

Comments on Published Written Consultations

Date Monday 21st November 2022.

From Alan B Smith Worlington WR Identification 20030110

Attached will be Appendix No 1 to No 4.

No 1 WR Joanna Reeks 2 pages.

No 2 WR R F Tilbrook and Sons 2 pages

No 3 BEIS Letter 13th Oct 2021 2 pages.

No 4 SNTSAG 2 pages.

I have read and analysed the personal WRs of which there are approx 126.

There are 2 areas of major concern Land use and BESS

Land use.

There are 91 references to food producing farmland being used for Solar PV or land/soil classification being incorrect and in addition 42 references to the scale of the proposal of a figure up to 2,800 acres of farm land being affected. This in turn leads to 29 references on decommissioning concerns on that area of land should permission be allowed. The compulsory purchase of parcels of land within the proposed development attracts 14 references.

BESS

There are 85 references to these 3 site installations with the principal concern being the risks to humans of fire and explosion.

Additional WRs.

In addition to the personal WRS there are of course those of the 4 Local Authorities, Parish Councils, Horseracing groups, our 2 local MPs representing their constituents and The Say No to Sunnica Action Group Ltd.

Therefore within the catchment area affected by the Sunnica proposal the views expressed are representative of approx. 40,000 people.

WR Professional Reports.

Throughout reading all the WRs presented to the Planning Inspectorate in addition to the 126 personal representations it is noted that professional reports have been submitted on the following subjects.

- Funding
- BESS
- Horseracing industry
- Assessment of agricultural Impacts
- Land and Visual Impact
- Ecology
- Carbon.
- Heritage

- Agronomy.

These reports represent the knowledge and opinions of Academics and Professional people who have reached the top of their chosen profession.

Conclusions Drawn from Reports.

I have noted one word mentioned time and time again in my reading of all the professional literature and that is “Flawed”

The Sunnica proposal appears to have been planned around the Compulsory Purchase of land which even included land owned by the National Grid for its own grid connection.

Compulsory Purchase included in a NSIP has to have another very important document included which is a Funding Statement. Therefore the 2 are linked as part of the Sunnica application.

Comments on Compulsory Purchase and Funding Statement.

I refer to my Written representation (Alan Smith) dated 13th October 2022 under ref 20030110;

Appendix No 4 headed Compulsory Purchase and evidence of Threats to Compulsory Purchase and Human Rights.

Item 4.7 Evidence of Threats to Compulsory Purchase.

Item 4.8 refers second bullet to La Hoque.

The list of written representations submitted includes;

Page 16 Joanna Reeks Int Party No 20030923 (Please see Appendix No 1.)

Page 23 RF Tilbrook and Sons IOD 11927. Heather Tilbrook. (Please see appendix No 2)

These 2 WRs endorse my comments in my WR under Item 4.8

La Hoque

This farm and farm shop is the social hub of the local area in a radius of 10 miles and beyond. Their website says it was opened in 2002.

My wife and family have visited The Farm Shop every week for the last 12 years to purchase farm produce or have a light lunch and coffee and have seen it grow into a thriving business.

We regularly meet our family and friends there as do hundreds or may be thousands of other families, cyclists and holiday makers on their way to Norfolk.

The website also mentions how passionate the owners are in providing their customers with top quality home produced and local food.

Food quality is what drives them to work with over 100 local farmers they know and trust.

La Hoque also has other attractions such as Childrens play area, Xmas each year with a Xmas Barn, Xmas Trees for sale and Turkeys to order. Highland cattle and sheep are a main attraction for children and a form of education of what life is like in the English countryside.

Therefore to read the owners 2 letters tells a story of how Sunnica have behaved over a 3 year period and caused unnecessary suffering to so many individuals and businesses.

Businesses must not be forced to close, people must not lose their jobs and corporate bodies such as Sunnica should show respect to others in their business dealings, and respect their Human Rights.

BEIS (Department for Business, Energy and Industrial Strategy)

I refer to my WR page 8 Appendix No 4 - 4.4, 4.5 and 4.6 (Please See Appendix no 3.)

This sets out very clearly the terms of CP. It also gives a recommendation on threatening behaviour and advises consulting a professional.

