

Sunnica Solar Farm Proposal

- To: Environment and Sustainability Committee
- Meeting Date: 11th March 2021
- From: Steve Cox, Executive Director, Place & Economy
- Electoral division(s): Soham North and Isleham, and Burwell
- Key decision: No
- Outcome: To seek delegated powers for officers, where there is insufficient time to take the item to Committee, to ensure that the Nationally Significant Infrastructure Project (NSIP) timescales can be met, thus allowing our submissions to be given full weight by the Planning Inspectorate (PINS) in the determination process.
- Recommendation: The Environment and Sustainability Committee is recommended to:
- a) Delegate authority to the Executive Director: Place and Economy, in consultation with the Chairman or Vice Chairman of the Environment and Sustainability Committee, to submit NSIP related responses to the Planning Inspectorate on behalf of the Cambridgeshire County Council and its regulatory functions, only on occasions where there is not enough time for a report to be delivered to the Environment and Sustainability Committee; and
 - b) Circulate the draft response to Local Members and Members of the Environment and Sustainability Committee ahead of sign off and submission to the Planning Inspectorate, when delegated powers are used.

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1. Background

- 1.1 Sunnica Limited are proposing a solar energy farm to the east of the County and crossing the border into Suffolk. The proposed development is considered to be a nationally significant infrastructure project (NSIP) by virtue of the fact that the generating station is located in England and has a generating capacity of over 50 megawatts (see section 15(2) of the 2008 Act); which will therefore require an application to be submitted for a Development Consent Order (DCO).
- 1.2 As an NSIP application (for which a DCO is required) the proposed solar farm will not be determined by the District Council with input by the County Council. Responsibility for accepting and examining the NSIP applications rests with the Secretary of State (for Business, Energy and Industrial Strategy). The Planning Inspectorate carries out certain functions related to national infrastructure planning on behalf of the Secretary of State.
- 1.3 The County Council has a distinct role in this process as one of the four 'host' authorities (with the others being Suffolk County Council, East Cambridgeshire District Council, and West Suffolk Council). Officers have engaged specialist advice from other key specialist teams in the authorities, including taking advice from officers acting as the Council's Highway Authority and Lead Local Flood Authority.
- 1.4 Local Authorities are statutory consultees in their own right for any proposed NSIP within their area. Cambridgeshire County Council is a statutory consultee in the NSIP process. The four 'host' Local Authorities have been working together to respond to Sunnica's pre application consultations. The role of the authorities is not to pass judgement on the merits of the application, but to scrutinise the applicant's assessment of the NSIP application, offer technical advice as part of the consultation process and ensure that adequate public consultation is carried out.
- 1.5 Whilst the NSIP legislation does not specify any differences between 'host' planning authorities, in their role as statutory consultees, there is an understanding or assumption, set out in common practice, that if permission is granted by the Secretary of State the requirements (or effectively planning conditions) in the DCO are discharged, monitored and enforced by the Council(s) that would normally be the determining authority.
- 1.6 As an NSIP proposal, the Sunnica Energy Farm Project has already undertaken its pre-application consultations with the general public, alongside pre-application discussions with key specialisms within the four 'host' authorities, to help inform their proposal prior to the submission of their application to the Planning Inspectorate (PINS). Impacts in relation to the Coronavirus have been considered by Sunnica and are discussed further in paragraph 4.3 of this report.
- 1.7 Appendix 1 sets out the six stages involved with a NSIP application and Appendix 2 clarifies the role of the local authority at each of the stages (excluding the decision). PINS guidance is clear that a local authority and the local community are consultees in their own right. Whilst local authorities should have regard to what the community is saying, it is not intended that they necessarily adopt all of those views put to them. In this context, local authorities in particular must conduct themselves in line with the National Policy Statements and the relevant guidance.

- 1.8 Paragraph 6.2 of the PINS Advice Note two: The role of local authorities in the development consent process, states that “Local authorities should engage proactively with a developer even if they disagree with the proposal in principle. It is important to recognise that a local authority is not the decision maker but will want to contribute towards the development of the emerging proposals with the benefit of their detailed local knowledge. Local authorities are not undermining any ‘in principle’ objections to a scheme by engaging with a developer at the pre-application stage.”
- 1.9 If the recommendation within this paper is approved, the outcome will be that officers will have the ability to use delegated powers to ensure that consultation timescales set by national legislation are able to be met, where there is not sufficient time for a committee decision to be taken. This recommendation also includes the flexibility for the Vice Chairman to make the decision, as it is acknowledged that the project sits in the Chairman’s electoral division.

