To Chris Bally, Chief Executive of East Suffolk Council
Copy Caroline Topping, Leader of East Suffolk Council
Copy Ben Woolnough, Head of Planning at East Suffolk Council

From Symon Clarke on behalf of the Save Grays Lane Campaign

13 March 2025

Dear Mr Bally

Planning Application DC/22/3313/FUL
Solar Factory, Grays Lane, Wissett

Overwhelming local opposition to the above solar factory development led to the creation of the Save Grays Lane Campaign (SGLC) to help coordinate the local community's opposition to its construction on private land either side of Grays Lane in the Parish of Wissett.

This letter is now a formal complaint to East Suffolk Council (ESC) about the recommendation to grant planning permission, which we regard to be perverse and unreasonable. We are writing to you, as CEO, with the expectation that you undertake an independent investigation of all the concerns raised below.

East Suffolk Council owes local people in Wissett a much better justification for this decision than the weak case put to the Planning Committee North. We expect that your response to this letter will provide such a justification.

Since October 2021, SGLC has worked with neighbouring parishes, and many other interested parties, to stop this development. There are already five times the number of applications for renewable energy in the planning pipeline than are required to meet national targets. Objectors have provided evidence-based arguments to show that this development is therefore unnecessary, in the wrong place and contrary to local and national planning policies.

Despite these arguments, submitted over the last three years, ESC's Planning Department recommended granting planning permission and this was agreed by Councillors at the Planning Committee North meeting on 11 February 2025.

In the light of the evidence collected from the developer and other agencies and the challenges made by the affected Parish Councils, SGLC and other experts, it is hard to see how planning professionals can recommend placing this solar factory in this location. It seems that a planning authority is able to afford any weighting it chooses to a planning issue with no clear evidence of rational deliberation. In this case the planning process has failed because the weighting applied in many instances is unsubstantiated, unbalanced and unreasonable.

Access to the National Grid and the 'Temporary' Use of BMV Land

The closeness of Grays Lane to the National Grid is presented by the developer as the overriding argument in favour of choosing this site but there is no logical basis for the claim that this is a necessity. In the appeals in Sawston, the Secretary of State confirmed the Inspector's recommendation not to grant permission for 25 years was because easy *"connection … does not bring a public benefit and adds no weight to the planning case for the proposals."*

ESC planners just accepted the developer's claim that the proximity to the Grid is paramount and therefore gave additional weight to the issue despite the Sawston judgement. There is no public benefit but clearly an important benefit to the developer enabling a significant increase in profitability.

ESC planners also determined that 40 years might be a long time but *"this temporary loss of an area of BMV would be reversible and would affect a relatively small area of BMV land as a proportion of operational agricultural land across the district without unduly hindering the ongoing agricultural use and operation of the surrounding land and the rest of the holding."*

It should be noted that the land at Sawston is also reversable but a rational decision was reached there because "*for a generation of local people it might as well be permanent, so that in terms of the weight to be applied to the harm to openness there is little distinction to be made."* The Grays Lane site should therefore not be regarded as 'temporary' and to do so is both misleading and perverse, especially as there is no guarantee that the solar energy factory will be removed after 40 years.

Furthermore, the fact that the site comprises only 15% of the landowner's Retreat Farm estate is irrelevant, as is the fact that the site comprises an even smaller percentage of BMV land in the district. The fact that 80.5% of the site is on BMV land is the key issue and it is contrary to the NPPF, but this has been ignored.

To claim that income from this development will contribute to the *"viability"* of the Retreat Farm estate seems to imply the estate is failing. Companies House shows substantial gross profits in the accounts of Retreat Farm for 2022/3. There is no benefit to anyone here except the developer and the landowner. If there is a benefit to be derived somewhere from farm diversification, where is the condition requiring verifiable monitoring and reporting to show that there actually are benefits derived by *"increasing yields by enabling investment to carry out drainage of the farmland, improved nitrogen use efficiency of applied fertilisers allowing reduced application rates and improvements to soil quality from introducing grassland and grazing practices"*?

The only condition relating to farm diversification is one requiring a 'sheep grazing plan' with no monitoring or verification. Why was the Planning Committee advised that the profitability of Retreat Farm is a consideration that adds weight in favour of the application?

