



**Fordham (Cambs) Walking Group**

**Registered party 20030564**

**Planning Inspectorate Reference EN010106 Sunnica Energy Farm**

**Deadline 8 Representation dated 11<sup>th</sup> March 2023**

**Comments on additional information submissions received by Deadline 7**

## **1. Background**

### **1.1 FCWG Submissions to date:**

- PDA-018 Procedural Deadline A Submission - Written submission about how the application should be examined; Request to participate.
- AS-315 Additional Submission - Position Statement in lieu of participation at Issue Specific Hearing (ISH3) -Accepted at the discretion of the Examining Authority
- REP2-137 Deadline 2 Written Statement November 2022
- REP4-097 Deadline 4 Submission - Post hearing submission
- REP6-063 Deadline 6 Submission - Comments Additional Submissions accepted at Deadline 5
- REP6-064 Deadline 6 Submission - East Cambridgeshire Cycling and Walking Routes Strategy
- REP6-065 Deadline 6 Submission - Sustrans Feasibility Study
- REP7-075 Deadline 7 Submission - Responses to ExA's Third Written Questions (ExQ3)
- REP7-097 Deadline 7 Submission

## **2 Comments on additional information submissions received by Deadline 7**

2.1 FCWG Comments on Applicant's document REP7-056 Deadline 7 Submission - 8.96 Applicant's response to Other Parties Deadline 6 Submissions:

PROW REP6-063, REP6-064 and REP6-065

Peter Goodyear on behalf of Fordham (Cambs) Walking Group

Summary *"The Applicant has been unwilling to cooperate with Fordham Cambs Walking*

*Group (FCWG) and respond appropriately to questions asked and points made. There has been a lack of consultation and discussion of the proposed permissive routes during the design process".*

Applicant's response: *"The Applicant has responded to FCWG's submissions at the appropriate Examination deadlines following their submission. This has included responding to FCWG's written representation in REP3A-035. It is therefore incorrect to say that the Applicant is unwilling to cooperate. The Applicant has not agreed to all of FCWG's requests but that is not the same issue. Where the Applicant does have a different view to FCWG it has sought to explain the reasons for that.*

*In addition to this, the Applicant has responded to FCWG's supplementary question via email to Fordham Cambs Walking Group (FCWG) on 2nd February 2023. The response to this question was:*

*"While we recognise that there is appetite for permissive routes on the land forming the grid connection route, we have sought to minimise impacts on landowners along the cable route and limit interference with their rights and land. We do not therefore consider it appropriate to create permanent or temporary rights of way within grid connection routes A and B."*

*The Applicant apologises for the delay in responding to FCWG's supplementary question. The Applicant's pre-application consultation included proposals for permissive routes that were amended following the statutory consultation. The Applicant has set out how it has had regard to the consultation responses that it received relating to permissive routes and PROW provision in Appendix J of the Consultation Report [APP-030]. The Applicant considers that the routes it is proposing represent the best opportunities to provide such routes within the Scheme design.*

### **2.2 FCWG Response**

**There is distinct difference between consultation and discussion of the proposed permissive routes during the design process; and the applicant's examination deadline responses to FCWG. They are not the same and the applicant's formal ExA responses have, in the main, been limited, and are certainly not a substitute for consultation and discussion at all stages of the design process. FCWG maintain our position that we have not been invited to discuss proposals nor have we been consulted by the applicant prior to any permissive route being put forward.**

**2.3 FCWG's claim of lack of cooperation and consultation stems from the applicant's statement in response to ExQ2.9.18 "The Applicant does not consider that FCWG should form part of the discussions on the permissive paths within the Scheme, as from the Applicant's perspective, apart from the changes to the permissive path around E05 in Sunnica East Site A, no other changes to Permissive Paths are feasible or practicable.". FCWG have not been a party to any consultation from the applicant, or the CCs, regarding permissive paths inside or outside the scheme including those that have now emerged for E05. We do not agree with the claim that no other changes to permissive paths are feasible or practicable.**

2.4 In addition to this, the applicant claims to have responded to FCWG's supplementary question via email to FCWG on 2nd February 2023. This is incorrect, FCWG has no email from the applicant of 2nd February 2023. FCWG request that the applicant provide a copy of the claimed email. FCWG only became aware of this claimed response on 8<sup>th</sup> March 2023.

