



Appeal Ref: APP/P3040/W/23/3330045

Application Ref: 22/02241/FUL

Land East Of Hawksworth and Northwest Of Thoroton, Nottinghamshire

Installation of renewable energy generating solar farm comprising ground-mounted photovoltaic solar arrays, together with substation, inverter stations, security measures, site access, internal access tracks and other ancillary infrastructure, including landscaping and biodiversity enhancements.

CASE MANAGEMENT CONFERENCE NOTE

on 23 April 2024 - 10.00am

The Council is encouraged to draw the attention of interested parties to this Note, posting a copy on its web site.

1. This note supplements the pre-conference note, dated 10 April, and where relevant, updates the position regarding the procedural approach to this appeal.
2. The Inspector appointed to conduct the Inquiry will be John Woolcock BNatRes MURP DipLaw MRTPI.
3. Responsibility for organising events now rests with the LPA, who have confirmed that the venue for the event will be:

**Rushcliffe Borough Council Chamber
Rushcliffe Arena, Rugby Road, West Bridgford, NG2 7YG**

4. In person events are the norm now, and the Council confirmed that they had secured the above venue for the event, and that it is available for the whole of wc 10 June, subject only to finishing by 17.00 on Tuesday 11 June.
5. The attendance by interested parties was considered, in addition to the Hawksworth & Thoroton Action Group (HTAG), who are confirmed as a Rule 6 party, and it was noted that there may be other individuals who wished to address the Inquiry. The Inspector confirmed that the current programme would be able to include their involvement, and that if they, or any other interested parties wished to attend they should do so on the opening day of the Inquiry, when their statements could be taken, or a time established for them to be made.
6. Notifications, to this point, were also confirmed and it is requested that site notices should be placed in accordance with the timetable; the notice will shortly be provided by PINS.

Main Issues

7. The principal issues to be considered at the Inquiry were discussed. This included a preliminary issue related to the capacity of the site. Only sites with a capacity of under 50MW can be considered under the Town and Country Planning Act 1990, and the appellant had submitted a technical note explaining their assessment of the output of the proposed solar farm.

8. HTAG suggested that a response from the Inspector should be made before the Inquiry as to whether this met the threshold. However, while the Council confirmed they neither accepted the appellant's figures, nor would they challenge them, HTAG have set out their concerns and the Inspector will need to examine this point. To that extent it was agreed that, unless directed otherwise prior to the event, the Inspector would expect evidence responding to the challenges made in the HTAG statement of case and any questions he may have, to be presented at the Inquiry. It was understood that a finding that the scheme was over capacity would mean that it could not be considered further.
9. In addition to this matter, based on the material currently submitted, the main issues as set out were challenged by the appellant, who argued that the Council had introduced issues late in the process and the main issues should be based on those set out in the Reasons for Refusal. While the Council had introduced two further issues, which, in the case of Best and Most Versatile land was a matter of concern to other parties, they argued this was a matter of earlier error or omission, but nonetheless, on their review, necessary to be considered. Accordingly, the main issues are likely to be:
 - the effect on the landscape character and appearance of the area;
 - the effect on heritage assets, including the Thoroton and Hawksworth Conservation Areas and associated listed buildings;
 - the effect of the proposal on Best and Most Versatile agricultural Land;
 - whether flood risks have been adequately addressed; and
 - planning policy and the planning balance.

The Inspector noted matters raised by the Action Group and others, include compliance with policy regarding archaeology and whether mitigation is therefore appropriate, effects on highway safety, on protected species and ecology and consideration of alternatives and decommissioning.

10. A number of these issues are recommended to be carefully considered during development of the Statements of Common Ground. That between the Council and the appellant is advancing, and it was agreed that there would be one, initially developed in draft by the appellant, between them and HTAG.
11. All matters remaining should be addressed in evidence and, depending on subsequent discussions, witness statements or witness attendance may be necessary. It is noted that a number of these issues may be collectively addressed by the planning witnesses, or the soils witness for HTAG, but the appellant reserved their position on the need for technical witnesses in addition to those set out below.

