



SUNNICA ENERGY FARM DCO EXAMINATION

COMMENTS ON STATEMENTS OF COMMON GROUND

SAY NO TO SUNNICA ACTION GROUP LTD

28 NOVEMBER 2022

Introduction

1. The Say No to Sunnica Action Group Limited (SNTS) is an interested party (ID No 20031080) in the DCO examination.
2. In this short set of comments SNTS does not seek to generally repeat any points of agreement or disagreement; instead we flag comment where we believe that this may assist the parties and the ExA.

Draft Statement of Common Ground with Cambridgeshire CC, Suffolk CC, East Cambridgeshire DC and West Suffolk C

3. In respect of page 10, SNTS notes that the paragraph beginning '*the setting of other listed buildings...*' is broad and may be interpreted as extending further than intended. For example, we understand the air crash site at Isleham is currently being discussed as a heritage asset. This agreement as currently framed would appear to determine that issue before it is resolved.
4. A short note has been provided on this Statement of Common Ground by our landscape expert which is provided at **Appendix A**.

Draft Statement of Common Ground with the Environment Agency

5. Our agricultural experts have produced a note commenting on this statement of common ground which is provided as **Appendix C**.

Draft Statement of Common Ground with Natural England

6. Our agricultural experts have produced a note commenting on this statement of common ground which is provided as Appendix B.
7. Our ecological experts have produced a note commenting on this statement of common ground which is provided as Appendix C.

Appendix A



Landscape Briefing Note 8

Project: 1186 Sunnica PVD
Date: 25th November 2022
Purpose: Review and comment on additional matters requested by Daniel Kozelko
Reference: 1186 BN08 Sunnica PVD Comments for Deadline 3a.docx
Author: John Jeffcock CMLI

Draft statement of common ground with the Councils

1. Extent of study area is not yet agreed and is a matter under discussion. We agree that a 2km study area is sufficient for an assessment of the landscape and visual impacts of the Sunnica Energy Farm. However, 2km is insufficient for the assessment of cumulative impacts, specifically sequential impacts that might result from the combined visibility of Sunnica and additional schemes within and beyond the 2km study area boundary. We consider that the 5km study area initially considered but dismissed in the LVIA (section 10.4) should have been used for the cumulative impact assessment. If 5km had been used the scheme west of Soham (the omission of which has been raised as an issue by the Councils) would have been included as part of the cumulative impact assessment.
2. Other matters under discussion. We note Sunnica promise several new documents including a detailed masterplan for mitigation measures and technical notes on village design iterations, and historical development of the landscape. These documents will be relevant to our assessment, and once published, we will be happy to review them.
3. We are surprised that there are no matters which are not agreed, particularly given the extent of disagreement highlighted by the Councils in their LIR. We assume this section will be updated prior to the hearings.



Framework Environmental Management Plans (FEMP)

4. Landscape and visual amenity matters are addressed in Table 3-5 of each FEMP. There have been no updates / track changes to these tables. All three FEMPs refer to the OLEMP for the measures proposed to mitigate landscape impacts. Section 5 of our review report addresses the OLEMP.
5. In the Construction FEMP, landscape enhancement measures, which we understand to include mitigation planting, are proposed to be implemented either '*during and/or following construction*'. Where the location and type of planting is agreed to be appropriate, we consider it would be preferable for this planting to take place as soon as possible in advance of the commencement of any construction works. It would be helpful if this objective was added to the FEMP.

ZTVs

6. Equine ZTVs have been submitted which identify locations where the development would theoretically be visible to people on horseback, for which an assumed eye height of 2.7m was used.
7. As expected, the 'equine' ZTVs show more locations where the development would theoretical be visible than the ZTVs prepared for an assumed eye height of 1.7m (e.g., people walking in the landscape). At the scale presented, the increase in locations does not appear to be significant, particularly within the 2km study area. However, presentational issues mean that it is difficult to pinpoint areas where the changes might be significant e.g., additional visibility on bridleways. The presentational issues which mean the results of the ZTVs are difficult to interpret are:
 - The large scale at which the figures have been presented.
 - Insufficient transparency used on the colour blocks means the base mapping beneath is difficult to read.
 - Due to the large scale and poor quality of the base map, names of settlements and roads are difficult to read.
 - Public rights of ways are not legible.

-
8. The extent of the development that would be visible at any given location cannot be determined from the ZTVs. Therefore, it is not possible to determine from the ZTVs whether people on horseback would see a greater extent of the development than people walking in the landscape, but it is reasonable to assume that they would. This issue is expected to be more significant for equine receptors than the increase in locations of visibility shown on the ZTVs, which as above, doesn't appear to be significant.
 9. Figures 10-11f ZTV with Barriers Combined & Figure 1f Equine ZTV with Barriers Combined. The combined equine ZTV is not significantly different to the non-equine combined ZTV. The Limekilns is the location where the largest block of potential visibility of both schemes is shown. Although Sunnica East is theoretically visible from the Limekilns, given the distance and additional screening provided by elements not considered in the ZTV, its impact from this location would be negligible.

Appendix A to Outline Battery Fire Safety Management Plan

10. Two indicative layout options are provided for two different battery technology types (option 1 and option 2). The decision on which option will be used will be made as part of the detailed design process.
11. The layout for option 1 shows containers spread across the compound. In option 2 the layout of containers is more compact. It is assumed this difference relates to differences in container separation used for the different technology types and/or differences in the amount of hardware (footprint) required to reach the desired MW capacity.
12. Option 2 would introduce a denser block of development but is preferred to option 1 because it would reduce the development footprint and provide greater scope for the optimisation of the layouts within each BESS compound. For example, compare options 1 and 2 at Sunnica East Site B. Option 2 would probably allow all infrastructure to be removed from the field alongside Elms Rd, which would be a positive outcome compared with having the substation and battery containers in this field (option 1).

Appendix B

Sunnica Energy Farm (EN010106) Deadline 3a

24 November 2022

Peter Danks – Reading Agricultural Consultants:

Comments on Statements of Common Ground

1 Instructions

- 1.1 Reading Agricultural Consultants Ltd (RAC) is instructed by Say No To Sunnica Action Group Ltd (SNTS) to review and report on the agricultural elements of Sunnica Ltd's (the Developer) application for a Development Consent Order (DCO) for, and associated documents relating to, the construction, operation and decommissioning of Sunnica Energy Farm. The development includes an extensive ground-mounted solar photovoltaic (PV) array, battery energy storage systems (BESS) and supporting infrastructure with a stated capacity exceeding 500MW.
- 1.2 These comments have been prepared by Peter W Danks, Senior Director of RAC.

2 Councils' draft statement of common ground

- 2.1 There are no issues that have been agreed or not agreed and of the topics under discussion under the heading Socio-Economics and Land Use, they are limited to employment, tourism and mitigation/compensation packages.
- 2.2 There are no issues relevant to agriculture and soils under discussion.

3 Draft Statement of Common Ground with Natural England (NE)

- 3.1 Under the heading 'Details of Matters Agreed' and sub-heading 'Agricultural land use and soils' [p9] it is agreed between NE and the Applicant that the Scheme is unlikely to lead to significant permanent loss of BMV agricultural land, on the basis that:

- **the development has a maximum operational life of 40 years.**

This is based on a false assumption.

The assumed operational life of the development does not reflect the length of the period that land will be taken out of agricultural production, which may be up to five years at each end of the operational life, that is up to 25% longer than suggested by this statement.