An investigation should be commenced on how Sunnica can behave in such a way to the likes of owners of businesses such as La Hoque and copies of the leases obtained for inspection.

Written representation Say No To Sunnica Action group Ltd Ref No 20031080 (See Appendix No 4.)

I refer to No 19 Justification for Compulsory Purchase pages 142 and 143.

I note from the conclusions 19.1.8

Based on lack of information on Compulsory Acquisition liabilities and the inadequate Funding Statement the ExA must recommend against granting the Compulsory Acquisition element of the Development Consent Order.

I note from No 19.1.9

This is also the case in respect of the Applicant failing to adequately demonstrate that there are no reasonable alternatives and the ExA must similarly recommend against granting the Compulsory Acquisition of the Development Consent Order.

I wholeheartedly agree with those conclusions.

Alan Smith.

From: [REDACTED]
To:
Subject: La Hogue and Dane Hill Farms
Date: 12 October 2022 15:11:49

Interested Party Reference: 20030923
SUNN-AFP172

My name is Joanna Reeks and I am a part owner of [REDACTED]. As a family we have owned and farmed these farms for over 50 years. I also [REDACTED] and run a large farm shop & cafe from the farm.

I would like to update you as to our current position regarding the Sunnica scheme. In 2020 having looked at the Sunnica proposal, plans and information they provided we formally gave notice that we wished to withdraw our land from the scheme as we did not want solar panels placed anywhere on our farms. Our reasons were we felt the scheme was too large, the landscaping proposals were totally insufficient and the covenant strength of the applicant and the proposals for site clean up were wholly inadequate. The scheme is also very likely to adversely impact my business – having taken the views of our customers they are very against the scheme and feel that the proximity of it to our premises would put them off coming to visit my shop. This would be seriously detrimental to my trade and could lead to job losses.

Sunnica responded by informing us that our views were irrelevant as they will simply compulsorily purchase the parts of our farm that they wanted. They were incredibly aggressive and intimidating. They suggested that if we co-operated they would take only approximately 100 acres or [REDACTED] over which they would require a long lease in the form they provided. Otherwise we would lose most of our farm to compulsory purchase for solar panels. We have been involved in long discussions and negotiations about the drafting of the lease and apart from simply not wanting to be part of the Sunnica scheme in any way, we have some major objections to the current form of the lease:

Dane Hill

- The gate from the B1085 is our only way in and out of the land from the highway. Sunnica are insisting on including this area in their lease. If we are forced to sign a lease for the solar area, as we have repeatedly offered, we could agree to Sunnica having an easement between the gate and solar area. This easement would provide an indefeasible right for Sunnica to access the solar area at all times throughout the term of the lease. We think it is extremely unreasonable to refuse this easement and insist on a lease. We propose an easement width of 6.7m wide which we understand to be the width of the B1085 leading onto Dane Hill Farm.
- We passionately do not wish to see any felling of trees on our land, as required by the present draft lease that allows this. We feel the current landscaping proposals for Dane Hill are wholly inadequate.
- We must retain use of our existing track around the area Sunnica wish to acquire

so that we can continue farming what we are left with. We are content for Sunnica to share use of this (with an appropriate contribution to maintenance).

- We have repeatedly raised our concerns about clean up costs and covenant strength and these have been ignored.

La Hogue

- We passionately do not wish to see any felling of existing trees (Sunnica have demanded a 10m tree free zone on either side of their cable).

So to conclude we find ourselves in a position where we do not want our land to be included in the scheme but have reluctantly entered into negotiations with Sunnica over a lease. They are now being deliberately difficult and intimidating (eg threatening to make us pay their injunction costs if we continued to refuse access for their surveys) and they are generally being wholly unreasonable about how we are going to be able to access and work on our farms. I felt you should know the truth about how it is for an unwilling landowner to deal with this company.

Kind regards

Joanna Reeks

Submission ID: 11927

Dear Sirs,

I represent R F Tilbrook & Sons. I am Senior Partner. We are farmers who have farmed at La Hogue Farm since 1953. I have lived at [REDACTED].

I wish to express my strongest and deepest objections to the proposed scheme, to build a Solar Farm over my land and the surrounding area.

Firstly, the scheme is far too big, covering large areas of prime farmland. Since Brexit, we should be producing more food for our nation and we should be less reliant on imports from abroad. This simply will not be possible if the land is covered with Solar panels.

