation with the Portfolio Holder for Planning, to make amendments to the draft Relevant Representation prior to its submission to the Planning Inspectorate by the submission date of 17 March 2022.
- 2.20 Following the submission of the Relevant Representation, the council will have further opportunities to present its views on the proposals to the ExA. Early in the examination process the ExA will set a deadline for the submission of a Local Impact Report (LIR). The LIR is defined as a report in writing giving details of the likely impact of the proposed development on the authority's area. The LIR covers any topics that the local authority consider relevant and should be used as the means by which a local authority's existing body of local knowledge and evidence on local issues can be reported to the ExA. The local authority can set out its local planning policy considerations as they relate to the proposal in the LIR. The four host authorities intend to submit a joint LIR and as previously agreed by Cabinet, the LIR will be agreed by the Portfolio Holder for Planning.
- 2.21 The Council will also be invited to submit a Written Representation (WR) around the same time as the LIR is submitted. The WR is the most appropriate document for a local authority to set out its view on the application i.e. whether or not it supports the application and its reasons. The WR will be agreed by Cabinet and it is expected that its submission will be due in spring 2022.
- 2.22 The Council is further involved in the examination process through attendance and participation at hearings and accompanied site visits; by responding to ExA questions and requests for further information; commenting on other interested parties' representations; submission of Statements of Common Ground (SoCG) and submission, as appropriate, of signed planning obligations.
- 2.23 To facilitate this process it is recommended that Cabinet grants the Director (Planning and Growth) in consultation with the Portfolio Holder for Planning the delegated authority to fully engage with the Pre-examination and Examination stages of the Development Consent Order process in relation to the Sunnica proposals, in order to pursue the concerns identified in the Relevant Representation.

- 2.24 At the pre-application stage the applicant entered into a Planning Performance Agreement (PPA) with the four host authorities. The PPA set out the terms on which the applicant would reimburse the authorities for time spent by officers on attending technical meetings with the applicant and their consultants and reviewing and commenting upon documentation as appropriate.
- 2.25 To date the council has been unable to agree terms with the applicant for the continuance of the PPA and for the applicant to provide adequate funding for the Council to fully engage with the applicant and fully participate in the examination process. The NSIP process places a significant burden on a local authority's resources and applicants are encouraged by national guidance to enter into a PPA. We continue to negotiate with Sunnica regarding the next stage of the PPA.

3. Alternative options that have been considered

- 3.1 The draft Relevant Representation sets out the fact that the Council does not support the proposal as it stands and that development consent should not be granted for the proposal as submitted. The document sets out where additional assessment work and/or clarifications are required and at this stage the Council is not stating whether it supports or objects to the proposal overall.
- 3.2 The examination process is designed to thoroughly test the key issues that have arisen and it is possible that further clarification and mitigation proposal may emerge, and which can be addressed accordingly by the Council in its written and oral submissions.
- 3.3 Notwithstanding the above, Cabinet may wish to make additions or changes to the specific issues raised in the Relevant Representation.

4. Consultation and engagement undertaken

- 4.1 Regular updates have been provided to local Members and their views sought on the content of the Council's Relevant Representation. This engagement will continue as the final response is developed.

5. Risks associated with the proposals

- 5.1 It is essential that the Council takes a balanced and evidenced based approach to each stage of the process, including the submission of the Relevant Representation, LIR and WR and the content of all representations made.

6. Implications arising from the proposals

- 6.1 An NSIP project of this size has the potential to benefit the economy and labour market of West Suffolk through the direct investment involved in building and operating the scheme that will link to supply chains (indirect impacts) and through increases to incomes. The draft Relevant Representation does however highlight where there are deficiencies in the information provided to date on this topic.
- 6.2 There may be financial risk to the Council and other public sector bodies if mitigation provided by the applicant is insufficient to alleviate impacts caused by the project.
- 6.3 An Equality Impact Assessment (EqIA) was not undertaken as the Council is responding to the planning proposals of the applicant. As such, it is the applicant that is required to satisfy the EqIA requirements as they promote their application. This assessment must account for people with protected characteristics and, in particular, must consider whether impacts of the scheme such as glint & glare or noise might affect people with physical or mental health conditions.

7. Appendices referenced in this report

- 7.1 Appendix A – Draft West Suffolk Council Relevant Representation for the Sunnica Energy Farm application for development consent.

8. Background documents associated with this report

- 8.1 Sunnica Energy Farm examination library:
[Sunnica Energy Farm | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/sunnica-energy-farm/)