The length of the construction period is likely to have been underestimated. The programme assumes at best (Section 3.6 of Chapter 3, Scheme Description) that the earliest construction will start is Summer 2023, followed by a continuous construction period of approximately 24 months. This takes no account of current cropping of the land and the need to establish a grass ley across the areas to be populated with solar arrays. It may take up to 12 months from to establish a robust grass ley capable of supporting intensive installation activity and the timing of sowing will be dependent on the crop being grown at the time any DCO is approved.

Notwithstanding the loss of BMV land, no account of the economic loss due to loss of agricultural output from the development area has been made for either time period, which is likely to be significant.

- **the land is returned to agricultural use at the end of this period.**

There is no certainty that the land will be returned to agricultural use of the same intensity at the end of the operational and decommissioning period.

It is uncertain that water resources currently used across the development will be available for use for agriculture at point when land is returned to food production. The ES assumes that irrigation licences and associated resources serving the development area will be reassigned to production elsewhere. It is unlikely that adequate water resources will be available in the area to irrigate any crops that might be grown on the land. Whilst it might be feasible to transfer water from outside the area or store excess rainfall in reservoirs, any such schemes would be likely to require significant capital investments.

Given the likelihood that land left fallow or under low levels of extensive production for up to 50 years is colonised in part by protected species, its return to agricultural use cannot be taken for granted.

- **low disturbance methods will be used to install the photovoltaic panels (see Section 3.6 of Chapter 3: Scheme Description of the Environmental Statement [APP-035]) meaning that the scheme will have minimal impacts to soil quality.**

The feasibility and effectiveness of the proposed low disturbance methods is not demonstrated in the Environmental Assessment (3.6.18 *et seq.*).

The construction of site infrastructure requires a significant amount of trafficking and disturbance of land for trenching, jointing bays and launch sites for trenchless cables. Whilst some of these activities refer back to 3.6.21, Construction of Cable Routes, reference is made

only to conservation of the topsoil resource. No mention is made of conservation of the subsoil resource and avoidance of mixing soils with chalk in areas where it is close to the surface.

Decommissioning will entail the pulling of driven posts out of subsoil and deeper material, which operation may lead to the incorporation of underlying subsoil and chalk into the upper (soil) horizons.

The assessment fails to take into account the possible presence of underground agricultural drains, irrigation distribution mains or other buried infrastructure. Much buried agricultural infrastructure is not mapped and conventionally installed with 2'6" (76cm) of cover. Given the density of posts necessary to support the photovoltaic arrays, there is a significant risk of posts being driven through pipes during installation. Damage to underground pipework is often not noticed until it is operational and can result in outbreaks of water and occasional flooding and erosion.

- **the Framework CEMP [APP-123] provides that the detailed CEMP will need to include a soil management plan.**

In a development of this scale and in order to ensure that soil resources are protected in effective ways, it is reasonable to assume that a construction code of practice for the handling of soils is prepared or referred to in advance of the preparation of a CEMP. Soil management plans generally address site specific issues at a field-by-field or farm-to-farm basis, and according to soil types in order to protect or otherwise conserve the soil resource. A code of practice sets out measures to be implemented at a general level, such as identifying soil conditions that are suited to land access, excavation or soil transfer.

The revised CEMP covers a wider range of issues than the original and now details more specific soil protection measures that would be expected in a code of practice. This revision does not replace the production of a site-specific soil management plan.

- **a decommissioning and re-instatement plan is prepared and submitted prior to the panels being removed.**

As above, a code of practice for the protection of the soil resource should be available.

- **a Framework Decommissioning Environmental Management Plan (DEMP) has been submitted with the DCO Application in Appendix 16E of the Environmental Statement [APP-125] which outlines the management of soil during decommissioning.**

Table 3.7 of the DEMP states that:

“Agricultural soils will be managed, preserved, retained and reinstated in accordance with Department for Environment, Food and Rural Affairs (Defra) guidance. Key mitigation measures from this guidance will be included in the DEMP(s).”

This is very much an outline, referring to unspecified Defra guidance. It is reasonable to expect that a code of practice for the protection of the soil resource should be available, as outlined above.

3.2 Under the heading ‘Details of Matters Under Discussion and sub-heading ‘Agricultural land use and soils’ [p15] the following issues are identified:

- **Inadequate Agricultural Land Classification (ALC) survey methodology**

The Applicant remains confident but qualifies its position considering “...that ***if** the additional information is included within the report, it will provide sufficient clarification*”

Page 12 *et seq.* of Natural England’s detailed advice accompanying its response to the ExA’s first written questions (of the same date as the SoCG) requests that additional clarification is added to the relevant parts of the ES and that it will make additional comments once that clarification has been received.

No clarification has been received and the methodology adopted in the EIA remains inadequate with respect to the assessment of ALC grades across the majority of the development area.

- **Incomplete ALC survey data**

This particularly relates to cable routes. The applicant proposes that soils on cable routes can be assessed as part of the SMP.

It would not normally be expected in a comprehensive ES that soil resources across a significant area would remain unassessed either by field survey or rigorous desktop appraisal. The excuse that “*an intrusive ALC assessment cannot easily be conducted on land not optioned to the developer...*” because “*...access is required to survey land*” is not acceptable justification for lack of an assessment. In any event, access would have been organised in a timely manner in order to provide the baseline information to carry out a comprehensive EIA.

The requirement to survey soils and land quality along cable routes is set out at paragraph 2.48.14 of the National Policy Statement on Renewable Energy. Historically, other major infrastructure projects (HS2 and grid connectors to offshore wind farms) have similar issues with narrow linear forms that do not fit the 100m grid methodology rigidly adhered to in the baseline assessment used to inform the EIA. The issues can be addressed by making observations at

100m intervals along the line of the development, or more frequently where landform or desktop intelligence suggests it is appropriate.

Natural England's position is that *"in the absence of a detailed baseline informed by a detailed soil survey and ALC survey, the restoration cannot be assured."*

The establishment of a robust baseline in advance of works that impact on soils resources is a fundamental requirement of soil survey in Environmental Assessment. The information directs the processes of soil management throughout the extent and life of a development and enables the success, or otherwise of the final restoration to be assessed. The information should include descriptions of soil structure and assessments of soil organic matter and nutrient content and pH.

There is little prospect of robust ALC or soils baseline data for the missing area being available for the Examination.

3.3 Under the heading Soil Management, the following issue is identified:

- **Inadequate consideration of soil stripping, movement, storage and reuse**

The Applicant's response addresses: the extent of soil disturbance; the creation of chalk grassland; soil management; and soil handling in 263 words, referring to the CEMP, OLEMP and DEMP, all of which gave little guidance on soil handling beyond reference to Defra guidance and research on the management of soil organic matter in agriculture.

There is no evidence to support the applicant's assertions that the ALC grades of land can be re-established after or maintained throughout the lifetime of the development, or that claimed increases in soil organic matter can be achieved and maintained. Natural England's position is that any benefit that might be achieved will only extend to the duration of the operational phase of the development; this is a reasonable assumption.

Natural England's response to written questions highlights its own concern that the development may result in adverse impacts (disbenefits) given the uncertainty regarding the effects of solar panels on carbon storage, soil structure and biodiversity associated with shading, preferential water flow pathways, and spatial and temporal variations in temperature, microclimate, light levels and vegetative growth. In the absence of robust evidence, the applicant's assumptions regarding improvements in soil condition associated with long periods under solar farms are speculative.

The Applicant fails to address the destruction of topsoil resources associated with the creation of 'replacement' chalk grassland described in paragraph 1.7.16 *et seq.* of Appendix 10I, the LEMP, which proposes the mixing of topsoil with a layer of chalk to create a suitable soil substrate. This section of the LEMP appears to be a generalisation based on a site other than Sunnica, with no consideration of site-specific conditions or evidence that the technique is sustainable at the proposed development site.