I understand that the Contractor's main compound is to be sited immediately opposite the main entrance to La Hogue Farm. This is a working farm with many vehicle movements at different times of the year. As well as serving the farm, the drive serves La Hogue Farm Shop and Cafe. This is a very popular and thriving business. On a daily basis, it is visited by a numerous and large cross section of the general public, including young mothers with their very small children, strapped into their cars and an elderly clientele, whose driving skills are on the wane. This is a disaster waiting to happen.

La Hogue Road, that serves the farm and the Farm Shop, is a very small by road, without any white lines or road markings. As it is, at the moment, it is just possible for two cars to pass with great care. It is totally unsuitable for large vehicles, especially those used by a construction company. Again, another disaster waiting to happen.

I understand that a Battery Storage unit and possibly a Substation would be sited within a few hundred yards from our farm. This is totally unacceptable. Not only would it be extremely unsightly but should there be an explosion or malfunction of any kind, my home and those of my two daughters [REDACTED] would be directly affected by any toxic fallout.

I understand that the Substation is being considered because Sunnica have totally miscalculated how much electricity this scheme might generate. Because of the extra costs incurred to build it, the scheme will have to run indefinitely, not for the forty years that we were led to believe at the beginning. A long term planning gain through the back door?

The land where the contractor intends to establish the main compound will never be fit to return to agricultural land after they have finished because of all the pollution from accidental oil discharges, human excrement and the concrete which will have to be laid, to support the offices and vehicles, during the contract.

I understand Solar panels are notoriously inefficient at generating electricity because of our uncertain climate. This last Summer, during the hottest days, they were unable to function. Obviously, no electricity can be generated on dull days, of which there are many. Solar panels are made from toxic chemicals that are difficult to recycle, once their lives are over.

I totally understand that we should be looking at renewable energy. However, I am of the opinion that more imaginative ways to generate electricity should be considered, like placing Solar panels on the rooftops of Supermarkets and Industrial buildings who, after all, use vast quantities of electricity and leave us Farmers to feed the nation, as we always have.

Thank you for reading my submission.

Yours sincerely,
Heather Tilbrook



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Business, Energy
& Industrial Strategy

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Mr Alan Smith

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Our ref: TOSL2021/22971

13 October 2021

Dear Mr Smith

Thank you for your further letter dated 27 September 2021, which has been passed to me to respond to.

I have checked with the team in BEIS who are conducting the Consultation on the review of the suite of National Policy Statements ("NPS"). They have asked you to email your response to energyNPS@beis.gov.uk. If your response relies on documents other than the draft NPSs you should include either a link or alternatively include attachments. In your email you mentioned the Cleve Hill Solar Farm Examiner's Report: this is a document for which a link would be sufficient, but given its length it would be helpful if your response clearly indicates the paragraphs that you wish to be considered.

I am unable to give you a definitive answer in relation to whether the Transitional Arrangements for the NPSs will apply to the proposed Sunnica Solar Farm as this will depend upon when the Application is submitted to the Planning Inspectorate, and whether the application is then accepted by them for Examination. However, if the Application is submitted in Q3 2021 (as currently indicated on the Planning Inspectorate's National Infrastructure Planning website) then the Transitional Arrangements set out on page 12 of the NPS consultation document will apply and the Application will be determined according to the current 2011 versions of the NPSs.

Unfortunately, it is not possible to advise you on the compulsory purchase issues that you have identified as the Department is unable to provide legal advice. However, during the Examination (if the application has been accepted) the Applicant must make a clear case justifying the compulsory purchase powers it is seeking in its application. Any local residents who are affected by the proposals will have the opportunity to make their concerns known to the Examining Authority, by firstly registering as an Interested Party and then participating in the Examination if they wish to do so. The Planning Inspectorate has provided advice on how you may participate in the Examination to have your say, and also more generally about the examination process itself. This can be accessed via the following link but I note that you may already have received such advice directly from the Planning Inspectorate itself:

infrastructure.planninginspectorate.gov.uk/application-process/participating-in-the-process/.