Public Benefit

The developer claims that the solar factory is capable of powering 10,518 households in the district. There was no evidence to explain this assertion but it was accepted and presented by ESC planners as valid and an example of public benefit. Without evidence of accuracy, the claim is misleading.

The figure of 22% as the efficiency rating of solar panels is often used by developers but this figure is the maximum efficiency in ideal conditions. Research at the University of Sheffield shows that, over a 12-month period, the actual efficiency of solar panels is halved to 11% due to the variable climate in the UK. This means that 10,518 homes is more likely to be 5,259 homes.

The planners also accept that this electrical power will benefit 'the district' which is patently untrue because electricity is not distributed locally from source and is of no greater benefit here than any other source of electrical power.

Environmental Impact

The initial (pre-application) screening opinion determined that the development would be *"unlikely to have a significant effect on the environment"*, and consequently did not require an Environmental Impact Assessment, which rather predetermined the perspective taken by the planning department. When the actual planning application was submitted, it was revealed that the size of the battery storage system had doubled. This additional risk to the environment was discounted until a second Screening Opinon was provided two weeks before the Planning Committee meeting.

The planners also seem to think that their position is supported because no "*aggrieved individual"* contacted the Secretary of State to request a screening opinion (3.6). Those objecting at this stage would certainly have done so, had they known it was possible. They were not informed about this option until reading the ESC Planning Report five days before the final planning meeting and some three years after the initial screening opinion. It is disingenuous of the planning department to imply their decision is robust because it was not challenged and particularly so when people did not know they could mount a challenge.

The Amended Planning Application was submitted in July 2023 but no Screening Opinion about the possible environmental impact of this proposal was conducted. However, two weeks before the Planning Committee meeting on 11 February a second Screening Opinion dealing with the Amended Planning Application suddenly appeared on the ESC website. Of course, this determined that an Environmental Impact Assessment was not required and appeared to indicate that the planners considered that the amended application caused very little 'harm', so predicating their final decision to grant planning permission.

Had this second Screening Opinion been conducted soon after the amended planning application was submitted in 2023, rather than over a year later, the SGLC would have reacted very differently to the ongoing trade-off of information between the planners and the developer during that period.

The SGLC would certainly have engaged experts to consider the 'reasoning' of the Screening Opinion and would have challenged many of its assumptions. In the event, we were denied this opportunity because, for reasons undisclosed, the planners decided to conduct a screening process two weeks before the Planning Committee meeting at which point they had already determined to grant planning permission.

Battery Energy Storage Systems (BESS)

The developer has continued to increase the capacity (Energy Rating) of the BESS throughout the last three years. The final iteration is now some eight times larger than the initial proposal. Local people have expressed concern about the safety of this site if there was a fire of any sort, particularly one resulting in 'thermal runaway'. An expert report was therefore commissioned by SGLC from Dr Fordham, a nationally recognised expert on the safety of Grid-Scale Lithium-ion BESS and who made an important contribution to improving the safety of the Sunnica application. His report to SGLC scientifically examined the dangers to people, animals and the environment and concluded that the Council should obtain Hazardous Substances Consent to ensure that, should a thermal runaway occur, appropriate conditions and procedures are in place to ensure that the conflagration will be properly managed, that toxic water will be contained within the site and the dangers to residents and the environment minimised.

Dr Fordham's report was ignored by the planning department in favour of vague statements from the developer that they would work with the local Fire and Rescue Service to mitigate any risk at a later date. Their explanation for this was that risk could not be assessed until the developer had decided on the type of battery to be installed. This is nonsense, given that the risks associated with the various types of lithium-ion BESS are actually very well documented in the public domain. Yet the developer's excuse was accepted by the planning department as reasonable. Councillors were therefore asked at the planning meeting to agree to a BESS with only a cursory, and therefore inadequate, Fire Safety Plan where no account was taken of the risks identified in detail by Dr Fordham. In addition, the details of the conditions attached to the BESS were not disclosed or discussed with objectors and were not seen by councillors until after they had approved the decision.

On what basis, we ask, can planners claim this position is reasonable, when the HSE made no comment about the BESS, the local Fire and Rescue Service simply trotted out the minimum generalised guidance offered by the NFCC and there is no mention of the Battery Fire Safety Management Plan for Sunnica, to which Dr Fordham contributed and which is now regarded as the industry standard?