2. The Proposal

- 2.1 Sunnica proposals are for a new energy farm with solar photovoltaic (PV) and energy storage infrastructure connecting to the Burwell National Grid Substation. This seeks to provide 500MW of electricity which is equivalent to providing for approximately 100,000 homes.
- 2.2 The proposed solar energy development spans four ‘Sites’:
- Sunnica East Site A, near Isleham
 - Sunnica East Site B, near Freckenham and Worlington
 - Sunnica West Site A, near Chippenham and Kennett
 - Sunnica West Site B, near Snailwell

These four sites are proposed to be linked by a cable corridor to the National Grid at Burwell Substation.

3. Planning Policy

- 3.1 The policy framework for determining an NSIP application is set out in Section 104 of the Planning Act 2008 (as amended), set out below:

In deciding the application the Secretary of State must have regard to:

- (a) any national policy statement which has effect in relation to development of the description to which the application relates (a “relevant national policy statement”);
- (aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009;
- (b) any local impact report (within the meaning given by section 60(3)) submitted to the Secretary of State before the deadline specified in a notice under section 60(2);
- (c) any matters prescribed in relation to development of the description to which the application relates; and
- (d) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State’s decision.

3.2 The relevant documents in relation to this application from the Cambridgeshire perspective are the National Policy Statements for Energy; the Cambridgeshire and Peterborough Minerals and Waste Core Strategy (July 2011) & the Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals Plan (February 2012) - or if appropriate as superseded by the emerging Cambridgeshire and Peterborough Local Plan; the East Cambridgeshire Local Plan (2015); and any Local Impact Report submitted during the Examination. The National Planning Policy Framework (NPPF) 2019 is also a material consideration.

4. NSIP Pre-Application Process

4.1 As this report has been brought to the Environment and Sustainability Committee ahead of the formal NSIP application submission, the pre-application process is currently being undertaken i.e. step 1 in Appendix 1. Of the pre-application stages shown in Appendix 2 the following have been completed:

- Provided comment on the draft Statement of Community Consultation (SoCC).
- Commented on the consultation from the applicant Under Section 42 of the Planning Act 2008.

4.2 'Host' authorities are strongly encouraged to use the pre-application period to start their own evaluation of the local impacts of the proposal. 'Host' authorities should then begin to compile the Local Impact Report (LIR) as soon as the application has been accepted formally by the Secretary of State and they have been invited to submit an LIR. This approach will enable the LIR to be produced within the deadlines. PINS advice is that 'Host' authorities should ensure any necessary internal authorisation processes are in place to meet the timetable (which is the basis for this report).

4.3 Sunnica's recent pre-application public consultation (September to December 2020) was held whilst adhering to the Coronavirus restrictions. This has meant a different approach to consulting with elements like public exhibitions and meetings not being possible. Instead a number of webinar virtual exhibitions were made available online.

4.4 The host authorities will be required to make a factual assessment of the consultation and submit an Adequacy of Consultation. The host authorities will have a very constrained timescale in which to assess the consultation response and respond to PINS (14 calendar days) on whether the consultation has met the necessary NSIP and councils' Statement of Community Involvement requirements (taking account of the restrictions discussed in paragraph 4.3 above).

5. NSIP Application Process

5.1 Once Sunnica submits their DCO application to PINS for the solar farm project, currently programmed for Q2 of 2021, the project will move into the 'acceptance' stage as identified in Appendix 1. If their application is accepted for examination by PINS we should be notified of this, including whether the Secretary of State will appoint a single Examining Inspector, or a panel of up to five Examining Inspectors (known as the examining authority (ExA) to examine the application. The Examination is carried out in public.

5.2 Following notification of the above, the local authorities will then be notified of the preliminary meeting to discuss procedural matters. After which an Examination timetable should be set, including tight deadlines for when information needs to be submitted to PINS. At the pre-examination stage, local authorities are encouraged to continue to engage with the developer. Agreement on any remaining issues should be sought and/or negotiations continued. There may also be the need to continue negotiation in respect of any compulsory acquisition affecting any local 'host' authority's land holdings or interests. Reaching agreement on as many issues as possible in advance of the examination is likely to lead to a more focused and expedient examination process for all participants.

