

Little Covenhope, Aymestrey, Herefordshire, HR6 9SY

APPEAL REF. APP/P3040/W/23/3330045

Land East Of Hawksworth and Northwest Of Thoroton, Nottinghamshire, NG13 9DB

RULE 6(6) PARTY OPENING STATEMENT

1. The Rule 6 Party's starting point in this appeal is that the proposals far exceed the threshold for a nationally significant infrastructure project (NSIP). Consequently, they should not be under consideration at this inquiry at all.
2. The Appellant's own evidence is that the proposals are for at least 28.5MW of overplanting, far more than required to address degradation. The minister for the Department for Energy Security & Net Zero has confirmed that overplanting for any purpose other than degradation is not permitted under the government's National Energy Policy Statement EN-3, which deals with solar capacity. (CD.10.2A)
3. The Appellant's apparent reluctance to engage with the NSIP procedure is explained by its witness Mr Smart, who tells us on page 12 of his statement that seeking a development consent order would have been too expensive and time-consuming.
4. The Appellant's witness Mr Urbani says that the 233-acre appeal site, and somewhere between 128,752 and 150,304 panels – the documents include various figures – along with 26 inverters, is the minimum necessary to deliver 49.9MW of energy.
5. At an inquiry held in this room three weeks ago, the Appellant said that a site in East Leake, just 16 miles from Hawksworth, was also the minimum necessary for 49.9MW. That site is less than 200 acres, and would have 92,000 panels and 17 inverters. The Appellant has not explained why this Appeal Site requires 50% more infrastructure than the East Leake site. We are told that this site was chosen for its good levels of solar irradiation, so that cannot be the reason.

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6. The R6P agrees with and supports the local planning authority's reasons for refusal, but it believes that the LPA missed, or misunderstood, other potential grounds. This is unsurprising: solar development is complex and, on this scale, new to the U.K., which is only just beginning to understand its impacts. An example is the research by Bristol University, which has demonstrated that solar development has disastrous consequences for bat populations, the reasons for which are not yet clear. (CD 7.8.3)
7. The LPA has confirmed that no sequential test was carried out, although large parts of the appeal site are within flood risk zones 2 and 3. The R6P has also noted that the Appellant's flood risk assessment is out of date because it does not apply the latest climate change allowances for the River Humber Basin (CD 10.1 Appendix 4). The Environment Agency increased climate change allowances across all catchments following widespread flooding in the UK in 2020. These suggest that the flooding of the Appeal Site is likely to be much more extensive than the Appellant's assessment shows and that the proposed mitigation would be inadequate. Infrastructure and panels that were previously outside the flood risk zone may be within it and will need to be raised higher than the assessment proposed.
8. The R6P also agrees with the LPA that the loss of Best and Most Versatile (BMV) agricultural land is a main issue in this appeal. The appeal proposals would take up more than 86 acres of BMV land, and the whole site would be lost from food production. The exact proportion of BMV land is difficult to ascertain, given the conflicting evidence provided by the Appellant. As our expert evidence shows, there is no guarantee that the land could quickly or easily be restored to food production after 40 years, given the soil-intrusive nature of solar development.
9. The Appellant's planning and ecology witnesses now tell us that the proposal for soil inversion in the Biodiversity Management Plan has been abandoned, but neither explain how the proposed species-rich grassland would be established or maintained on high-

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nutrient agricultural land without this procedure. This raises questions about the claims for biodiversity net gains, and what else might be abandoned from the BMP.

10. Evidence from the Solar Industry's trade body, Solar UK, shows that a tiny minority of solar sites are managed for biodiversity, despite the industry's routine claim of substantial ecological benefits. A significant factor is that it is difficult, costly and time-consuming to establish and maintain species-rich habitats. The Appellant tells us that the site will be visited only once a month for maintenance during the operational period, indicating there is no provision for ecological management.
11. The LPA failed to notice that the absence of archaeological investigation of a site likely to contain significant buried heritage – potentially of schedulable status, according to the county archaeologist (CD 6.1A) – did not comply with either LPP2 Policy 29 or the National Planning Policy Framework.
12. Very like the Claimant in the case of *Low Carbon Solar Park v Secretary of State (Low Carbon Solar Park 6 Ltd) v SSLUHC [2024] (DC 5.30)*, the Appellant is seeking to argue that we don't need to worry about buried archaeology because mitigation is proposed. As Mr Justice Jarman said in that judgement, this is *"to approach the matter the wrong way around."* The significance of the asset must be understood before any mitigation can be devised. The county archaeologist said that *"effectiveness of no-dig mitigation options and avoidance are not yet proven"* (DC 6.1B), yet this is the form of mitigation proposed by the Appellant in the light of incomplete investigation, and an absence of any assessment of significance
13. The Appellant has disregarded the advice of Nottinghamshire Police that high security fencing is required to deter thieves, who are targeting solar developments across the country. Nottinghamshire Police are not outliers – most police forces with experience of solar development are now asking for these security measures. As the R6P's landscape