2.5 Bearing in mind that the claimed applicant's email was presumably to be in response to our email of 4<sup>th</sup> November 2022 in connection with ASI3 which, in the absence of a reply, was provided prior to ISH3 Thursday 8 December 2022 (Document AS-315 FCWG), it has taken 18 weeks to gain a response. We think this illustrates the difficulties we are experiencing with the applicant in relation to cooperation and consultation. A copy of the FCWG email 4th November 2022 is provided at FCWG/D8/Appendix 1. There has been no direct response from the applicant to the NPPF policies relating to permissive routes raised therein, and why the applicant might consider their development exempt from responding in a significant way to such policies. The applicant's response does not cover all the points FCWG raised including the need for comprehensive assessment and presentation of NMU routes.

2.6 FCWG response to applicant's statement that *"... we have sought to minimise impacts on landowners along the cable route and limit interference with their rights and land. We do not therefore consider it appropriate to create permanent or temporary rights of way within grid connection routes A and B"*.

FCWG feel that this response demonstrates that the applicant has not been prepared to properly address the relevant planning policies and look at the wider needs of the area. The whole DCO development impacts landowners and interferes with their rights to land over the full DCO area. There has been no compelling reason advanced why the landowner negotiations taking place in November 2022 could not have included permissive routes. FCWG would acknowledge that any such inclusion might be felt inconvenient by the applicant and come at a cost to compensate landowners for the 'interference' of permissive routes. We do not however accept that as a reason for denying a proper proportionate response to the relevant planning policies. It is also possible to negotiate a substitute agreement.

2.7 In the latter stages of submissions, the offer some undetermined level of S106 contributions to provide possible permissive routes off site suggests that the applicant now acknowledges that additional provision a legitimate issue. FCWG regard it as too little, too late and an uncertain outcome for the reasons given in REP4-097, REP6-063, REP7-075 & REP7-097.

2.8 FCWG pointed out 8th December 2022 REP4-097 our concerns when S106 was first muted that this may not be an effective remedy. It appears that the joint authorities are now acknowledging such. Please see the Joint Authorities' Deadline 7 Submission - Joint Responses to Examining Authority's Third Written Questions (ExQ3) doc REP7-074 which includes a wide-ranging rebuttal of the applicant's inadequate arrangements for the provision of permissive routes. The following is just a short extract of the Joint Councils full case at deadline 7 (REP7-074 Q3.9.4) :

*"Beyond the objection to a planning obligation that ties the LHA's hands, if the LHAs cannot rely on the use of their s26 powers the s106 simply does not secure that any mitigation can actually be delivered.*

*The Applicant's private agreements would effectively prevent the provision of mitigation even on land owned by the landowners outside the Order Limits of the project.*

*The area of land which would be unavailable for the LHAs to create PRowS by order would be so great as to make it impossible to guarantee delivery of any mitigation of substance".*

2.9 It appears to FCWG that the applicant has gone further than just failing to cooperate in the provision of permissive routes, in that the applicant has prevented their provision through the private agreements entered into. We maintain our position that the failure to significantly respond in scale to the planning policies is such that the ExA and SoS are urged to weigh these matters in reaching a decision on the DCO.

