

Inspector's Inquiry Note – 25 June 2024

Without-prejudice questions about suggested planning conditions

It was agreed at the Inquiry that the parties would continue to work on suggested planning conditions during the adjournment so as to save time when the Inquiry resumes. The Inspector would like to see the latest position regarding suggested conditions by 12 July so that there is time for further consideration by exchange of emails before 1 August. The following queries are raised now by the Inspector, again without prejudice to his decision and his consideration of the wording of suggested conditions, to assist the parties in setting out their respective positions regarding necessary and enforceable planning conditions were planning permission to be granted.

Condition 2

Would “in complete accordance with” mean strict adherence to the listed drawings so precluding any minor or inconsequential changes ?

As it has been agreed that the appeal should be determined on the basis of Scheme B the appellant should now submit the list of drawings that would be included in Condition 2.

Condition 3

To what extent would “Notwithstanding condition No.2” mean that details considered at the Inquiry could be altered by later discharge of this condition ?

Condition 5

DMS shall be submitted to the LPA ‘for approval in writing’. (a) would this need to include ancillary equipment to be consistent with last sentence of condition ?

Would ancillary equipment include underground cabling and grid connection ?

(b) would “former condition” need to be specified as it might not be clear what that was in 40 years time ?

Would an aftercare condition be necessary following restoration ?

Condition 6

Would the wording need to reflect more closely the provisions of EN-3 ?

[HTAG 3) suggests wording requiring details about inverters to be approved ?]

Condition 7

(b) is a detention basin proposed in Scheme B ?

Condition 9

Would this require compliance with Technical Appendix 4 but Condition 7 would require implementation in accordance with approved SDS – would that give rise to any conflict ?

Would provision need to be made for any compensation for loss of flood storage ?

Would “other vulnerable infrastructure” need to be defined ?

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The last sentence would require implementation of mitigation prior to First Export Date and subsequently in accordance with schemes timing – could it do both ?

Condition 11

How would later approval of means of enclosure square with the details about deer fencing and palisade fencing that was assessed at the Inquiry and would be subject to Condition 23 ?

Would it be necessary for the scheme to provide details about blocking up and planting hedgerows for existing accesses ?

Condition 13

Would it be necessary to set a timetable for implementation of mitigation ?

Condition 14

Would discharge of this condition allow something very different to what was considered at the Inquiry concerning landscape and ecology ?

What is meant by “long-term implementation” for the duration of the permission or beyond that date ?

How would i) re agricultural purposes relate to Condition 24 ?

Condition 17

Is the “passing place detail” in 26 January 2023 email outside the red line appeal site boundary ? If so would these be a matter that would need to be addressed by a Grampian condition ? Is this email in the CD ?

Condition 18

How would a condition requiring footpaths to be “made available for public use” and “retained following the decommissioning of the site” square with statutory provisions for securing either Permissive Paths or PRoW ?

Condition 19

III would the location of site compounds be fixed by the approved plans and Condition 2 ?

V would that permit disposal of waste on site ?

XI would the draft condition agreed by Mr Kernon and Mr Franklin for soil management apply for the whole duration of the development including construction ?

Condition 22

The conditional “if this information is inconclusive or not complete” would not be precise. Would it be necessary to either set a BS4142 noise limit for sensitive receptors or require a noise mitigation scheme to be approved ?

Condition 23

See Condition 12.

[HTAG 1) re fencing]

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[HTAG 2) suggests restricting permitted development rights for CCTV cameras, outbuildings and structures other than shown on approved plans – is there clear justification for such restrictions ?]

Condition 24

See Condition 14 i).

Revised Condition 26

Should “agreed” be ‘approved’ ?

New Condition 27 Soil Management Plan condition

The Inspector may have other queries or questions about possible suggested condition and if so he will raise these before or during the resumed Inquiry.

John Woolcock

Inspector

25 June 2024