Natural England has commented on inconsistencies in description of the extent of soil disturbance between chapters of the Environmental Statement. Sunnica claims that Natural England is content that clarification on the extent of soil movement, storage and reuse across the site should be provided within the SMP. This does not address inconsistencies and accuracy in the ES. Soil related information and development areas should be consistent throughout the EIA and true values are critical to the accurate assessment of effects and consequential impacts of the development. Whilst Natural England may be content with this information being included in the SMP, it should form part of the Environmental Statement.

Appendix C



Planning Act (2008)
PROPOSED SUNNICA ENERGY FARM
EN010106

Deadline 3 submission 28 November 2022

1. Comments on Sunnica Ltd's responses to First Written Questions
2. Comments on draft Statements of Common Ground
3. Comments on Framework Construction, Operational and Decommissioning Management Plans

Bioscan UK Ltd
for
Say No To Sunnica

E2132R3



COMMISSIONED BY

Say No to Sunnica

PROPOSED SUNNICA ENERGY FARM

Submissions on Ecology Matters:

1. Comments on Sunnica Ltd's responses to First Written Questions
2. Comments on draft Statements of Common Ground
3. Comments on Framework Construction, Operational and Decommissioning Management Plans

Examination Deadline 3

28 November 2022

Bioscan Report No.
E2132R3

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1 INTRODUCTION

1.1.1 This document contains comment, observations, matters of concern and (where applicable) rebuttal or corrective responses from Bioscan on behalf of Say No To Sunnica (SNTS), on the following:

- 1) The responses from Sunnica Ltd to the Examining Authority's First Written Questions (FWQs), as submitted at Deadline 2 [[REP2-037](#) and [REP2-038](#)];
- 2) The initial (draft) Statements of Common Ground of the Local Authorities [[REP2-044](#)], the Environment Agency [[REP2-045](#)], Natural England [[REP2-046](#)] and the Suffolk Wildlife Trust [[REP2-049](#)];
- 3) The latest versions of the Framework Construction Environmental Management Plan [[REP3-015](#) and [REP3-016](#)], the Framework Operation Environmental Management Plan [[REP2-030](#) and [REP2-031](#)] and the Framework Decommissioning Environmental Management Plan [[REP2-028](#) and [REP2-029](#)].

1.1.2 The following sections deal with each of the above in turn.

2 COMMENT ON THE RESPONSES FROM THE APPLICANT (SUNNICA LTD) TO THE EXAMINING AUTHORITY'S FIRST WRITTEN QUESTIONS (FWQs)

2.1 Format of comments

2.1.1 In places below we have extracted, via screengrabs or quoted text, extracts from the table presented in section 2 of Sunnica Ltd's response document [[REP2-037](#)], relating to specific questions upon which we wish to make comment. Where we have done this, we provide our commentary below each in turn below. Elsewhere, for brevity, we simply reference the question number and the subject it addresses by way of heading. Reference should be made to [REP2-037](#) for the precise wording of the question and Sunnica Limited's response in those cases.

2.2 Comments on Sunnica Ltd's Responses to the FWQs.

Q1.0.15: Cumulative Effects Assessment - Methodology

ExQ1	Respondent	Question	Applicant's Response
Q1.0.15	The Applicant	<p>Cumulative Effects Assessment, overarching approach</p> <p>Table 1-1 of ES Appendix 5A [APP-055] lists all the developments screened into consideration for the Cumulative Effects Assessment (CEA). This provides the outcome of Stages 1 and 2 of the methodology and lists approximately 92 developments carried forward for further assessment at Stage 3. However, the only Zone of Influence referred to in Table 1-1 is for ecology.</p> <p>Please explain the reasons why the ecological zone of influence is the only consideration in Table 1-1 in Appendix 5A and how other environmental aspect zones of influence have been used to define the scope of the CEA.</p>	<p>The 10km ecological study area that is referred to in Table 1-1 of ES Appendix 5A [APP-055] is the greatest potential study area that was identified for any environmental or social impact presented in the ES. It is therefore considered to be a suitable distance threshold for the identification of cumulative schemes and was applied to all other environmental topics.</p> <p>Only impacts on bats was considered beyond 10km from the Site, following a request from PINS in the Scoping Opinion [APP-052] to consider international statutory site designations up to 30km away where bats are noted as the, or one of the, qualifying features. As noted in Paragraph 4.1.1 of Appendix 8J Report on Surveys for Bats [APP-087]. "There are no international statutory site designations for bats within 30km of the Order limits". It was therefore not necessary to consider impacts beyond 10km in any technical chapters.</p> <p>For clarity, the potential Zone of Influences for all environmental or social impacts were considered when identifying cumulative schemes, but none exceeded 10km.</p> <p>Other schemes outside of 10km were not considered in the cumulative impact assessment, as explained in Paragraph 5.8.8 of Chapter 5: EIA Methodology [APP-037].</p>

2.2.1 Sunnica Ltd's statement above, which echoes the wording at 6.6.4 of the ES [[APP-040](#)], that "*There are no international statutory site designations for bats within 30km of the Order limits*" is factually incorrect.

2.2.2 Eversden and Wimpole Woods Special Area of Conservation (SAC) is approximately 26.7km from the Burwell substation which lies within the Order limits. This site is designated for the presence of the rare Annex II bat species barbastelle *Barbastella barbastellus*.

2.2.3 This omission or oversight is particularly relevant to both the EIA and HRA processes as this rare bat species disperses significant distances from roosts for foraging purposes. Indeed it was found within the Order limits, including grid connection areas, by the applicant [see ES Appendix 8J – [APP-087](#)]. There is the potential, therefore, for a functional linkage between the land covered by the Order limits and the Wimpole Woods Special Area of Conservation that has not been identified or assessed.

Q1.2.1: Ecological Assessment Methodology

- 2.2.4 The first part of this question relates to the methodology and terminology employed by the applicant to characterise the magnitude and significance of effects on ecological receptors.
- 2.2.5 The applicant's departure from the CIEEM approach (for reasons it would seem of no more than consistency with other ES chapters), which lies at the root of the ExA's question, has the effect of masking effects that are significant at Local (e.g. Parish) level. The reason the CIEEM industry standard advocates against the matrix-based approach is precisely because effects at this level have the potential to fail to comply with national and local policy (e.g. to avoid net loss of biodiversity) and thus the matrix approach can result in artificially restricted considerations of cumulative effects, as impacts below EIA significance thresholds are 'screened out'. In short, the threshold for significance in EIA terms is above the level at which significant effects on ecology, that have the potential to engage with policy, might, or will, actually occur. Fixation on a traditional EIA approach, eschewing the more up to date and relevant methodology set out in the CIEEM Guidelines, can and does result in impacts which may be major in magnitude at local (e.g. Parish) geographical frames of reference being disregarded as 'not significant'. When such impacts are considered cumulatively, there is a logical shift in amplitude upwards to District or higher geographical levels which the applicant's approach risks missing, inadequately documenting, or downplaying. A relevant example in this case would be the cumulative effects of loss of arable land of value to a range of scarce, arable-adapted, flora and fauna being inadequately accounted for in the impact assessment.
- 2.2.6 We therefore comment that the applicant's statement in response to this question – that *"the assessment approach follows the good practice guidelines for ecological impact assessment (EcIA) described in CIEEM (2018)"* - is not strictly correct. The applicant has departed from the recommended methodology set out in CIEEM (2018 and as subsequently revised) and, for the reasons set out above, the EIA is rendered less comprehensive and robust because of this. We would further remark that it is notable that the applicant does **not** claim that the 264m of hedgerow removal it uses as the basis of its assessment of loss for this receptor is the worst-case scenario. Nor whether this is consistent with the figures arising from the recently submitted Arboricultural Impact Assessment discussed later in this submission.
- 2.2.7 On the second part of the ExAs question, we comment in section 4 of this submission on how the 'design controls' to avoid and minimise impacts on biodiversity as set out in the framework CEMP, OEMP and DEMP are high level and nebulous, and subject to significant questions over the resourcing capability applied to the essential clerk of works personnel that will ensure they are adhered to and/or enforced. In essence, we do not consider that the applicant, in seeking the degree of flexibility that it does, has fully engaged with the mitigation hierarchy nor that it has fully committed to engagement with that hierarchy at the detailed and/or construction stages, and that

it is relying on nebulous commitments and failsafes that it provides no evidence as being appropriately committed to or resourced.

