

Suffolk County Council (20031377)

SCC's comments on the Applicant's draft Development Consent Order
(Rev. 03, dated 18 December 2022, Deadline 4)

Sunnica Energy Farm EN010106

Deadline 5

13 January 2023

SCC's comments on the amendments included in the latest draft Development Consent Order are set out below. Where SCC suggested an addition to the existing drafting, the addition is shown in red; where SCC suggests a deletion, the deletion is shown struck-through. In addition, in row (xi) below, SCC reiterates a point previously made in respect of the drafting of articles 9 (power to alter layout etc., of streets) and 11 (temporary stopping up of public rights of way)

	Provision	SCC's comment on the provision
(i)	Article 17(5) (authority to survey and investigate land).	SCC agrees with the inclusion of new article 17(5).
(ii)	Article 36(2)(b) (felling or lopping of trees and removal of hedgerows).	<p>SCC considers the inclusion of sub-paragraph (2)(b) is an improvement on the previous draft; however, SCC considers the words “except for where not practically possible” should be removed. While sub-paragraph (2)(b) is precedented, the words “except for where not practically possible” do not appear in the precedents and SCC is not aware of any explanation for their inclusion. SCC considers the inclusion of these words would compromise the effectiveness of the provision. SCC considers sub-paragraph (2)(b) should read –</p> <p>“In carrying out any activity authorised by paragraph (1) or (4), the undertaker must –</p> <p>...</p> <p>(b) ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice provided these meet or exceed the appropriate British Standards, except for where not practically possible;”</p> <p>The Secretary of State considered this drafting to be appropriate in the recently made A47/A11 Thickthorn Junction Development Consent Order 2022. Article 39(2)(b) of that Order states –</p> <p>“(2) In carrying out any activity authorised by paragraph (1) or (4), the undertaker must—</p> <p>...</p> <p>(b) ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice provided these meet or exceed the appropriate British Standards; ...”</p>
(iii)	Article 36(5) (felling or lopping of trees and removal of hedgerows).	SCC agrees with the inclusion of new article 36(5).

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(iv)	Article 44(1) (traffic regulation measures)	SCC agrees with the amendments made to article 44(1).
(v)	Article 44(2) traffic regulation measures)	<p>SCC agrees that the Applicant should obtain the traffic authority's consent before exercising the powers under paragraph (2); however, SCC considers that, as drafted, the provision does not quite work. As mentioned in SCC's ISH1 Post-hearing Submission [REP2-085a], SCC considers paragraph (2) should be amended as follows –</p> <p>“(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road is situated, the undertaker may for the purposes of construction, maintenance and decommissioning of the authorised development, temporarily place traffic signs and signals in the extents of the road specified in column 2 of Part 4 of Schedule 14 (traffic regulation measures) and, subject to the consent of the traffic authority in whose area the road is situated the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016”.</p>
(vi)	Article 44(5) traffic regulation measures)	<p>SCC agrees that the Applicant should consult affected highway users before applying to the traffic authority for consent under paragraphs (1) or (2) of article 44. SCC considers the drafting of paragraph (5) would be clearer if it explained what is meant by a “local advertisement”. For instance, SCC publishes a notice of consultation in a local newspaper which covers the affected area and expects the Applicant would do the same under paragraph (5). For clarity therefore, SCC suggests that new article 44(5) is amended as follows –</p> <p>“(5) Prior to any application for the consent of the traffic authority under paragraphs (1) and (2), the undertaker shall carry out 21 days consultation with affected highway users by means of site notices and local the publication of an advertisement in a newspaper which covers the affected area and shall include a consultation report presenting the results of that consultation as part of its application for consent”.</p>

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(vii)	Schedule 2, Requirement 7 (fire safety management)	SCC is content to be the discharging authority for this requirement.
(viii)	Schedule 2, Requirement 16(1) (construction traffic management plan)	A drafting point: after "must" insert "be".
(ix)	Schedule 2, Requirement 16(3) (construction traffic management plan)	<p>For consistency with the running order of the definition of "permitted preliminary works" and the amendments made to paragraph (h) of that definition, SCC considers paragraph (3) should be amended as follows –</p> <p>"(3) No part of the permitted preliminary works for each phase comprising above ground site preparation for temporary facilities for the use of contractors, the diversion and laying of apparatus, and site clearance (including vegetation removal, and demolition of existing buildings and structures), and the diversion and laying of apparatus so far as it relates to works in the highway may start until a permitted preliminary works traffic management plan for that phase has been submitted to and approved by the relevant county authority for that phase or, where the phase falls within the administrative areas of both the county of Suffolk and the county of Cambridgeshire, both relevant county authorities".</p> <p>As mentioned in SCC's comments on the Applicant's Schedule of Change to the draft DCO from Change Request application to Deadline 2 [REP3A-042] SCC considers all works involving the formulation of or change to any vehicular access, whether or not on a temporary basis or not, needs to be subject to the prior approval process. SCC seeks confirmation that none of the remaining paragraphs within the definition of "permitted preliminary works" (i.e. paragraphs (a), (c), (e), (f) or (g)) could require the formulation of or change to any vehicular access, whether or not on a temporary basis or not.</p>
(x)	Schedule 13 (procedure for discharge)	<p>SCC is content with the deletion of paragraph 2(1)(b) and the inclusion of paragraph 2(6).</p> <p>SCC and other local authorities have initiated discussions with the Applicant in respect of the amount of fees to be included in paragraph 5 of Schedule 13.</p>
(xi)	Articles 9 (power to alter layout etc., of	As mentioned in SCC's ISH1 Post-hearing Submission [REP2-085a], SCC is concerned about the

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	streets) and 11 (temporary stopping up of public rights of way).	lack of any requirement for its consent in the provisions in relation to Street Works in Part 3 of the dDCO, in particular in Article 9(1) as regards the works in Schedule 5 and in Article 11(1) as regards interferences with public rights of way. SCC reiterates its general concern (as elaborated in the Joint LIR and during ISH1) as to the insufficiency of the information provided by the Applicant to enable the effects on the local highway network and the public rights of way network to be fully assessed. In the absence of further information, the powers sought by the Applicant to undertake works affecting these networks should be subject to a requirement for consent from SCC.