The Examining Authority has six months within which to examine the application. Once the Examination has closed, the Examining Authority will consider the evidence presented to it during Examination and make its recommendations to the Secretary of State as part of its Report. You will see similar consideration in section 11 of the Examining Authority's Report into the Cleve Hill Solar Farm application which you have mentioned in your letter.

COMPULSORY PURCHASE

The Secretary of State will consider the recommendation in the Examining Authority's report, the Planning Act 2008, together with related case-law and guidance that provides compulsory acquisition can only be granted if certain conditions are met. Under section 122 of the Planning Act 2008 compulsory acquisition may only be authorised if:

- the land is required for the development to which the consent relates; or
- it is required to facilitate or is incidental to that development; or
- it is replacement land which is to be given in exchange for the Order land under sections 131 or 132 of the Planning Act 2008; and
- there is a compelling case in the public interest.

In connection with this:

- the land required to be taken must be no more than is reasonably required and be proportionate;
- there must be a need for the project to be carried out;
- all reasonable alternatives to compulsory acquisition have been explored;
- the applicant has a clear idea of how it intends to use the land and can demonstrate that funds are available to pay for the acquisition; and
- they are satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the interference with the human rights of those affected.

All of the above matters will be taken into consideration by the Secretary of State in his determination of the application.

In the meantime, I suggest you may wish to seek professional advice regarding the compulsory purchase matters you have mentioned in your letter. The Royal Institute of Chartered Surveyors' Helpline Scheme may be able to assist. They can be reached via the following link:

[REDACTED]

Thank you once again for writing on this matter. I hope that you find this information helpful.

Yours sincerely

BEIS Letter

BEIS CORRESPONDENCE UNIT

30 October

2018

19. Justification for Compulsory Purchase

- 19.1.1. SNTS refers to the finance reports attached at **Annex I** that have reviewed the financial standing of the applicant Sunnica Ltd and its funder Solaer Holding and the adequacy of the Funding Statement [APP-023]. SNTS has significant concern over the ability of Sunnica Ltd to fund the development and discharge financial obligations such as compensation to be paid to landowners whose land may be compulsorily acquired.
- 19.1.2. In this context SNTS refers to the Planning Act 2008 – Guidance Relating to the Compulsory Acquisition of Land²¹ paragraph 18.

Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of.

- 19.1.3. The Funding Statement contains little detail on the calculation of the estimated cost and given the lack of detail in the application the cost estimate must be regarded as only provisional. It is not possible to in any validate the adequacy of the estimate or allowances for risk. While it is stated to include an estimate of liabilities for Compulsory Acquisition, no amount is provided.
- 19.1.4. Similarly, the Funding Statement contains little detail on the availability of funding and how this would be raised. The ExA cannot be assured based on the information provided that Solaer Holding will fund Sunnica Ltd as there is only a reference to the assets held by Solaer Holding and no visible commitment from Solaer Holding to fund the project beyond its existing commitment.
- 19.1.5. There is no transparency over funding, Sunnica Ltd has no funding ability, and Solaer Holding has a negative operating cashflow. A statement that Solaer Holding will be able

²¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf

to fund Sunnica from its own resources when the amounts are unknown is of no reassurance to the ExA.

- 19.1.6. SNTS has commented on the Assessment of Alternatives in **Section 16** of this representation. The assessment of alternatives undertaken by the applicant is not sufficient to demonstrate that there is no alternative. Indeed, Sunnica Ltd in their letter to the ExA of 28 April 2022 said at 3.2:

If Option 1 is discounted, Option 2 can be taken forward. However, Sunnica is aware, from attempted negotiations with the landowner, that no voluntary agreement is likely to be reached with this landowner. Compulsorily acquisition of the Option 2 land can only occur if Sunnica can demonstrate that there are no reasonable alternatives.

- 19.1.7. SNTS Says that the Applicant has not demonstrated that there are no reasonable alternatives for other elements of the scheme.

Conclusions

- 19.1.8. Based on lack of information on Compulsory Acquisition liabilities and the inadequate Funding Statement the ExA must recommend against granting the Compulsory Acquisition element of the Development Consent Order.
- 19.1.9. This is also the case in respect of the Applicant failing to adequately demonstrate that there are no reasonable alternatives and the ExA must similarly recommend against granting the Compulsory Acquisition element of the Development Consent Order.