Q1.2.3 – Stone Curlew

- 2.2.8 Given the importance of the area affected by the Order limits for this species, and the actual or potential functional linkages to the Breckland SPA, we consider it a matter of concern that there still remain matters of uncertainty and negotiation over the type, level and significance of impacts on this iconic species and the adequacy of the mitigation and compensation proposed for it. Our comments on the interim SoCG between the applicant and Natural England on this matter are also relevant and are as set out in section 3 of this submission.

Q1.2.4 – Stone Curlew

ExQ1	Respondent	Question	Applicant's Response
1.2.4	The Applicant	Stone Curlew Please explain why the protection measures outlined in [APP-108] apply to the proposed offsetting areas, but apparently not to the areas where stone curlew have been recorded, even breeding, some of which will be within the solar arrays? What provision will be made for stone curlew that attempt to breed within the operational areas?	Offsetting habitats have been embedded into the Scheme, as it has been assumed that, in a worst case scenario, Stone Curlew will not nest within the operational site where solar arrays are located. The Framework OEMP [APP-126, ES - Appendix 16F] includes the requirement for all operational staff working within 500m of the offsetting areas created for breeding Stone Curlew to be given a toolbox talk regarding the sensitivity of the species and controlling works which can be undertaken. Where possible, any operational maintenance within 500m of the offsetting areas will be scheduled between November and February. Monitoring of Stone Curlew during operation of the Scheme will establish whether the species is nesting within the solar arrays. Should this be found to be the case then the same requirements, with regard to briefing operational staff and controlling works, will be applied to any locations within the operational areas, that are already included in the Framework OEMP [APP-126, ES - Appendix 16F] for the offsetting areas. Given, the low likelihood that Stone Curlew will nest in the operational areas, seasonal restrictions with regards operational maintenance are not required throughout the Scheme. These measures will be included within the updated Framework OEMP to be submitted at Deadline 2.

- 2.2.9 We do not agree with the applicant that a scenario where stone curlew refuse to nest amongst the solar arrays or otherwise in the operational site is “worst case”. In the absence of any evidence that the species habitually does nest amongst solar arrays or in solar farms, this should instead be considered the likely and realistic case. Indeed, we note that the applicant itself, in its answer to the question above, considers the prospect of this species nesting within solar arrays to be “low likelihood”. If the applicant accepts there is only a ‘low likelihood’ of the species nesting within solar arrays, then the prospect of that low likelihood of nesting being manifested as no nesting, cannot be a ‘worst case’ scenario.
- 2.2.10 The applicant’s latter position (that there is a low likelihood of stone curlew nesting within solar arrays), is of course the more robust on the available evidence. On this basis, we support the concerns raised by RSPB and others over whether the quantum of compensatory provision for this species is adequate, considering the worst-case magnitude of displacement (i.e. as counted in numbers of pairs or held territories/breeding attempts, and taking into account likely displacement and/or disturbance effects at 500m or more), and also taking a precautionary approach to matters such as the success of habitat creation in compensation areas and their likely take up by the species, having regard to its specific autecological attributes.

Q1.2.5 – Stone Curlew

- 2.2.11 The applicant's answer to this question from the ExA about the 'appropriateness, adequacy and realism'; of the proposed offsetting measures for stone curlew does not in our view provide comfort that any more than a *de minimis* approach has been taken to compensation for this species. Using simple arithmetic of pairs x territory size to determine compensation effort builds in no 'risk multipliers' of the sort now incorporated as standard in compensatory calculations (e.g. under the Biodiversity Metric). The applicant's intention to rely on 'adaptive management prescriptions' appears to be a further recognition as to the huge margins of uncertainty over delivery of appropriate compensatory habitat for this species. In this context the necessary headroom built in to the compensation provision for failure is, in our view, absent or inadequate.
- 2.2.12 In the baseline state, stone curlew occupy various areas of the Order limits at various times. In this context the net diminution in area available to these birds, not only for breeding but also for post-breeding congregation and foraging at other times, does not appear to have been considered on a precautionary basis. In the absence of supporting evidence as to the efficacy of the measures the applicant proposes by way of compensation, the likely outcome is some degree of diminution in numbers using the Order limits, for breeding or generally. We are not satisfied that the applicant has duly assessed the impact of displacement of a proportion of the local population into surrounding farmland, including whether there is suitable habitat available to absorb displaced birds, nor the potential in-combination effects of this with other future land-use changes predictable locally (including both development and non-development land-use changes).

Q1.2.7 – Stone Curlew

- 2.2.13 The provisions and failsafes suggested by the applicant in response to this question appear broadly appropriate, but the larger issue with the compensatory habitat provision is as discussed under Q1.2.5 above.

Q1.2.8: Biodiversity Net Gain

ExQ1	Respondent	Question	Applicant's Response
1.2.8	The Applicant	Biodiversity net gain Please confirm whether the balance in the biodiversity net gain figures includes mitigation and compensation as well as overall biodiversity net gain? If so, what is the figure for net gain alone?	As no European Protected Species Mitigation Licences are needed as a result of the Scheme, there was no need to account for any associated habitat creation or mitigation in the calculations. Likewise, the Scheme is not providing any compensatory habitats for any habitats or species. As such, all areas of habitat creation were included in the biodiversity net gain calculations using metric 3.0. The biodiversity net gain is being recalculated using metric 3.1 and will be submitted at a later Deadline. This will consider where areas may be classed as mitigation as laid out in the latest guidance, in order to avoid any double counting. It will also take into account updates to habitat changes from recent updating surveys.

- 2.2.14 Bioscan, on behalf of SNTS, have a number of comments to make with regard to the applicant's answer to this question, per the screengrab above.
- 2.2.15 In the first instance, the applicant's reference to European Protected Species licences, despite being beside the point, highlights that we remain to be convinced

that no European Protected Species mitigation licences are needed as a result of the Scheme, and we consider that the Examining Authority is, at least currently, bereft of sufficient information to agree with the applicant's position.

- 2.2.16 We have highlighted, for example, omitted records for great crested newts from Chippenham Fen, in locations where terrestrial phase animals could range into the proposed development areas within the Order limits. There are questions over the veracity of the omitted GCN record (which originates from a licence return on 'Magic', as detailed in our reports included in SNTS's Written Representation), but until this is resolved the applicant is not in a position to state that this species could not be impacted and that no licensing provisions can apply, and should not be doing so. Similarly, the flexibility the applicant seeks in respect of road crossings, hedgerow removal and the risk of impacting trees with potential for bat roosting, means that the suggestion that there is no scope for licensing for bats to be required during implementation is similarly non-precautionary. It appears to be flatly contradicted by the Arboricultural Impact Assessment submitted at Deadline 3.
- 2.2.17 Notwithstanding the above, the Examining Authority's question was about Biodiversity Net Gain (BNG) which is a matter on which we have made detailed submissions via the Bioscan reports contained in SNTS's Written Representation. In light of the applicant's statements that they intend to submit more information on BNG, it is enough for us to ask the Examining Authority to note that the comments and concerns we raised in SNTS's written representation are not answered in the applicant's response above. We note the applicant confirms its intention to recalculate its BNG figures using Metric 3.1 and to submit these "at a later deadline". It remains to be seen whether the habitat classification and other errors we have brought first to the applicant's attention and latterly to the Examining Authority's attention will be duly and properly corrected as part of this process.