Appearances

12. Appearances for the main parties were confirmed as follows:

Renewable Energy Systems (RES) Ltd - Appellant
Isabella Tafur, who will be calling:

Andrew Cook - Landscape & Visual Impact;
Laura Garcia - Heritage
Nigel Cussen - Planning Policy.

Rushcliffe Borough Council
Killian Garvey, who will be calling:

Bobby Brown - Landscape & Visual Impact;
James Bates – Heritage
Emily Temple - Planning Policy.

Hawksworth & Thoroton Action Group (HTAG)
Helen Hamilton, who will be calling:

Carly Tinkler - Landscape & Visual Impact;
Sam Franklin – soils and ecology

Dealing with the Evidence

13. A Statement of Common Ground (SoCG) is reported to be under consideration, with the Council having commented on the draft sent out by the appellant. This should address all matters agreed between the main parties, but should include matters of disagreement clearly set out. It was agreed that the latest submission date for the SoCG would be by **10 May** to allow time alongside production of proofs. A separate SoCG was to be considered with HTAG and this should be completed by **21 May**.
14. It was agreed that through ongoing discussions, assuming that it was practicable, the main party's landscape and heritage witnesses would seek to produce topic specific SoCG, confirming their respective positions, including agreed viewpoints/assets and methodology. These should be live documents but submitted prior to the Inquiry on the **4 June**.
15. The Council have set out an initial list of conditions and these should be worked up to an agreed set, with any disagreement on necessity or wording clearly set out. It is accepted that these may develop through the process of the Inquiry, but an agreed set should be made available by **4 June**.
16. As set out by the appellant, there have been two changes made to the proposal as submitted originally to the Council, including the removal of a field to the west of the site, addressed in the original Statement of Case, and a more recent revision to a hedge boundary and landscaping to the east of the site. The revision has been through a consultation process managed by the appellant, with a notification dated 28 March and a submission deadline of 15 April, and utilising the Council's notification list. The Council confirmed their acceptance of the consultation carried out, and acceptance of the revised scheme.
17. While the scheme under consideration at appeal should be that considered by the Council, in this case, on review, the Inspector finds that there would be no prejudice to any party and confirms that he would accept the revised plans, and any further submission of evidence can be based on the revised scheme.
18. Proofs of evidence should be complete and submitted 4 weeks prior to the opening of the Inquiry, by **14 May**. A template for Proofs is attached to this note. Rebuttals are not a required part of the process, nor are they specified in any guidance or procedure, but were they to be submitted to aid the Inquiry these should be by the **28 May**.

Core Documents/Inquiry Library/hard copies

19. The main parties need to discuss and agree a list of Core Documents as soon as practical to ensure proofs are properly referenced. It is suggested that an initial list be submitted by the appellant by **10 May**, and further developed if required. A recommended template for core documents is attached.
20. The Core Documents should comprise only those documents to which you will be referring in your evidence. Where any documents on which it is intended to rely are lengthy, only relevant extracts need to be supplied. However, such extracts should be prefaced with the front cover of the relevant document and include any accompanying relevant contextual text. A copy of the National Planning Policy Framework does not need to be included. Neither do documents that relate to matters which are not in dispute. Any Appeal Decisions and/or legal authorities on which you intend to rely will each need to be prefaced with a note explaining the relevance of the document to your case, together with the propositions on which you are seeking to rely, with the relevant paragraphs flagged up.
21. It was agreed that there would need to be a complete electronic version. The Council agreed that they could host the core document library on a dedicated web page, these documents should be made available by **28 May**. The library is to include all the Core Documents, plus the proofs and appendices, together with any rebuttals etc.
22. It is expected that all necessary documents will have been submitted in advance of the Inquiry. Any additional documents can only be handed up to the Inquiry with the Inspector's permission. If accepted, they will need to be sent to the case officer so that they can be forwarded to the Inspector, and to the hosting webservices team so they can be placed on the library web site from where they will need to be available to be shared and viewed by all parties.
23. The Inspector will need some documents in hard copy. This will include the proofs and appendices, a set of relevant plans/photomontages and any rebuttals. These should be made available at the start of the Inquiry.

