

# **Suffolk County Council (20031377)**

Comments by Suffolk County Council on the De-commissioning section of the Applicant's response to the LPA Deadline 4 submissions [REP5-057]

## **Sunnica Energy Farm (EN010106)**

Deadline 6

30 January 2023

1. These comments respond to the Applicant's response in REP5-057 to SCC's submissions in REP4-143 (Action Point No. 8). The Applicant's response is provided in the 'Legal' part of REP5-057, which can be found on p.41 and following.
2. The Applicant has argued that SCC has not provided any evidence or justification for regarding the impacts of the development on human receptors as permanent rather than temporary. SCC respectfully disagrees and refers the ExA to para 7 of REP4-143. In further elaboration, SCC would add that it is reasonable at the present time to assume an average human life expectancy of c.80-85 years (ONS data indicates that, for 2018-2020, life expectancy at birth in England was 79.3 for males and 83.1 for females: see <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/lifeexpectancies/bulletins/nationallifetablesunitedkingdom/2018to2020> ). Assuming that the operational period comes to an end in or around 2065, a person alive today (2023) would have to have been born after 1980 to have a life expectancy that would allow them to experience the post-development environment. In other words, most human receptors born before 1980 (i.e. persons now aged 43 or above) living and working in local communities within the vicinity of the development would be unlikely to experience that post-development environment within their remaining lifetimes (recognising, of course, that some people will live for longer than the average life expectancy

and other people will live for a shorter period). For those persons, the changes to their environment can be sensibly regarded as permanent because the changes will endure for the rest of their lives.

3. Irrespective of the question of whether the changes should be regarded as temporary or permanent for current human receptors, the Applicant has also sought to create the impression that the impacts of the development on the receiving environment are not permanent and will be removed at the end of the operational period because the solar infrastructure will be then taken away. However, this is simply not correct as regards the loss of vegetation and the loss of trees. Those losses are permanent. The Applicant seeks to avoid accepting this fact by referring to (a) the replacement planting proposed (which will not be permanently secured) and (b) the small numbers of trees lost but, with respect, these are obfuscations. They do not go to the point at issue, which is whether the development imposes permanent impacts on the receiving environment. The nearest that the Applicant comes to acknowledging that there will be permanent losses is to accept that the vegetation loss can be seen as “long term”. Quite what the Applicant means by this expression, and how it differs from “permanent” loss, is left unstated. In SCC’s view the two terms are, in this context, interchangeable. Since what is lost is not intended to be replaced on any secured, permanent, and enduring basis, what is lost is correctly described as a permanent loss.
4. The Applicant’s failure to recognise that the development will have permanent impacts leads it to wrongly assert that there can be no justification for requiring regulation of the post-decommissioning environment. The Applicant’s attempts to apply the policy tests for requirements to SCC’s suggestions for post-decommissioning management measures suffer from the Applicant’s faulty premise that there are no permanent effects. The simple fact of the matter is that after de-commissioning the receiving environment does not revert to the status quo ante before the development. The receiving environment will have been changed, both by what has been permanently removed and by what has been introduced as mitigation measures to ameliorate impacts during the construction and operational periods.

5. Once that undeniable fact is grasped, the Applicant's 'walk away and forget' approach falls down. The arguments claiming it would be unreasonable to expect either the Applicant or the subsequent owners to address or be responsible for the post-decommissioning environment are undermined once it is recognised that the development will leave a legacy that impacts on that environment.
6. This legacy is as much an impact of the development as the impacts it causes during the construction and operational periods. There is therefore no reason of either law or policy why the Applicant should not be required by the terms of the DCO to make suitable provision to address the continuing impacts of the development on its post-decommissioning environment. SCC has already set out in REP4-143 its suggestions as to how management measures to regulate the post-decommissioning environment could be secured.
7. Any uncertainties that there may be today about which areas of land should be included in those measures, and the detail of what those measures should be, could be safely left to be resolved through the LEMP, and the review process that SCC has put forward in its revisions to the OLEMP, as set out in para 28 of REP4-143.
8. If the requirements of the DCO require the Applicant to address the post-decommissioning environment, there is absolutely no reason why the compulsory acquisition powers that the Applicant seeks in the DCO could not be exercised for the purpose of enabling the Applicant to discharge those requirements. Any such acquisition would clearly be for a purpose that facilitated the authorised development or was incidental to it, so as to fall within the scope of Article 18(1) of the DCO. Any suggestion that the development has no effects on the receiving environment after the decommissioning phase is misconceived, for the reasons already stated. Addressing those effects by management measures to regulate elements of the post-decommissioning environment therefore both facilitates the development and is incidental to it.