2.10 Q3.9.11 of REP7-074 document sets out policies that the Joint Authorities consider important, and these are accepted by FCWG as a supplement to the NPPF and development plan policies that are referred to in greater detail in Appendix FCWG-1 of FCWG Written Statement document REP2-137 provided for the second deadline. Particularly, the proposal fails to adequately comply with paragraphs 92, 104 and 112 of The National Planning Policy Framework 2021. The low level of permissive paths fails to adequately satisfy the following development plan policies: Policy COM 7 of the East Cambridgeshire District Council Local Plan Adopted April 2015; Policy DM2 parts K&L, DM37, DM 44 and DM45 of the Forest Heath and St Edmundsbury Local Plan: Joint Development Management Policies Document (2015); and Policy 10 of the Fordham Neighbourhood Plan 2018.

2.11 The Joint Councils' document REP7-074 provides additional details of their RoW Improvement Plans and relevant policies NPS EN-1 5.10.19 (Mitigation principles- the SoS should consider imposing requirements ... where appropriate, to improve that network and other areas of open space including appropriate access to ... public rights of way), 5.10.21 (Green infrastructure), 5.10.24 (RoW mitigation), 5.13.4 (Improve walking and cycling). Draft NPS EN3 2.49.5 (Design new PROWs).

2.12 The applicant's document REP3A-035 Section 5 (Thematic responses part), failed to address any of FCWG's concerns relating to 'Consultation', 'Landowner Negotiation', 'Scale' and 'Design'. FCWG raised these matters at each interaction stage identified at FCWG/D8/Appendix 2.

2.13 The applicant's responses to FCWG in document REP3A-035 are contained in Section 5, pages 483-488. FCWG do not consider this was a substantive response and we responded at several stages including our responses at REP6-063 and REP7-097. We are still unable to agree that the applicant's only effective connective permissive route of just 0.7 mile parallel with Beck Road is a sufficient response. The limitations and lack of real improvements to connectivity at Badlingham and Worlington were raised in paragraphs 2.4-2.8 of REP7-097 Rebuttal of Sunnica Project Team Document EN010106/APP/8.85 (REP6-035). We are unable to agree that the applicant's analysis of the existing NMU network, and opportunities improvement, is adequate. FCWG pointed out in REP6-063 that the applicant's analysis focuses on a relatively narrow area where access is affected at the construction phase, whereas we consider that a wider remit should be applied over the wider environs of the DCO area for the operational phase. We refer to these documents in this paragraph to avoid repeating the detailed arguments.

2.14 Whilst the applicant responds to FCWG at pages 46-52 inclusive of document REP7-056 under various sub-headings, these largely duplicate the differences of opinion responded to in the foregoing paragraphs of this deadline 8 representation. At page 51, the applicant makes a reference and response to Policy 10 of the Fordham Neighbourhood Plan. It is important to note that the applicant only quotes this policy in part, omitting part that FCWG consider to more important. The missing part has been referred to previously by FCWG as long ago as November 2022 (REP2-137) and reads " ... *Development proposals that will enhance or extend an existing public right of way or that will deliver a new public right of way in a suitable location will be viewed favourably. Development proposals that are located where there is an opportunity to link two or more public rights of way or to enhance connectivity through the village should incorporate*

***this connectivity through the proposal wherever appropriate. ...”*** FCWG consider that this is important and once again, the applicant fails to acknowledge the weight of planning policies which, taken together, afford them a greater duty of compliance than they are prepared to acknowledge.

**2.15** At page 49 of REP7-056, the applicant states that additional updated plans have been submitted at Deadline 7 to include roads used by NMUs in the vicinity of the scheme. *“The Applicant considers the plans detailing the local PROW network and permissive routes that it has submitted into the Examination to date to have been sufficient to inform understanding of the proposals. However, the Applicant has updated the Environmental Master Plans, submitted at Deadline 7, to include all PROW, Permissive Paths and roads considered to be used by NMUS in the vicinity of the Scheme”.*