Inquiry Running Order/Programme

24. The Inspector confirmed that he could hear statements from interested parties on the first day, after opening statements from the main parties, although there will be some flexibility on this to ensure fairness and opportunity. Any interested parties wishing to speak should attend the opening of the Inquiry where a timetable will be established to best meet their needs.
25. Notwithstanding the request from some of the parties to consider round table sessions, the Inspector in this case has decided that the Inquiry should use the formal presentation of evidence and cross-examination for matters relating to Landscape and Visual effects, Heritage and Planning matters, which currently is to include policy, BMV and flood risk and the planning balance, amongst other matters.
26. Evidence will be heard on a topic basis for Landscape and for Heritage matters, the Council presenting their evidence first, followed by the HTAG and then the appellant. However, presentation of all other matters, including the planning

balance would be by way of the Council planning witness, followed by HTAG's soils witness and then the witness/es of the appellant.

27. After the presentation of evidence, conditions would then be addressed in a round table session prior to closing statements.
28. The Inquiry was originally scheduled for 4 days starting at **10.00am 11 June 2024**. In light of the number of witnesses involved there was concern that those days would be sufficient, and there are issues regarding availability of advocates. While it was generally felt that there would be sufficient time for the submission of evidence within 5 days, there was concern whether this period could include a site visit and closing statements.
29. The Inspector will be flexible over timings of matters to seek to reach agreement and find sufficient time for this Inquiry. To that end there are potentially three options on which he would request comments from the main parties:

Firstly: For the Inquiry to open on the 10 June and sit for 5 days. If required, a site visit could be arranged for the following Monday following a half day for closing statements, along with a half or full day for conditions and closings statements to be made virtually. The availability of the main parties for Monday 10 June and for the 17 June virtually or in person is requested.

Secondly: that the Inquiry sits as programmed for 4 days starting 11 June, but that 2 further days are identified to complete. It is noted that the Council's advocate has stated that he would be unavailable before the 12 August. Parties are requested to submit their availability for two further days in person.

Thirdly: that the Inquiry sits as programmed for 4 days starting 11 June, but that 2 further days are identified to complete. That the parties, notably the Council consider whether there is an alternative for presentation of closing statements, and potentially discussion on conditions, such that those days can be accommodated wc 17 June.

The Case officer should be informed of your views on these options, on likely duration and advocate and witness availability by 3 May.

30. As discussed, in terms of the running of the Inquiry itself, timings are sought from the main parties to inform the Inquiry programme. Timings should be provided by **31 May**.

Site Visit

31. An unaccompanied visit will take place before the event; it must be noted that such visits can only be from publicly available sites and are necessarily brief and just to inform later discussions. An accompanied site visit will also need to take place after the presentation of the evidence. The Inspector would encourage the main parties to work together on producing an itinerary for the visit to be available at the event. This will include input from all main parties and, through the Council or HTAG, any requests from interested parties, such as the Parishes or local residents, to view from other locations. The visit can be a combination of accompanied and unaccompanied, depending on the wishes of the attendees and the accessibility of the relevant sites. Ideally all viewpoints should be available on publicly accessible land, but if required, access should be made available onto any sites that are privately owned.

Costs

32. The appellant's concerns regarding the late addition of matters is noted. If any application is to be made, the planning practice guidance makes it clear that, as a matter of good practice, they should be made in writing to the Inspector before the Inquiry.
33. In order to support an effective and timely planning system in which all parties are required to behave reasonably, you should be aware that the Inspector has the power to initiate an award in line with the Planning Guidance. Unreasonable behaviour may include not complying with the prescribed timetables.