A reasonable approach would have been to insist that the developer identify the type of battery they would use at this stage and then complete a Risk Assessment and consequent Emergency Response Plan so that everyone could see the potential dangers and how they would be managed, including the Suffolk Fire and Rescue Service. This would have allowed councillors to make an informed decision about the kind of risks involved and their potential mitigation.

This approach would not have limited options for the developer to finally use a different type of battery but, because all these batteries are lithium-based, the risks in each case will be very similar and the exercise would have provided councillors and local people with validated information.

Despite conditions 27 and 28 attached to the planning application, the safety issues can now only be managed with very limited powers of enforcement and without any community involvement by those most affected. In a letter dated 5th July 2024 from Iain Robertson to Richard Mosinghi of PACE, the planners explain to the developer that although *'his preference is for the BESS to be conditioned, that is not an approach we are able to take – and in any case, even if we did, this would be wholly unsatisfactory to the community and members of the Planning Committee'*.

Six months later, the planners have given in to the developer, signed up to vague and limited conditions, relied on feeble advice from the Suffolk Fire and Rescue Service, which they could have challenged in the light of Dr Fordham's report, and left local people and the environment potentially exposed to toxic pollution.

The planners and the developer know that the 2-hour 1,900 l/m water supply, as the bare minimum in the NFCC guidance, is inadequate because the inspector in the appeal in Devon (APP/U1105/W/23/3319803) was not satisfied with the proposal which allowed enough water supply for <u>11 hours at 1,900 l/m</u>. Why has this been ignored?

There is now very little chance of suitable mitigation due to the minimum design standards that have been applied. There is no water supply for this site and therefore no chance of managing a fire of any sort beyond two hours.

Planning Policy

The planners' report to the Planning Committee was extensive and sought to use the Waveney Local Plan and NPPF to support their decision to grant planning permission. There are policies in place to protect the landscape of the site but in each case, these were circumvented or overridden in favour of the developer. For example, the Great Yarmouth and Waveney Settlement Fringe Landscape Sensitivity Study 2016, highlights that this area has a low capacity to accommodate large scale development but the planners avoided this limitation by concluding that: *"It is not considered that the information from the settlement sensitivity assessment can be directly applied to this site as it primarily focused on assessing built development with two or more storeys on the fringes of settlements."*

On what basis therefore can the planners now allow instead a site that includes 67,000 frame-mounted solar panels in 3m-high banks; 23 BESS containers (7m x 2.8m x 3.0m), with a 3.5m surrounding acoustic barrier; 7 inverter buildings; 62 CCTV security cameras on 3m high posts; security fencing with signs warning of danger/death and approximately 1.8km of stoned access tracks covering 103 acres of highly productive farmland?

It is hard to see how the 2016 Landscape Sensitivity Study ever had any value if it can be circumvented by using this kind of flimsy and arcane justification.

The report continues in this vein elsewhere (No's 7.58 - 7.65) and acknowledges that:

- *"The proposed mitigation planting would potentially have a detrimental impact by reducing the openness of the landscape. In addition, for these hedges to effectively screen the solar panels the suggestion that they might be managed at a height of 3m, would not fit well with the general height at which existing hedgerows are maintained, and this would be potentially harmful to a more traditional landscape management approach and thus landscape character."*

- *"Maintaining a hedgerow at 3m high does not always achieve healthy condition of the hedge, resulting in poor levels of light, leggy plants and potential failure."*

- *"The landscape management, mitigation and enhancement measures are to some extent reliant upon the grassland being successfully established and grazed below these panels; the latter being difficult to control."*

- *"This is a large-scale development proposed in a rural area which would result in the loss of characteristic arable land for an extended period of time. Officers do not agree with the developer that the overall magnitude of change to local landscape character would be low but consider it to be at least medium, which when applied to the matrix alongside the landscape sensitivity rating of medium, would result in moderate adverse effects to landscape character."*

So, here we have clear disagreement with the developer and acknowledgement of limited mitigation from the proposed planting. But the 'moderate' damage to be inflicted turns out to be acceptable because in the planning balance 'moderate' adverse impact can be outweighed elsewhere by dubious benefits:

"Having said that, the effects would be localised to the site itself and its immediate surroundings, and the overriding agricultural character of the wider I2 Saints Plateau – East landscape character area would prevail."

