

STATEMENT OF COMMON GROUND

Heritage

Section 78 of the Town and Country Planning Act 1990, Article 37 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and Rule 17 of the Town and Country Planning (Inquiries Procedure) (England) Rule 2002

Appeal by Renewable Energy Systems Ltd

at

Land East of Hawksworth and Northwest of Thoroton

APP/P3040/W/23/3330045

Renewable Energy Systems Ltd (1)

and

Rushcliffe Borough Council (2)

and

Hawksworth and Thoroton Action Group (HTAG) (Rule 6 party) (3)

OFFICIAL

Final (1)

May 2024

Laura Garcia	James Bate	Helen Hamilton
Senior Heritage Director – Pegasus Group On behalf of: Renewable Energy Systems Ltd	Team Manager – Planning, Monitoring and Implementation On behalf of: Rushcliffe Borough Council	Marches Planning and Environment On behalf of: Hawksworth and Thoroton Action Group
06/06/24	06/06/24	06/06/24

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1 INTRODUCTION AND SCOPE

1.1 This Statement of Common Ground (“**SoCG**”) is made between the follow parties:

- (a) Renewable Energy Systems Ltd (the “**Appellant**”);
- (b) Rushcliffe Borough Council (the “**Council**”); and
- (c) Hawksworth and Thoroton Action Group (HTAG) (the “**Rule 6 Party**”)

together the “**Parties**”.

1.2 This SoCG has been jointly prepared by the Appellant, the Council and the Rule 6 Party to establish the matters in relation solely to Heritage on which the Parties agree and disagree. It is noted at the outset that the Rule 6 party have presented no heritage evidence and are not fielding a heritage witness at Inquiry.

1.3 This Heritage topic-specific SoCG was requested by the Inspector following the Case Management Conference (‘CMC’) held on 23rd April 2024. The purpose of this SoCG is to agree areas of common ground and identify matters of disagreement. This is undertaken in order to assist with the Inquiry and allow a focus on those matters of disagreement between the Parties.

1.4 In order to make this SoCG focussed only on the Heritage issues of agreement and disagreement, the sections on Factual Background, the Minor Amendments to the scheme, the Description of the Appeal Site and Planning History and Plannig Policy set out in the main SoCGs with each Party are not included here for brevity. If there is a specific heritage matter of disagreement relating to any of these sections, this will be set out below.

1.5 This SoCG reflects the position on heritage between the Parties on the date of issue.

1.6

2 MATTERS AGREED AND NOT AGREED

2.1 It is noted that there are areas of disagreement with the Rule 6 party on heritage matters including on some matters which have been agreed with the Council within the main SoCG. The section below sets out the matters agreed with the Council. Where the Rule 6 Party do not agree with these matters, this is indicated in bold text, rather than having duplicate entries in both agreed and not agreed, which may be confusing. Where there is no indication of disagreement, the Rule 6 Party agree with the statements made.

2.2 Matters agreed:

- (a) The heritage assets relevant to this Appeal are:
- Thoroton Conservation Area;
 - Hawksworth Conservation Area;
 - Grade I Church of St. Helena, Thoroton;
 - Grade II* Church of St. Mary and All Saints, Hawksworth ;
 - Grade II Hawksworth Manor and adjoining Pigeoncote; and
 - Grade II Model Farm Buildings at Top Farm.
- (b) Harm to the above designated heritage assets, where identified, would be less than substantial and would arise through changes to elements of setting which contribute to significance.
- (c) There is no physical harm to any identified designated heritage assets arising from the Proposed Development.
- (d) The Proposed Development would only be visible from certain locations at the edges of the Conservation Areas. There are no views of the Proposed Development from within the core of either the Hawksworth or Thoroton Conservation Areas.
- (e) There are no views of the Proposed Development from the majority of the listed buildings within the Conservation Areas.

- (f) LPP1 Policy 10: Design and Enhancing Local Identity is not engaged by the heritage elements of the Scheme - **Rule 6 party do not agree this point.**
- (g) Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged by the Appeal proposals. It is agreed that consideration of the setting of conservation areas (as heritage assets) is a requirement within the Framework.
- (h) It is agreed that in accordance with the judgment set out in Palmer v Herefordshire Council & Anor [2016] EWCA Civ 101 paragraph 34: *‘Although the statutory duty requires special regard to be paid to the desirability of not harming the setting of a listed building, that cannot mean that any harm, however minor, would necessarily require planning permission to be refused.’* - **Rule 6 party do not accept the inclusion of this without a wider context of discussion of heritage case law.**
- (i) The provisions of the Levelling Up and Regeneration Act 2023 relating to Section 102(4)b are not yet enacted.
- (j) The second Reason for Refusal does not relate to below-ground archaeology.
- (k) As agreed at the Case Management Conference of 23rd April 2024, the Council have no concerns relating to archaeology arising from this Scheme, subject to appropriate conditions which have been agreed between the Council and Appellant.

2.3 **Matters not agreed** – this section has the Rule 6 as an additional separate section as the Rule 6 have not entered any specific heritage evidence, nor are presenting a heritage witness at Inquiry.

- a) The level of harm to the identified heritage assets. For comparison, the table below presents the position of each party on the identified heritage assets as set out in evidence.

	Appellant	Council	Rule 6

Thoroton Conservation Area	Less than substantial harm at lowermost end of the scale	Lower Middle Quartile – less than substantial harm	Not specifically stated – conclusion of substantial adverse changes to...important heritage assets
Hawksworth Conservation Area	Less than substantial harm at the low end of the scale	Lower Middle Quartile – less than substantial harm	Not specifically stated – conclusion of substantial adverse changes to...important heritage assets
Grade I Church of St. Helena	Less than substantial harm at the lower end of the scale	Lower Middle Quartile but towards Middle – less than substantial harm	Not specifically stated – conclusion of substantial adverse changes to...important heritage assets
Grade II* Church of St. Mary and All Saints	No harm	Lower Middle Quartile – less than substantial harm	Not specifically stated – conclusion of substantial adverse changes to...important heritage assets
Grade II Hawksworth Manor and adjoining Pigeoncote	No harm	Low – less than substantial harm	Not specifically stated – conclusion of substantial adverse changes

			to...important heritage assets
Grade II Model Farm Buildings at Top Farm	No harm	Low, near Almost No Harm, less than substantial harm	Not specifically stated – conclusion of substantial adverse changes to...important heritage assets

- b) The contribution of the Appeal Site to the significance of the Hawksworth and Thoroton Conservation Areas;
- c) The contribution of the Appeal Site to the significance of the identified listed buildings;
- d) The visibility of the spire of the grade I Church of St, Helena from within the Conservation Area of Hawksworth and the contribution this makes to the significance of those assets;
- e) The level of intervisibility between the two Conservation Areas and the significance, if any, derived from physical proximity;
- f) The contribution made by views from and along the public rights of way, roads and bridleways in the area to the significance of identified heritage assets;
- g) The implications of Framework paragraph 206 parts a and b.

Rule 6 Party

- a) Whether the benefits of renewable energy generation associated with the Proposed Development and other environmental benefits it would deliver are sufficient to outweigh any alleged harm to the heritage assets and archaeology
- b) Whether the significance and risk to archaeology is understood and if mitigation proposed is suitable or appropriate;