Q1.2.9: Ecological Mitigation (proposed wet grassland adj. River Snail)

- 2.2.18 We note that the applicant recognises that the area proposed for compensatory habitat creation/mitigation south-west of Chippenham Fen is "*influenced by the River Snail*", but there does not appear to have been any hydrological modelling demonstrating how inundation frequency for the proposed wet grassland will be optimised, without either topographical changes to reduce land levels, or changes to the physical form and character of the river channel itself – neither of which appear to be being proposed. In the absence of such interventions, there can be little confidence in the development of any wetter a grassland than at present, and in this context the contribution towards mitigation, compensation and BNG scores from this element of the proposals has to be treated with caution. Surface scarification and re-seeding is proposed but in the absence of hydrological change, and without interventions to influence soil chemistry, this is highly unlikely to deliver a significant uplift in habitat quality and, in stating that the proposals "*will utilise the existing soil conditions and topography*" the applicant appears to be confirming that no more than localised scarification and seeding is actually proposed. It is noted that the applicant is "*currently working with stakeholders to agree an appropriate management regime for this area*". We suggest such discussions should also include

the practical detail of how the objectives will be physically achieved, rather than be restricted to discussions about management, to ensure this habitat creation is meaningful and not tokenistic.

Q1.2.10: Grassland Re-establishment

- 2.2.19 We note that the Examining Authority has picked up on the confused picture as regards the grassland creation objectives set out in the ES, and we note that the applicant is moving to provide clarity on the area-by-area objectives. This is welcomed, and we note that the applicant's BNG calculations will need to change to reflect this rationalisation of objectives and their improved alignment with what is achievable in practice.
- 2.2.20 However, we note, as a point of concern, that in listing the factors influencing decision on species-composition for sown grasslands, no consideration is given in the applicant's response to the availability of suitable native seed. This may well provide to be the single most important driver in success in achieving variation and/or target condition. If insufficient seed is available, (and the quantity required for this project appears to far outstrip the resources of commercial suppliers in any given year), the likely result across large areas of the proposed Order limits will be much more mundane and uniform grassland types derived from a relaxation of cultivation – comprising a flush of ruderal species and ubiquitous grasses tolerant of latent high-fertility levels. We make further comment on this important matter under Q1.2.11 below.

Q1.2.11: Grassland Re-establishment (2)

- 2.2.21 The applicant's response to this question is wholly unsatisfactory. It reveals that there has been next to no thinking about this significant logistical challenge to date, and suggests that the applicant did not consider it in any meaningful way until it was raised as a practical concern by several objectors and other stakeholders (including ourselves).
- 2.2.22 In essence, the answer confirms that the Examining Authority is in no position to have confidence in the habitat creation targets and objectives the applicant seeks to rely upon to support its claims of no net loss of biodiversity and net benefits/enhancement. Nor its claim of serviceable compensation provision for receptors such as stone curlew, and its inflated and exaggerated calculation outputs for BNG. The reference to discussions about 'scope' and possible seed sources that will be subject to a whole suite of agreements and (potentially) consents is to matters that should have been concluded, or at least significantly further advanced, before submission if the applicant wished the Examining Authority and others to place weight on its habitat creation and enhancement proposals. It is all too easy to say that a seed mix will be used to create habitat 'X', but in real life there are a whole suite of practical and ecological challenges for that objective to be successfully attained. It is not acceptable for the applicant to seek to leave such matters to deep into the Examination later, while at the same time asking the Examining Authority,

consultees and stakeholders to accept that the picture it seeks to paint of the post-development scenario is reliable or accurate.

Q1.2.13: Glint and Glare Assessment

- 2.2.23 We note that the applicant confirms that it made no meaningful efforts to look into this potential impact source prior to submission of the DCO application. Bioscan recognise that this is an area of significant uncertainty and where scientific research is relatively lacking, but given that it is a concern that has been expressed internationally (even if less so to date in the UK), and given the site's proximity to internationally important sites for both birds and invertebrates, this has to be seen as less than best practice and a matter of concern.
- 2.2.24 The brief comments that the applicant now offers in justification for its decision to scope out any risk to bird species from this potential impact source are concerning. The scope for impact appears to have been limited almost exclusively to a theoretical impact arising from 'significant numbers of waterbirds' becoming confused by the panels, mistaking them for a waterbody and seeking to land on them.
- 2.2.25 This is a highly simplistic approach that conveys a worrying lack of application of ornithological expertise. The suite of bird species that could mistake the panel arrays for bodies of water is not limited to species of waterfowl that aggregate in flocks. If that was an ecological truism, then 'new' artificially created inland waterbodies such as at the nearby RSPB Lakenheath Fen reserve would never attract the wider suite of wetland species that it has.
- 2.2.26 Bioscan and SNTS believe that a more robust assessment, supported by empirical data and/or a thorough research review, is needed before the Examining Authority can have any confidence that this potential impact source (glint and glare impacts on birds) can be screened out of further consideration.
- 2.2.27 Similarly, and as commented upon in our comments on the Local Impact Report ([[REP3-026](#)] submitted 22 November 2022), Bioscan and SNTS believe that the assessment the applicant has belatedly carried out of the scope for significant effects on invertebrates (Appendix C of [REP-038](#)) is inadequate.
- 2.2.28 Increasing concerns have been expressed internationally about the potential impact of solar arrays on aquatic invertebrate species attracted to polarised light and there can be little dispute that the evidence of potential impacts from this source is compelling. The panel arrays in Sunnica West Site B (in proximity to the designated Chippenham Fen) therefore pose a credible risk of creating an ecological trap for invertebrate fauna associated with the SAC/Ramsar/SSSI/NNR. This matter should be thoroughly examined in order to define the risk, if any, to the integrity of not only the international designations (in accordance with Appropriate Assessment/HRA requirements), but also the integrity of the SSSI and the site's ecological integrity more generally.
- 2.2.29 The starting position on this issue, in accordance with the avoid-mitigate-compensate hierarchy, should be to avoid impacts on such high value resources

entirely which demands a precautionary approach wherever there is any doubt over whether significant effects could occur.