The wider landscape will always prevail unless you build on most of it, so this is fallacious reasoning. It is acknowledged that this application is about a particular site, in a particular location so this should be the consideration; damage to the wider area is of no concern here. If local policies cannot protect this site or support better mitigation, they are worthless now and in the future. Anything that is 'moderate' or below has now become acceptable for development, so the policy will have to be rewritten to operate from a much lower protective base in future.

This kind of unreasoning persists as the planners acknowledge that:

"… this is an isolated and highly rural site, with some areas which are in or adjacent to the sensitive river corridor. It is concluded that after the initial installation, and up to 10 years for full establishment of planting, there would be moderate to major landscape and visual effects arising as a result of the development, reducing to moderate to minor following mitigation."

"Development within the eastern parcel has the potential to adversely impact the tranquillity of the locally sensitive Tributary Valley Farmland character area (H6) to the south, which is a 'valued landscape' and the proposal would result in conflict with Policy WLP8.35 and Paragraph 187 of the NPPF in that the proposal would fail to protect or enhance landscape character generally or the character of a valued landscape such as Character Area H6."

But, of course, none of this actually matters because in the planning balance *"the proposal would not have a significant adverse impact on a valued landscape, the level to which Policy WLP8.35 states that development would not be permitted."*

Well, it wouldn't have a significant adverse impact if you only assess it to have 'moderate' weight when by the same evidence it could easily be regarded as substantially damaging to the location. *"Due to the magnitude of the effects on landscape character and visual effects, this harm is afforded moderate weight when factored into the overall balance of considerations when concluding this report."*

On this vague and ill-constructed basis, anything that hovers between 'moderate', which is apparently acceptable, and 'significant' or worse, which is unacceptable, will be accorded a 'moderate' designation to avoid outright contradiction of the Waveney Local Plan and the NPPF and to make sure it does not outweigh any benefits that might be set against it in the overall planning balance.

This approach to weighting persists throughout the planning report by acknowledging that protective policies are challenged by the development but are then accorded low weighting that renders the policies inapplicable in the subjective 'harm and benefit' balance.

The Planning Balance

Although the weightings given to various aspects of the planning application were dotted around the Planning Report to Committee there was no clear summary that made explicit the trade-off against the perceived 'benefits'. It is a sad reflection on the democratic process managed by ESC, that the 74-page Planning Report was available only 5 days before the Planning Committee meeting and the 'harm and benefit' matrix appeared just one day before the Planning Committee meeting as part of the case officer's presentation.

How can any reasonable organisation expect local people, their experts and anyone else with an interest in this development to take account of a lengthy report in 5 days, let alone have time to question any of its conclusions?

If this situation also applied to councillors on the Planning Committee, which it seems was the case, then it is even more disgraceful that they too had so little time to digest the findings of the planners.

In whatever way this situation might be justifiable within the terms of the 'planning process' it is farcical and debased as part of the democratic process and ESC should be admonished for supporting it.

Having examined the 'harm and benefit' weighting matrix during the only time available to us, after the decision had already been agreed at the Planning Committee, we are concerned to see that it attributes unreasonable lower-end weighting to almost every 'harm' and similarly over-estimates the weighting of 'benefits'. Without elaborating the detail under every heading, we consider that the policies and arguments in play should have resulted in a far more reasonable assessment as follows:

HARM	**ESC**	**Save Grays Lane**
Heritage	Substantial	Considerable/Substantial
Landscape	Moderate	Substantial
Loss of BMV Land	Limited	Significant
Neighbour Amenity	Limited	Significant
Safety	Neutral	Considerable/Substantial
Highways	Neutral	Significant
BENEFITS		
Renewable Energy (Net Zero)	Considerable/Substantial	Substantial (at best)
Ecology	Substantial	Neutral (at best)
Economic Benefits (Jobs)	Moderate	Limited
Farm Diversification	Moderate	Neutral
Landscape Legacy	Limited	Neutral

What this table shows is that the planners can exercise considerable discretion over how to weight any aspect of the planning application and are largely free to make subjective choices. The weightings chosen by SGLC in this example are based on the same material. These weightings are equally valid and reflect a balanced interpretation of local and national planning policies backed by expert and legal opinion.