5.3 During the Examination, the local authorities will:

- Respond to the Examining Authority's (ExA's) written questions which are normally based on an initial assessment of the application, (including the principal issues of the proposed scheme), and the representations received from interested parties;
- Prepare and submit to PINS a Local Impact Report (LIR), setting out the likely impacts of the proposed scheme on the County Authority's area, by using local knowledge and robust evidence, and set out the relevant local planning policy framework and guidance;
- Prepare and submit to the Planning Inspectorate a Statement of Common Ground (SOCG), a joint written statement between the applicant and the County Council and/or other parties or 'host' authorities, setting out matters that they agree or are in disagreement on; and
- Represent the County Council and make oral representation at the issue specific hearing(s) and if necessary the open floor hearing(s). The subject of the hearings is based on specific elements / issues of the application that are raised during the NSIP process.

5.4 There is also provision in the Planning Act 2008 (as amended) for the applicant to apply for other consents, for example Compulsory Purchase Order (CPO) and drainage consents, deemed by a DCO.

5.5 To avoid any undue delay to the NSIP process and Examination it is important that the tight deadlines set out in the Examination Timetable are met. The timescale for handling an NSIP application are set out in the legislation. It is noted that PINS as the Examining Authority may disregard late responses, which is why officers are seeking to follow PINS guidance and get delegations set up at the pre-application stage. Irrespective of any delegations passed to officers to meet the necessary timescales set by legislation, the following is proposed to be followed to ensure good practice and ensure an open and transparent decision making process:

- Key documentation and updates to be provided to members of E&S Committee and local County Councillors by e-mail at the earliest opportunity to ensure that key deadlines are known in advance and any comments on the documentation provided as early as possible, particularly during the 14 and 28 day deadlines;
- Responses to PINS to either be circulated to members of E&S Committee and local County Councillors by e-mail for their records, or where time is permitting the draft

response taken to E&S Committee for endorsement; and

- Where deemed necessary, member briefings or specific topic meetings will be set up to provide guidance on the NSIP process and technical responses provided.

6. Alignment with corporate priorities

6.1 A good quality of life for everyone

As this is not a County Council proposal there are no specific significant implications identified by officers for this priority. However, any NSIP response provided by the County Council will (where applicable) ensure that the environmental information produced is capable of assessing this priority before a recommendation is provided by PINS and a decision reached by the Secretary of State.

6.2 Thriving places for people to live

As set out in paragraph 6.1.

6.3 The best start for Cambridgeshire's children

As set out in paragraph 6.1.

6.4 Net zero carbon emissions for Cambridgeshire by 2050

As set out in paragraph 6.1.

7. Significant Implications

7.1 Resource Implications

The following bullet points set out details of significant implications identified by officers:

- Finance – The cost of processing the NSIP application will need to come from the existing revenue budget. As the application is handled by PINS no planning application fee is received from the applicant. Officers negotiated a Planning Performance Agreement for the pre-application advice stage, to try to resource the project and reduce the cost to the public purse, but this has not covered the true cost of the resource and specialist advice required to assess the DCO application and any discharge requirements (like planning conditions) that would arise from any consent granted. This is in addition to existing pressures already identified as a result of the COVID-19 situation.
- Staff – As a statutory consultee in the initial NSIP process and post NSIP decision if granted, the resources to deal with the application are taken from the County Growth and Development staffing resources that are already stretched.

7.2 Procurement/Contractual/Council Contract Procedure Rules Implications

The following bullet points set out details of implications identified by officers:

- Procurement – Where specialist officer advice does not exist within the Council(s) relevant specialists may be procured to ensure that the Council(s) has guidance on the key specialist areas. This is to ensure the authorities have the relevant specialist advice to allow officer comments to be provided on technical matters.
- Contractual / Council Contract Procedures – Any specialist advice required to inform this project will need to ensure it meets Council procedures, in addition to the financial implications discussed in paragraph 7.1 above.

7.3 Statutory, Legal and Risk Implications

There are no significant implications for this priority, other than the financial and resource implications required to support this project, which has the potential to include significant legal advice.