- 2.2.30 We note that the applicant's originally submitted HRA [[APP-092](#)] gives this matter only cursory attention and appears to rely on the 200m distance between wetland within the international site and the nearest proposed PV positions to suggest that there "are no pathways for significant effects on invertebrates" associated with the SAC and Ramsar (e.g. [APP-092](#) page 8M-60). This assessment is no more than an unevidenced leap of faith. The Examining Authority will note, in any event, that the applicant's position has now changed. Indeed, the conclusions of the applicant's HRA are now flatly contradicted by the applicant's more recent response to the Examining Authority's First Written Questions (FWQs) [[REP2-038](#), Appendix C]. In this appendix, further attention has been given to aquatic invertebrates and the risk posed to them by photovoltaic panels in the form of a desk-based review of available literature and a revised assessment based on little more than guesswork and the use of proxy scenarios. The literature review demonstrates that this is, contrary to the position taken in the HRA, a credible impact risk and it exposes that the complete absence of relevant survey data that would assist in defining the risk more acutely is a significant failing of the application submission. In lieu of empirical data or site-specific evidence to inform this belated impact assessment, the applicant sets up a theoretical scenario using a weak flying taxon (Ephemeroptera) and a set of unproven assumptions about what happens at and around Chippenham Fen.
- 2.2.31 SNTS/Bioscan consider that baseline invertebrate survey data targeted to the potential impact vector is necessary in order to inform a robust assessment of potential impacts from this source. The approach taken by the applicant and as described in its response to this question is no more than an elaborate exercise in trying to paper over the cracks. Invertebrate surveys could have established whether target species from the SAC/Ramsar populations occur at the locations proposed for panel arrays (rather than guessing whether they do or do not) which could have either lent support to the conclusions the applicant presents that there is no likely significant effects or, in the alternative, could have better defined the magnitude of effects and (where necessary) guided decisions on avoidance, mitigation and compensation. As the applicant has failed to collect such data, it seeks to deal with this potential impact vector to the international site via little more than conjecture and supposition. This is not a robust approach and in the absence of further work, SNTS/Bioscan supports the suggestion made by the Councils in their LIR [[REP1-024](#)] that the panels should be removed from Sunnica West Site B for precautionary reasons.

Q1.2.14: Biosecurity

- 2.2.32 Bioscan have no comment to make on this question, albeit SNTS may have commented (or may still comment) separately.

Q1.2.17: Habitats Regulations Assessment (mismatch in area figures)

- 2.2.33 The applicant's response to this question, that corrections will be forthcoming in a re-submitted HRA, is noted. Bioscan/SNTS may wish to comment on the resubmitted HRA in due course.

Q1.2.18: Habitats Regulations Assessment (cabling within stone curlew areas)

- 2.2.34 We are unclear from the applicant's answer whether there are implications for the readiness of the stone curlew replacement habitat and/or whether there is a risk (high, low, certain) that cable laying works could disturb the species (if it happens to use the replacement habitat at the time) and if so how that can be avoided if implementation programmes unavoidably clash with the time periods that the species is present. Further clarity on these matters would be appreciated from the applicant.

Q1.2.19: Habitats Regulations Assessment (ExA requested corrections)

Q1.2.20: Habitats Regulations Assessment (piling)

Q1.2.21: Habitats Regulations Assessment (update of matrices)

Q1.2.22: Habitats Regulations Assessment (update of matrices)

Q1.2.23: Habitats Regulations Assessment (update of matrices)

- 2.2.35 The applicant's proposed corrections and updates to the HRA in response to these questions are noted. Bioscan/SNTS may wish to comment on the resubmitted HRA in due course.

Q1.2.24: Habitats Regulations Assessment (limits of excavation)

- 2.2.36 Bioscan/SNTS consider that in referencing the maximum excavation parameters set out at Chapter 3 of the ES, the applicant is indicating that it does not intend to exert tighter controls in proximity to the designated European Site and, furthermore, that it appears to be inviting such controls to be specified in the DCO. We suggest that Natural England should have input into defining suitably precautionary excavation limits within appropriate buffer distances around Chippenham Fen SAC/Ramsar/SSSI/NNR to ensure adequate protection of groundwater catchment.

Q1.2.25: Habitats Regulations Assessment (agreement on mitigation with SNCB)

- 2.2.37 The applicant's response is noted. Bioscan's/SNTS's comments on the interim statement of common ground between the applicant and Natural England are provided in section 4 of this submission.

Q1.2.26: Habitats Regulations Assessment (tables 4-1 and 4-2)

- 2.2.38 The ExA's question about presentational clarity and the applicant's response to it are noted. Bioscan/SNTS may wish to comment on the resubmitted HRA in due course.

Q1.2.27: Habitats Regulations Assessment (stone curlew, mitigation hierarchy)

- 2.2.39 The applicant's proposed corrections and updates to the HRA in response to these questions are noted. Bioscan/SNTS may wish to comment on the resubmitted HRA in due course.

Q1.2.28: Habitats Regulations Assessment (Condition Assessment)

Q1.2.30: Habitats Regulations Assessment (Updates on SPA bird impacts)

Q1.2.31: Habitats Regulations Assessment (Updated matrices)

Q1.2.32: Habitats Regulations Assessment (Updated matrices)

- 2.2.40 The applicant's proposed corrections and updates to the HRA in response to these questions are noted. Bioscan/SNTS may wish to comment on the resubmitted HRA in due course.

Q1.2.33: Habitats Regulations Assessment (GCN and Fenland SAC)

- 2.2.41 We note that the applicant does not consider there to be any scope for impact on great crested newt (GCN) populations functionally linked to the Fenland SAC. However, and as set out in Bioscan's reports submitted with SNTS's written representation [[REP2-240](#)], this disregards (due to oversight) a past record of GCN from Chippenham Fen which we have since brought to the applicant's attention.

Q1.6.7: Long-term management of ecological mitigation land

- 2.2.42 The applicant's response to this question provides useful but alarming clarity on the rather tokenistic nature of the proposed mitigation, compensation and enhancements and related commitments. It confirms that even if it were to be accepted that the scheme could deliver net beneficial change in land-uses, there would be nothing in place to prevent any such benefits being reversed in (what is in ecological terms) a very short timescale.

Q1.6.8: Construction Environmental Management Plan

Q1.6.9: Construction Environmental Management Plan

- 2.2.43 The applicant's responses to these questions are noted. Comments on the framework CEMP are provided at section 4 of this submission.

Q1.6.10: Construction Environmental Management Plan

Q1.6.11 Construction Environmental Management Plan

Q1.6.12: Construction Environmental Management Plan

- 2.2.44 The applicant's responses to these questions are noted. The Examining Authority is asked to note the nebulous wording used in order to seek to retain operational and construction flexibility to carry out works at suboptimal times of year (e.g. in respect of bird breeding) and the fact that worst case assumptions underpinning the ES and HRA do not appear to be consistent with this.

Q1.7.11: Absence of Arboricultural Impact Assessment

- 2.2.45 We note that the applicant has belatedly submitted an AIA at Deadline 3 on which we have yet to comment in detail. However, Bioscan/SNTS note how this illuminates how the original position of the applicant on tree and woodland loss, as set out in the ES, is incorrect, and that this has necessitated revisions to ancillary documents such as the CEMP (see section 4 of this submission), vindicating the ExAs question.
- 2.2.46 Bioscan/SNTS wish to seek clarity as to whether the Environmental Statement is now similarly going to be revised in order to better reflect the factual position as regards impacts to trees and linear features, and how this may impinge on the previous conclusions drawn, for example about bats, which now quite clearly need to be revisited.
- 2.2.47 For example, the AIA confirms that *"Two individual trees [one subject to TPO], two tree groups [also subject to TPO], part of four woodland groups, part of 13 tree groups and part of four hedgerow features are to be removed to facilitate the Scheme. This would include four part woodland groups of high quality (Category A), one tree group, part of seven tree groups and part of two hedgerows of moderate quality (Category B), two individual trees, part of six tree groups and part of two hedgerows of low quality (Category C) and one individual tree and one tree group which are unsuitable for retention for more than 10 years (Category U)."*
- 2.2.48 It is further noted that the AIA states that *"as a reasonable worst case the Scheme would require the removal of up to 150m² of likely high quality tree cover, 5300m² of likely moderate quality tree cover and 2850m² of likely low quality tree cover (8300m² in total)."*
- 2.2.49 The Examining Authority is asked to note the difference between the position as now assessed via the AIA and the statements made in the original ES Chapter such as:
- *"Woodland habitats across the Order limits will be retained"* (ES Chapter 8: Table 8-10, page 8-108)
 - *"The construction of the Scheme will avoid features used by roosting and foraging / commuting bats, based on the current baseline conditions. There will be no loss of habitats identified as being important for bats anywhere within the Order limits."* (ES Chapter 8: Table 8-10, page 8-122)
 - *"The construction of the Scheme will not impact upon mature, species-rich hedgerows and other boundary features, which will retain connectivity across the Order limits for commuting and foraging bats. Therefore, there will be no fragmentation of habitats used by bats"* (ES Chapter 8: Table 8-10, page 8-122).