Timetable for submission of documents

34. The main SoCG, signed by both the Council and the appellant, is to be submitted no later than **10 May**. This could include a set of draft conditions; a final set of conditions should be made available prior to the start of the Inquiry by **4 June**. If not part of the main SoCG, one should be agreed with HTAG by **21 May**. Any topic specific Statements should also be submitted by **4 June**.
35. All proofs are to be submitted no later than **14 May**. Details of the preferred format and content of proofs and other material are annexed to this note and are to be observed.
36. The Council is to make sure notices of the Inquiry are placed at the site, preferably 3 weeks in advance but no later than **28 May**.
37. Time estimates for party's cases are to be submitted by the **31 May**.
38. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and PINS does not encourage the provision of such. However, where they are necessary to save Inquiry time, copies should be provided no later than **28 May**. It is important that any rebuttal proofs do not introduce new issues. As an alternative to a rebuttal, it may be that the matter could more succinctly be addressed through the additional SoCG.

3 May	Comments on alternatives/reserve days for Inquiry programme
10 May	Initial Core Documents list SoCG inc Draft Conditions
14 May	All proofs
21 May	HTAG SoCG
28 May	Core Documents hosted on web page Rebuttals (If required)
31 May	Submission of parties timing estimates
4 June	Topic Specific statements Final agreed conditions

10/11 June TBC	Inquiry opens 10.00 am
wc 17 June TBC	Reserved Day/s for Inquiry completion
wc 12 August TBC	Reserved Day/s for Inquiry completion

Mike Robins
INSPECTOR
24 April 2024

**TEMPLATE FOR CORE DOCUMENTS LIST
(adapt headings to suit)**

CD1 Application Documents and Plans

1.1
1.2 etc

CD2 Additional/Amended Reports and/or Plans submitted after validation

2.1
2.2

CD3 Committee Report and Decision Notice

3.1 Officer's Report and minute of committee meeting
3.2 Decision Notice

CD4 The Development Plan

4.1
4.2

CD5 Emerging Development Plan

5.1
5.2

CD6 Relevant Appeal Decisions*

6.1
6.2

CD7 Relevant Judgements*

7.1
7.2

CD8 Other

8.1
8.2

* Any Appeal Decisions on which a party intends to rely must each be prefaced with a note explaining the relevance of the Decision to the issues arising in the current Inquiry case, together with the propositions relied on, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon.

Content and Format of Proofs and Appendices

Content

Proofs of evidence **should**:

- focus on the main issues identified, in particular on areas of disagreement;
- be proportionate to the number and complexity of issues and matters that the witness is addressing;
- be concise, precise, relevant and contain facts and expert opinion deriving from witnesses' own professional expertise and experience, and/or local knowledge;
- be prepared with a clear structure that identifies and addresses the main issues within the witness's field of knowledge and avoids repetition;
- focus on what is really necessary to make the case and avoid including unnecessary material, or duplicating material in other documents or another witness's evidence;
- where case law is cited in the proof, include the full Court report/ transcript reference and cross refer to a copy of the report/ transcript which should be included as a core document.

Proofs **should not**:

- duplicate information already included in other Inquiry material, such as site description, planning history and the relevant planning policy;
- recite the text of policies referred to elsewhere: the proofs need only identify the relevant policy numbers, with extracts being provided as core documents. Only policies which are needed to understand the argument being put forward and are fundamental to an appraisal of the proposals' merits need be referred to.

Format of the proofs and appendices:

- Proofs to be no longer than 3000 words if possible. Where proofs are longer than 1500 words, summaries are to be submitted.
- Proofs are to be spiral bound or bound in such a way as to be easily opened and read.
- Appendices are to be bound separately.
- Appendices are to be indexed using **projecting tabs**, labelled and **paginated**.