**FCWG Response -** The roads the applicant considered to be used by NMUs are not shown on the Deadline 7 drawing 60589004\_ES\_LSP\_8.1\_1 Rev0 covering the whole of the DCO area, nor are they mentioned in the key. Several inset enlargements are provided with *‘Roads used for recreation’* shown but these do not cover all the DCO area, and the areas that are chosen are truncated and do not go far beyond the DCO boundary. This is hardly a depiction and analysis of minor highway routes in the wider area requested by FCWG as far back as 4<sup>th</sup> November 2022 (AS-315). The drawings are of no use in identifying gaps in connectivity for NMUs. FCWG identified 15 settlements within the zone of influence of the DCO. That means that for any one settlement, there are links to 14 other settlements to consider and in total, and 105 routes between settlements overall. This failure brings into question the lack of rigor applied by the applicant, and why an apparent random selection of just 3 locations for permissive routes of varying utility have been chosen.

### **3 Conclusion:**

- The applicant’s proposals for ‘possible’ permissive routes represent nothing more than a partial response to the relevant planning policies.
- There are many aspects of the applicant’s ‘possible’ permissive routes that are undefined and uncertain. The uncertainty relates to both the on-site arrangements and off-site via S106 obligation.
- FCWG maintain our position that the failure to significantly respond, in scale and nature, to the planning policies, is such that the ExA and SoS are urged to weigh these shortcomings in reaching a recommendation and decision on the DCO.

FCWG/D8/Appendix 1.

**From:** Peter Goodyear [REDACTED]  
**Sent:** 07 December 2022 07:57  
**To:** Sunnica Energy Farm [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Planning Inspectorate Reference EN010106 Registered party 20030564 Fordham (Cams) Walking Group, Sunnica Energy Farm,

Dear Planning Inspectorate team,

I am writing in advance of tomorrow's Issue Specific Hearing, to provide an update for item 6b Permissive Paths ISH3 Thursday 8 December 2022.  
This may be pertinent to any ExA questions considering that I am not personally registered to speak but will be in attendance.

In relation to the email below sent in response to the accompanied site inspection on 3 November 2022, there has been no response from Sunnica except acknowledgement that the communication has been received and will be responded to.

Whilst there has been no substantive response to my email, I note Sunnica's responses to written representations REP2-137 Deadline 3A Submission - 8.50 Applicant's Response to Written Representations - 12 responses. I feel obliged to provide clarification because our group's objection relates principally to the absence of adequate permissive routes during the operational phase of 40 years. I apologise if this was not clear. Sunnica's responses refers to their assessment of the existing PROWs and need for mitigation during the construction phase not operational. That is not something I raised in any detail and our proposal is for longer term sustainable benefits for our local communities over the full operational phase of 40 years.

Kind regards  
Peter Goodyear  
(Fordham Cams Walking Group)

On Fri, Nov 4, 2022 at 11:42 AM Peter Goodyear [REDACTED] wrote:  
FAO Luke Murray Project Director.  
Good morning Luke,  
  
Thank you for accommodating me as representative of the Fordham Walking Group on the Inspectorate's accompanied site visit yesterday 3rd November.  
  
You may recall responding to some of my questions, but you asked me to put one specific factual question in writing, for you to respond in a considered way.  
You explained that you are currently in discussions with landowners with a view to reaching

[REDACTED]

agreement for the cabling route. My question was ***"Is there any reason why these discussions cannot include the creation of permissive footpaths or bridleways along the cabling route?"***.  
  
Please find attached your drawing number 60589004\_ES\_DAS\_004 Rev 0 upon which I have overlaid in green sections within the DCO (P2-P8) that I feel warrant scoping, and a short section outside the DCO (P1) linking to East Fen Road Isleham. Whilst the latter section is outside the DCO, I understand the land is in the same ownership as adjoining land where you are having discussions.  
  
My representation and written statement (in preparation) seek to draw attention to the need for a comprehensive look at the wider network of routes for pedestrians, cyclists, and horse riders in the area. There are missing links considering availability of attractive linear and circular routes. Since it is the case that non-vehicular users favour safe, attractive, PROWs and class C or unclassified roads; it would assist consideration of this issue if you were to generate a drawing highlighting these and your "potential" permissive routes. I guess that would simply involve a matter of switching on layers in your CAD system.