- “Therefore, there are no impact pathways, either directly or indirectly, that would impact upon bats”.

2.2.50 In addition, it is noted that based on erroneous assumptions about avoiding tree loss, the ‘Report on Surveys for Bats’ [[APP-087](#): ES Appendix 8J] did not adequately consider impacts on bats arising from loss of foraging or roosting habitat (see para 5.5.5 of that document). It went on to recommend that *“further more detailed bat roost surveys will be required at specific features (i.e. structures with low to high roost suitability and trees with moderate to high roost suitability) to inform mitigation and potential licence application in accordance with best practice guidance”*. In light of the results of the AIA, that position would appear to have been reached. Bioscan/SNTS therefore wish to seek clarity from the applicant as to whether and when it is now duly carrying out this additional work, and whether it intends the results to be available before the close of the Examination.

Q1.7.12: Inconsistency regarding veteran trees

2.2.51 We note that the applicant has recognised the inconsistency highlighted in the ExA’s question as regards veteran trees within the proposed Order limits and that this may necessitate design changes. We ask the ExA to note how this is consistent with other errors and omissions noted on the baseline habitat surveys and as set out in Bioscan’s reports appended to SNTS’s written representation. We await the applicant’s update surveys (promised at Deadline 1) to see whether similar design and mitigation implications are triggered in other areas due to deficiencies in the baseline and reliance on assumptions that later prove to be incorrect. We will offer further comment on this, and its implications, in due course.

2.3 Overall conclusions on applicant’s responses to FWQs

2.3.1 Bioscan and SNTS consider that the applicant’s responses to the Examining Authorities First Written Questions (and indeed the volume of those questions), illuminate the lack of thoroughness in the applicant’s submitted ES and HRA, and related submission material. We await several further revised submissions on matters that should have been available to the Examining Authority, and stakeholders, at the outset, including on crucial factors such as compliance with the Conservation of Habitats and Species Regulations, the mitigation hierarchy and crucial details that directly influence the weight that can or cannot be attached to the applicant’s claims on enhancement, compensation and biodiversity net gain. The Examining Authority is asked to note the additional burden that responding to this material in such a piecemeal way places on stakeholder groups with limited resources, such as SNTS. We also note the applicant’s revealing answer to Q1.6.7 which confirms beyond any residual doubt that any compensatory or enhancement benefits secured via the DCO would likely be temporary, with no residual control over land beyond the *maximum* 40-year life of the proposed solar facility.

3 COMMENTS ON DRAFT STATEMENTS OF COMMON GROUND

3.1.1 On behalf of SNTS, Bioscan's comments on the draft/interim statements of common ground of the Local Authorities, Natural England, Suffolk Wildlife Trust and the Environment Agency are set out in turn below:

3.2 Local Authorities

3.2.1 Bioscan note and agree with the position implied by the lack of agreement between the applicant and the Local Authorities on 'application of expert/professional judgments' – i.e. that the Local Authorities are not satisfied that the judgments reached by the applicant on ecological matters are robust. The catalogue of habitat classification errors, assessment omissions and unevidenced leaps of faith about the future position support the LPAs position of non-agreement at this stage. Indeed, it might be argued that they are added to or confirmed at each Examination deadline.

3.2.2 We note under 'matters under discussion' that the applicant intends to submit the delayed additional surveys responding to omissions identified by ourselves and others at Deadline 3, not Deadline 1 as originally advised. The ExA is reminded of our comments at 2.3.1 above about how these shifting deadlines for receipt of new information bears upon the satisfactory (or otherwise) running of the examination in respect of SNTSs limited time and resources (and not least those of PINS).

3.2.3 We note that the applicant states that it is intending to submit a revised Metric 3.1 calculation to the Examination "*at the earliest convenience*". If this material is not forthcoming at Deadline 3, then we consider that greater clarity on this submission timescale should be sought by the ExA.

3.3 Natural England

3.3.1 Bioscan and SNTS disagree that the study areas adopted by Sunnica within the ecology and nature conservation assessments "*reflects current best practice and standards*" and we question why this has been agreed by Natural England.

3.3.2 As set out in our response to FWQ 1.0.15 above, the applicant's claims that there are no international sites designated for their bat interest within 30 km of the proposed Order limits appears to be factually incorrect. Specifically, Eversden and Wimpole Woods Special Area of Conservation (SAC) is approximately 26.7km from the Order limits at Burwell substation. This SAC is designated for the presence of the rare Annex II bat species barbastelle *Barbastella barbastellus*. This omission or oversight is particularly relevant to the EIA (and HRA) processes as this rare bat species disperses significant distances from roosts for foraging purposes and has been recorded within the Order limits. This oversight also calls into question the statement, presented as an agreed matter, that "*The parties agree that the Stage 1 – Screening has identified all relevant sites, potential impact pathways and has taken into consideration all potential Likely Significant Effects.*"

- 3.3.3 We note that there is a divergence of opinion between NE and the Local Authorities on whether the application of professional judgement by specialists in respect of ecological impacts is appropriate and robust. Bioscan and SNTS agree with the Local Authorities that there are clear grounds (as set out in SNTS's written representation, and in the comments earlier in this document) to question that view. We have also highlighted in our comments on the applicant's response to FWQ 1.2.1 how the impact matrix approach deviates from accepted best practice standards and how it can result in relevant impacts being disregarded.
- 3.3.4 Bioscan/SNTS question how in a situation where the applicant is being compelled to submit addendum information to address deficiencies in the baseline data, there can be an agreed position between the applicant and NE on the adequacy of the submitted survey data at this stage. We question whether the reality is that Natural England has confined its considerations to matters of a statutory nature, as per its normal remit in engaging with the planning process, and has thus not given detailed consideration to the adequacy of matters such as accurate habitat classification outside of the designation boundaries and impact buffers around statutory sites, except where concerning statutory protected species. We suggest the Examining Authority should seek clarity from Natural England as to precisely where it positions its involvement in the Examination on non-statutory matters, in order that it can adjust the weight to be attached to a lack of comment from the statutory authority (or agreement on statements proffered by the applicant) accordingly.
- 3.3.5 Bioscan/SNTS note the inconsistency between NE having been portrayed as agreeing that *"the application of professional judgement by specialists within the following assessments is considered to be appropriate and robust: ... air quality"* and the later statement that *"It is considered by the parties that the outcomes of the cumulative effects assessment in relation to development interactions are accurate with the exception of air quality, where Natural England has requested an in-combination assessment be carried out."* This inconsistency is reflected elsewhere in the comparison of statements suggesting that matters such as potential effects on Chippenham Fen are agreed, which is flatly contradicted by later statements that impacts on aquatic invertebrates associated with Chippenham Fen Ramsar site and Fenland SAC are a matter of ongoing data exchange and discussion.
- 3.3.6 Bioscan note that the record of GCN from Chippenham Fen drawn to the applicant's attention some months back, and referenced again in SNTS's written representation, is not mentioned in the statement on GCN. Bioscan wonder whether this matter has been discussed at all between the applicant and NE since it was flagged by ourselves.
- 3.3.7 Bioscan/SNTS consider that due to deficiencies in the submission material and a lack of detail on critical matters, Natural England are not in an informed enough position on the following matters to agree that the impacts have been appropriately identified and assessed:
- Impacts to and loss of arable flora, including populations of locally and nationally scarce species;

- Displacement impacts on stone curlew and other farmland birds (e.g. skylark);
- Potential impact vectors to the Chippenham Fen SAC/Ramsar/SSSI/NNR, in particular in respect of aquatic invertebrates, the data vacuum around these, and the application of the precautionary principle;
- Whether the scheme delivers a net gain in biodiversity, whether objectively via the metric-based approach or subjectively on the basis of the balance of evidence in relation to both flora and fauna;
- Whether the applicant's claims of habitat enhancement are practical and achievable having regard to matters such as simple logistics, soil fertility and other factors.