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witness says, insurance companies are also insisting on high level security fencing, and may not insure solar sites without it.

14. The Appellant tells us that the site will be monitored remotely. What then happens if the CCTV cameras detect a break-in? Presumably, the same police force that advised of the need for security fencing will be called out and expected to investigate and prosecute at taxpayers' cost. The insecure site may also attract criminals into an area that has hitherto experienced low crime rates.
15. If security fencing is required retrospectively, the impacts will be significantly different to those assessed in this appeal. There are major implications for landscape, heritage, amenity and biodiversity: for example, the Appellant's ecologist assures us that badgers and otters will readily crawl through 10cm holes and continue to roam the site freely. These holes would not be acceptable in a security fence.
16. EN-3 accepts that all details of a solar development may not be available at the time of application and where that is the case, the applicant should assess the worst-case scenario. The R6P's view is that the impacts of security fencing should have been assessed, because it is highly possible that it will be required at a later stage even if not installed at the outset.
17. The R6P considers that the Appellant has understated impacts on landscape and heritage. The R6P's and the LPA's landscape witnesses agree on this. Furthermore, the Appellant's own experts contradict one another as to the landscape and visual impacts of the appeal proposals.
18. The Appellant accepts there will be harm to the landscape context and settings of heritage assets, while disputing the quantum, but argues that this should be disregarded

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because the UK urgently needs more solar development. The evidence of the government and of National Grid contradicts this claim.

19. National Grid's Electricity Systems Operator (NGESO) advises that the electricity connections queue will exceed 800GW by the end of 2024, providing more than 4 times the installed capacity NG anticipates needing by 2050. (CD 10.2B)
20. So there is no shortage of energy supply, and National Grid says targets for renewable energy generation will be met, with grid connections in the pipeline that would deliver nearly six times the amount of renewable energy required to meet the government's net zero target. (CD 10.2C)
21. Solar is by far the largest sector, with some 130GW awaiting connections, making up 40% of the transmission pipeline and substantially exceeding the government's target of 70GW of solar power by 2035.
22. This indicates a large potential oversupply of solar, which does not deliver power all year round or overnight and must be balanced by other sources, such as wind.
23. The Appellant's planning witness quotes selectively in his Proof from the 2023 Digest of UK Energy Statistics, seeking to extrapolate from a single poor year for installations to conclude that the government's target will not be met. We note the Appellant sought to include only extracts of the Digest which supported its case. (CD 3.14)
24. The government's more up-to-date Solar Photovoltaics Deployment Report* shows that provisionally, at the end of March 2024, 15.8MW of solar had been installed, an increase of 5.6% on the previous year.

*<https://www.gov.uk/government/statistics/solar-photovoltaics-deployment>

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25. During March 2024 alone, new installations totalled 63MW, below the highest volumes reached in 2023, but *“much higher than average figures between 2016 and 2021”*. This equates to more than 7MW per year, ten times the Appellant’s projection. If installations continue at this rate, the government’s target for solar PV will be surpassed by 2032, three years ahead of schedule. In fact, the evidence of National Grid is that connections are being accelerated, so it is likely to be earlier than this.
26. Paragraph 163 a) of the NPPF establishes that applicants are not required to demonstrate the overall need for renewable or low carbon energy. However, the Appellant is seeking to argue that the policy presumptions against the appeal proposals should be overridden because an agreement to connect to the grid network has been obtained.
27. The evidence that the 2035 target for solar will easily be reached means that there is no imperative to grant permission for solar development on sensitive sites, especially those with significant constraints such as this one, which would entail the loss of BMV and food-producing land, harm to the landscape, amenity, and the settings of heritage assets, and threats to biodiversity.
28. The Rule 6 Party consequently asks that this appeal is dismissed.

MARCHES PLANNING

JUNE 2024