On your PROW map, the roads and settlements are greyed out, and the permissive routes are not shown on drawing 60589004\_ES\_LSP\_004 Rev 0. This means it is extremely difficult to extrapolate how the network works and in places fails. It is possible that I have missed something in the volume of submitted material and I'd be grateful if you could point that out if that is the case. I have done my own mapping showing a lattice of existing and potentially beneficial new permissive routes, but I am unable to share this with the inquiry because my OS licence is a private one.

I see that in addition to our written statements, we are being asked to provide statements of common ground by 11th November. I am happy to cooperate if you want to offer suggestions. I find it easier to identify where we might have a difference of opinion.

The Fordham Cams Walking Group (FCWG) includes members from neighbouring villages. Members have expressed strong concerns regarding the inadequacy of mitigation relating to permissive routes. Other significant concerns have been expressed regarding temporary loss of routes during construction, fire safety, countryside character ecology, and loss of productive farmland. Also, people are feeling threatened with a strongly perceived isolation of village communities as a result of the sheer amount of panels and associated structures proposed over such wide area. It is also fair to say that most members are supportive of the principle of carbon reductions through renewable energy projects. The issues are around the how much, what, and where, together with reference to community impacts and lack of adequate mitigation.

FCWG members have group activities and share individual routes in the area. There is consensus that walking and cycling routes in our area are currently inadequate. The National Cycle Network from Cambridge only comes as far as Burwell. There are villages which are isolated for walkers insofar as the next village is only accessible along roads without footpaths. Where a PROW exists, it is often a far from direct route. In other cases, there is no attractive safe circular route available, which discourages wellbeing walking.

I would agree that your "potential" permissive routes provide some beneficial mitigation but

Regarding the guiding policies, the Sunnica Planning Statement [EN010106/APP/7.2] details the Scheme's compliance with the relevant planning policy framework, at national and local levels, and other matters which the Applicant considers are important and relevant to the Secretary of State's decision. Appendix B of the Planning Statement provides a table detailing the Scheme's compliance with specific national and local planning policies considered relevant. Applicant's Planning Statement Para 5.2.9 states "It should be noted that the NPPF was written to guide planning applications under the Town and Country Planning Act 1990 (TCPA 1990) rather than the PA 2008. At paragraph 5 the NPPF makes it clear that the document does not contain specific policies for NSIPs and that applications in relation to NSIPs are to be determined in accordance with the decision making framework set out in the PA 2008 and relevant NPSs, as well as any other matters that are considered both important and relevant. However, the Energy NPSs were published in 2011 and the NPPF, having been updated in July 2021, therefore provides more up to date policy. Its policies relating to specific topics relevant to the Scheme, and where these supersede the NPS policies, are therefore considered important and relevant".

The Sunnica analysis omits specific reference to the NPPF policies relevant to walking and cycling, nor analyse in detail, nor respond to, the specific policy requirements of the NPPF and the development plan documents.

I might draw your attention to the following and invite comment:  
NPPF  
Section 8 "Promoting healthy and safe communities  
Para 92. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages; b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling."

Section 9. "Promoting sustainable transport.  
Para 104. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed; b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; c) opportunities to promote walking, cycling and public transport use are identified and

pursued;"

Para 112. "Within this context, applications for development should: a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;  
b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;  
c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards."

Luke, I appreciate that you and your team have a lot to cover in a short time with the forthcoming inquiry, particularly the deadline for written statements which is only one week away. I am on standby to enter early dialogue on the issues I'm raising.

I have copied in the inspectorate for information as it relates to a question raised at the accompanied site inspection.

Kind regards  
Peter Goodyear  
(Fordham Cambs Walking Group)  
Attachment

## **FCWG/D8/Appendix 2.**

### **FCWG Submissions to date:**

- PDA-018 Procedural Deadline A Submission - Written submission about how the application should be examined; Request to participate.**
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