3.3.8 Bioscan/SNTS will review future iterations of this Statement of Common Ground with interest, in light of the above.

3.4 **Suffolk Wildlife Trust**

3.4.1 Somewhat in contrast to the position the applicant sets out in the draft Statements of Common Ground with the Local Authorities and Natural England, Bioscan/SNTS notes that the Suffolk Wildlife Trust has not yet agreed any matters on ecology.

3.4.2 For all of the reasons set out in preceding sections of this document, including data deficiencies, unevidenced claims and assumptions, inconsistencies and simple matters of factual error, Bioscan/SNTS consider this to be very much the more defensible position at this stage of the Examination.

3.5 **Environment Agency**

3.5.1 Many or most of the comments made above in respect of the draft Statement of Common Ground with Natural England apply equally to the draft Statement of Common Ground with the Environment Agency. We are concerned that statutory agencies are being portrayed by the applicant as being in agreement with them on matters that are subsequently found to either be factually incorrect, or which fall outside of the statutory remit they define in consultation correspondence and which leaves matters such as non-statutory biodiversity matters largely to local authorities and non-statutory agencies such as the Wildlife Trusts.

4 COMMENTS ON LATEST VERSIONS OF CEMP, OEMP AND DEMP

4.1 Framework Construction Environmental Management Plan [[REP3-015/16](#) + appendices]

- 4.1.1 Bioscan/SNTS note how the (tracked) changes to the CEMP indicates (amongst other things) how additional information fed into the design process via the arboricultural impact assessment (AIA), changes the original position of the applicant that no mature trees will be affected during the construction phase. This has necessitated revisions to ancillary documents such as the CEMP, and Bioscan/SNTS wish to seek clarity as to whether the Environmental Statement is similarly going to be revised in order to better reflect the factual position as regards impacts to trees and linear features, and how this may impinge on the previous conclusions drawn about bats.
- 4.1.2 For example, having undertaken an initial review of the AIA, Bioscan note that *“Two individual trees [one subject to TPO], two tree groups [also subject to TPO], part of four woodland groups, part of 13 tree groups and part of four hedgerow features are to be removed to facilitate the Scheme. This would include four part woodland groups of high quality (Category A), one tree group, part of seven tree groups and part of two hedgerows of moderate quality (Category B), two individual trees, part of six tree groups and part of two hedgerows of low quality (Category C) and one individual tree and one tree group which are unsuitable for retention for more than 10 years (Category U).”*
- 4.1.3 It is further noted that *“as a reasonable worst case the Scheme would require the removal of up to 150m² of likely high quality tree cover, 5300m² of likely moderate quality tree cover and 2850m² of likely low quality tree cover (8300m² in total).”*
- 4.1.4 The Examining Authority is asked to note the difference between the position as now assessed via the AIA and the statements made in the original ES Chapter such as:
- *“Woodland habitats across the Order limits will be retained”* (ES Chapter 8: Table 8-10, page 8-108)
 - *“The construction of the Scheme will avoid features used by roosting and foraging / commuting bats, based on the current baseline conditions. There will be no loss of habitats identified as being important for bats anywhere within the Order limits.”* (ES Chapter 8: Table 8-10, page 8-122)
 - *“The construction of the Scheme will not impact upon mature, species-rich hedgerows and other boundary features, which will retain connectivity across the Order limits for commuting and foraging bats. Therefore, there will be no fragmentation of habitats used by bats”* (ES Chapter 8: Table 8-10, page 8-122).
 - *“Therefore, there are no impact pathways, either directly or indirectly, that would impact upon bats”.*

4.2 **Ecological Clerk of Works – clarity sought from applicant**

- 4.2.1 In addition to the above, Bioscan/SNTS would request that the applicant defines what is meant by “*a licenced Ecological Clerk of Works*” (page 16C-15) and in particular how it will be ensured that someone with suitable experience of stone curlew, as well as all the other relevant receptors, will be employed.
- 4.2.2 Bioscan/SNTS would also request that the applicant defines precisely how many ECoW are likely to be required to cover all potential impact fronts/interfaces with ecological receptors that require supervision and monitoring during the construction phase. It is very notable that references to ECoW are made in the singular and appear to be generic, as if lifted from another project. The size of this project means that this would be wholly inadequate to implement the CEMP to the intended efficacy. The Examining Authority is asked to note the outcome of a simple totting up exercise of all the likely and potential daily tasks that may fall to a single ECoW and the impracticality of their being covered without multiple ECoWs being in post.
- 4.2.3 Bioscan/SNTS consider that this matter requires further detail before any weight can be placed on the CEMP as an effective means to limit construction-phase effects. Confirmation of the skill set, number of employees and an indication of anticipated daily schedule of tasks would assist the ExA and stakeholders in determining whether the applicant has sufficient intention and resource to cover this essential matter.

4.3 **Framework Operational Management Plan [[REP2-030](#) and [REP2-031](#)]**

- 4.3.1 The text in this document on Biodiversity (table 3-3) is insufficiently precise and evidently subject to change in the light of further information (e.g. on stone curlew) and Bioscan/SNTS therefore reserve the right to comment on it at a later stage of the Examination.
- 4.3.2 However, the comments made above about the resourcing requirements to ensure the value of an ECoW should be noted also with regard to the operational phase, though they are perhaps less acute as a concern than with the construction phase.

4.4 **Framework Decommissioning Management Plan [[REP2-028/029](#)]**

- 4.4.1 The comments provided above at 4.1 and 4.2 apply equally to the Framework Decommissioning Management Plan. In addition, the Examining Authority’s attention is drawn to Bioscan/SNTS’s comments on FWQ 1.6.7 (para 2.2.42 above) concerning the absence of security over the future position beyond the operational life of the solar facility.

5 SUMMARY AND CONCLUSIONS

- 5.1 Bioscan and SNTS consider that the applicant's responses to the Examining Authorities First Written Questions illuminate how errors and omissions have infected the Environmental Statement submission (and its supporting surveys), as regards biodiversity impacts. These individually and collectively undermine the robustness of the conclusions the applicant presents, with a further diminution of robustness added in the absence of detail on the long term and future position that is claimed will be delivered.
- 5.2 Bioscan and SNTS consider that the applicant's ticker tape submissions in response to these errors and omissions, including additional surveys and submissions, related adjustments and corrections and changes of position do not imply a robust and well thought through scheme. We suspect the Examining Authority shares in our frustration that this rather haphazard approach to designing and assessing a scheme brings, and in the resourcing implications for stakeholders that it gives rise to.
- 5.3 We await further information on the matters of concern raised in this document and will respond as necessary.



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