7.4 Equality and Diversity Implications

There are no significant implications for this priority that are not capable of being addressed through comment on the applicant's DCO application. Sunnica is required to satisfy the Equity Impact Assessment requirements when they submit their application.

7.5 Engagement and Communications Implications

There are no significant implications for this priority that are not capable of being covered by the submission of the Adequacy of Consultation to the Planning Inspectorate.

7.6 Localism and Local Member Involvement

The following bullet points set out details of implications identified by officers:

- Localism – As this proposal is deemed to be a Nationally Significant Infrastructure Project (NSIP) the decision will not be made by the County Council. It will be essential therefore that the Council as a statutory consultee provides the 'local' knowledge to help inform the Secretary of State's decision.
- Local Member Involvement – PINS guidance sets out the role of the local authority, and officers will ensure that local members are kept informed at key stages in the NSIP process.

7.7 Public Health Implications

There are no significant implications for this priority that are not capable of being addressed through comment on the applicant's Environmental Impact Assessment information and the DCO application.

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: Sarah Heywood

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement? Yes

Name of Officer: Gus de Silva

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law? Yes

Name of Legal Officer: Fiona McMillan

Have the equality and diversity implications been cleared by your Service Contact? Yes

Name of Officer: Elsa Evans

Have any engagement and communication implications been cleared by Communications? Yes

Name of Officer: Simon Cobby

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: Andy Preston

Have any Public Health implications been cleared by Public Health? Yes

Name of Officer: Iain Green

8. Source documents

[Planning Inspectorate \(PINS\) National Significant Infrastructure Project \(NSIP\) Guidance and Advice Notes;](#)

[NSIP Energy Policy Statements;](#)

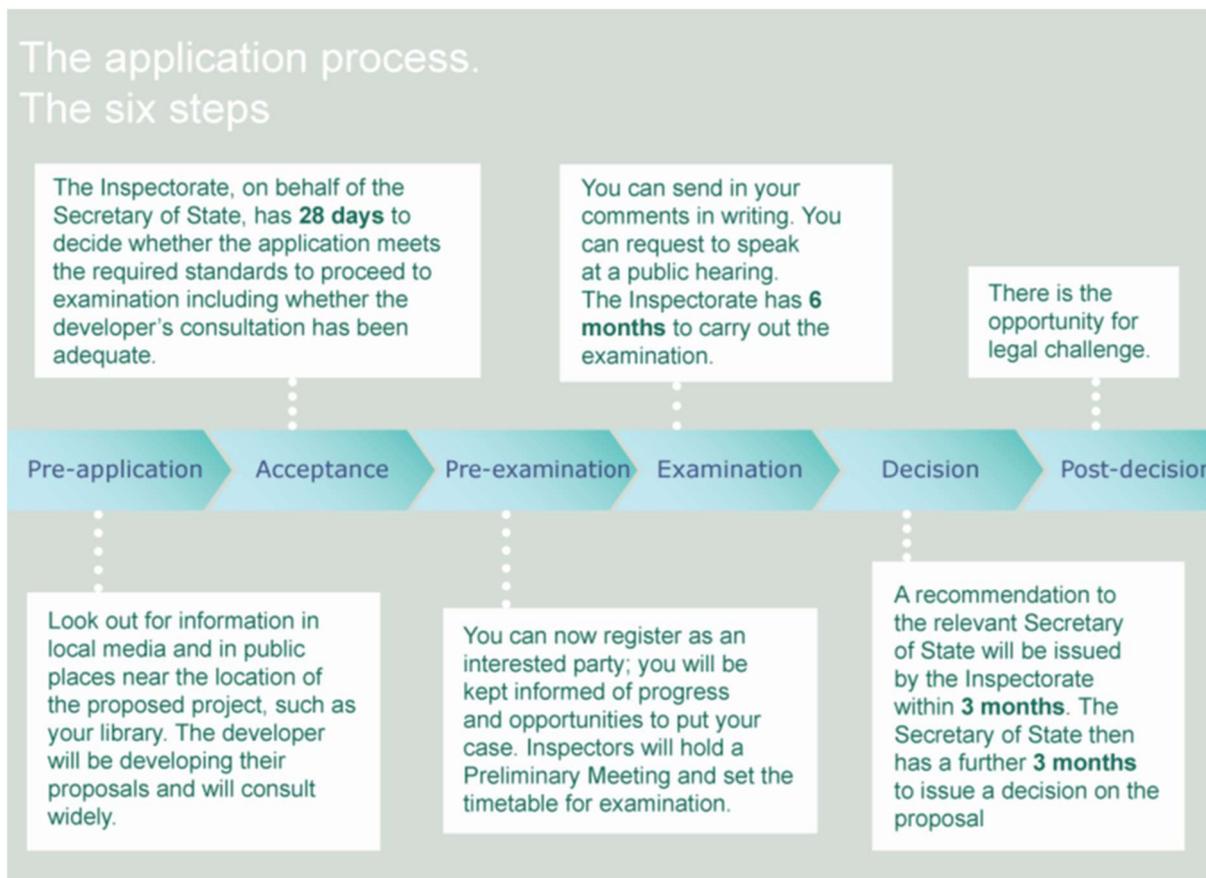
[Planning Act 2008 \(as amended\);](#)