Both sets of weightings above outline a wide range of options because there is no clear and inexorable path towards one particular outcome. The 'planning balance', is simply a crude mechanism that purports to be rational but, in this case it least, is not. The planners make detailed observations about the 'harm' (for and against) in their Planning Report but offer almost nothing to substantiate the 'benefits' beyond a few vague statements. To finally state that overall 'benefits' outweigh any 'harm' is a subjective judgement and unreasonable because there is no robust evidential justification – it is simply a matter of misplaced subjective choice. This view is highlighted by the examples given below:

Renewable Energy

"The development would generate electricity from a renewable source and would have the capacity to generate sufficient renewable electricity to power approximately 10,518 homes, resulting in significant savings of carbon dioxide emissions during its lifetime."

This has been robustly challenged above and in the SGLC Briefing Note to Councillors. It was also challenged at the planning meeting where evidence was submitted, but not presented by the planners, to show that the CEO of the National Grid, John Pettigrew, has stated that there is over five times the capacity needed to meet government targets in the form of projects under consideration to generate renewable energy. There is therefore no crisis in meeting targets and the developer's claims that this project is essential is simply misleading.

Ecology

"The development would deliver BNG of 125.35% gain in habitat units and a 4.27% gain in hedgerow units."

The view of the developer is accepted with scant reference to opposing opinion. For example, SGLC submitted evidence showing that claims by developers that solar factories will deliver increased biodiversity are consistently based on dubious data and analysis. Surveys by developers are mostly desk-top exercises and claim distinct percentage improvements. Such claims rarely withstand scientific ecological scrutiny and the developer's own Ecology report accepts that, for example, *"there is currently no proven methodology that is assured to deliver high quality lowland meadow grassland in ground based solar array installations."*

Scientific research shows that very little is actually measurable with any accuracy because the models used are weak and misleading. Care needs to be given to the numerical claims which derive mainly from inputting crude assumptions into the Natural England Biodiversity Net Gain algorithm (BNG). Dr Betts, in 2021, noted that the metrics used have limited ability to take into account indirect effects; they do not involve actual species counts and do not produce precise or absolute values. Ecologists in the UK generally regard the BNG metric as unfit for purpose. Professor Willis, a leading ecologist from Oxford University, said in 2021, that the BNG is likely to *"… promote further loss and fragmentation of some of the UK's natural environment … so net biodiversity gain will end up being a net loss of biodiversity."*

It is impossible to see the the developer's claim as a 'substantial benefit'. Why do the planners just accept a staggering 125%% BNG desk-top assessment when there is plenty of evidence elsewhere to show that this is largely meaningless, particularly when considering the disruption to the ecology of land around the site?

Economic Benefits

"Moderate positive weight is attached to the economic benefits of the creation of jobs during construction and ongoing employment."

No evidence is offered as to what this actually means. There may be some local work fencing and planting but most of the installation will involve specialist workers from outside the area. All the jobs will be temporary, covering the construction period. Once operational, the site, like all others, will be monitored remotely and probably from outside the UK. There will be occasional work for a local contractor to strim any plant growing higher than the base of a solar panel.

Farm Diversification

"Moderate positive weight is afforded to the contribution that the solar factory development would make towards farm diversification and the benefits from enabling investment in the business as highlighted in the Business Diversification Plan and the Environmental and Community Benefits reports. This would enable increase yields across the agricultural unit through drainage of the farmland, improved nitrogen use, efficiency of applied fertilisers allowing reduced application rates and improvements to soil quality from introducing grassland and grazing practices."

There is no condition to monitor the outcome of the Business Diversification Plan, so its claims are merely speculative. There is a condition for the provision of a sheep grazing plan but this too will not be monitored. Diversification is a commercial decision made by the landowner, so there is no public benefit and without robust conditions measuring outcomes the diversification plan should not be presented as relevant.

Landscape Legacy

"Limited positive weight would be given to any landscape legacy benefits from increased tree and hedge planting".

So, no benefit here at all.

Conclusion

The evidence in italics above is cited by the planners as support for high 'benefit' weightings; it is weak and does not withstand scrutiny. In the end, we see that the net-zero aspiration is chosen to override all other considerations but absolutely no explicit evidence is provided in support of this position. Where is the documentary evidence of policy that so drastically tips the balance in favour of net-zero?

Why is this application thought to be necessary when there are numerous others in the planning process on less vulnerable sites that will easily meet targets?

If this unnecessary solar factory can be built, then it is only a matter of time before the same feeble and subjective interpretation of the 'planning balance' by ESC will lead to far more extensive destruction of our ecology, landscape, heritage and local amenity.