[Sunnica Energy Farm Project website;](#)

[PINS Project Page for Sunnica Energy Farm NSIP Project;](#)

[The National Planning Policy Framework \(NPPF\) \(2019\)](#)

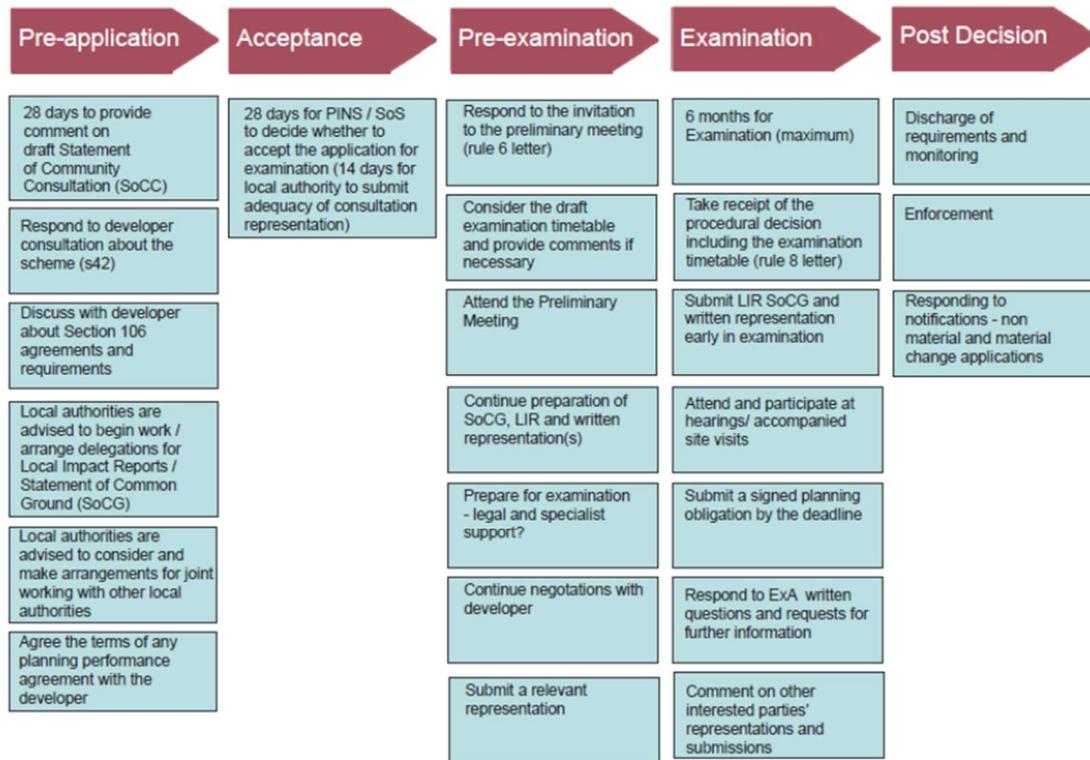
Appendix 1 - The six steps of the NSIP DCO process under the 2008 Act



Source PINS website <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/03/Application-process-diagram2.png>

Appendix 2 - The role of local authorities

The role of local authorities



Source PINS Advice Note 2 https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/03/Advice_note_2.pdf