

APPEAL: LAND AT DEAL FARM, KENNINGHALL ROAD, BRESSINGHAM, NORFOLK IP22 2HG

APPEAL REFERENCE: APP/L2630/W/23/3324060

SUMMARY NOTE of CASE MANAGEMENT CONFERENCE held on Monday 18 December 2023

The case management conference was led by the inquiry Inspector, Diane Lewis. Sasha White KC spoke on behalf of the Appellant and Victoria Hutton of Counsel spoke on behalf of the Council. Dr Amanda McMurray represented the Rule 6 Party Bressingham and Fersfield Parish Council. There was no discussion of the merits of the case.

Development proposal

The development site consists of the land outlined in red on plan ref 27249/612 B and the sites of the proposed digestate storage lagoons (north and west). Planning permission is not being sought for the proposed lagoon pipework routes at this stage of the development process.

The development proposal considered through this appeal should be essentially the same proposal as that before the Council when it made its decision on 14 December 2022. Amendments incorporated into the resubmission application should not be duplicated in the appeal scheme.

The appellant confirmed that the supporting information for the lawful development certificate¹ is no longer relevant.

The planning benefits and need analysis² will be superseded by the proof of evidence. The Council reserved its position regarding the need to submit a rebuttal to the proof. The LVIA dated June 2023 will be the basis for the landscape evidence.

Attention was drawn to the Screening Direction dated 10 August 2023 by the Secretary of State. The conclusion that significant effects are not likely to occur is based on securing a maximum feedstock processed of 23,950 tonnes per annum.

Statements of case and statement of common ground

The statements of case were written at a time when there was an appeal against the enforcement notice. Following the withdrawal of that appeal the enforcement notice has taken effect and the period for compliance has begun. The expectation is that cases will be revised through the proofs of evidence to take this change into account.

The statement of common ground (SCG) is progressing. Currently there is a single, overarching SCG. A list of core documents will form an appendix. The usefulness of separate SCGs covering specific topics, such as highways, will be reviewed after proofs of evidence

¹ Part 6 of the appellant's bundle of appendices

² Part 7 of the appellant's bundle of appendices

have been submitted. The aim should be to submit an agreed SCG (or at the least a final draft) by 9 January to assist finalisation of proofs.

Proofs and the SCG should reflect current national policy, including the revised National Planning Policy Framework.

Potential main planning issues

These issues are derived primarily from the reasons for refusal and representations.

- The effect of the proposal on the function and safety of the surrounding highway network, considering the character and standard of the highways providing access to and from the site.
- The effect of the proposal on the landscape character of the area and the appearance of the local countryside, considering the scale and design of the proposed plant and buildings and the location and formation of associated infrastructure and proposed mitigation measures.
- The effect of the proposal on the amenity of the local community and on the local agricultural and tourism economies.
- The contribution of the proposal to sustainable energy generation in the context of national policy on renewable energy and net zero targets.

The wording of the issues may change. Conclusions on the main issues will inform the overall planning balance and conclusions in respect of the development plan and the section 38(6) duty.

National policy for renewable or low carbon energy will not be for debate.

Planning conditions and planning obligation(s)

These matters must be addressed within proofs and the SCG, especially if mitigation and off-site works are relied on to overcome potential harms. This will also ensure the Rule 6 party and other interested parties are fully aware of proposals and are not prejudiced.

A draft of the deed containing the obligations (or as an alternative, details of the heads of terms) should be submitted at the same time as proofs. A final draft should be available by the time the inquiry opens. A timescale for execution will be agreed at the inquiry.

THE INQUIRY

Date and duration

The inquiry is due to open on Tuesday 6 February at 1000 hours at the Horizon Centre, Peachman Way, Broadland Business Park, Norwich NR7 0WF.

A total of ten sitting days have been programmed: 6 to 9 February (four days), 13 to 16 February (four days) and 20 to 21 February 2023 (two days). It is anticipated not all these days will be needed but they should still be retained with a view to avoiding a lengthy adjournment.

Witnesses

The Appellant's four witnesses will be: Matthew Sharpe (Planning), Sarah Taylor (Highways), Eoghan Shields (Landscape), Mark Richard (Anaerobic Digestion)

The Council's four witnesses will be: Tim Barker (Planning), Jonathan Hanner (Highways), Martina Sechi (Landscape), Dr Les Gornall (Anaerobic Digestion)

The case and evidence of the Rule 6 party will be presented by Dr McMurray.

The number of interested parties who may wish to speak is not known but currently there is no indication a significant amount of time will need to be reserved.

A list setting out the names of witnesses and their qualifications would be helpful at the start of the inquiry.

Procedure

The inquiry will be in accordance with The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000.

The evidence will be dealt with on a topic basis.

Planning conditions and planning obligations will be dealt with through a round table discussion. The suitability of this format for the landscape evidence will be reviewed after the receipt of proofs.

An accompanied site visit early in the proceedings is favoured.

Documentation

The aim should be to avoid duplication and the introduction of new documents at the inquiry.

Each party should bring to the inquiry a set of hard copies of all their proofs and supporting documents for the Inspector's use. One set of Core Documents will be required in hard copy form. Documents should be printed double sided where appropriate.

Timetable leading to the inquiry

The initial timetable was set out in the start letter dated 7 August 2023. The date for receipt of proofs of evidence (but not the statement of common ground) was extended from 9 January to Tuesday 16 January.

SCG	Tuesday 9 January
Proofs of evidence	Tuesday 16 January
Draft document of planning obligations	Tuesday 16 January
Rebuttals	Tuesday 30 January
Final draft of planning obligations	Tuesday 6 February
Inquiry Opens	Tuesday 6 February

Adherence to this timetable will assist all parties in preparation but if a difficulty arises the case officer at the Planning Inspectorate should be alerted.

Application for Costs

Any application for costs in relation to this appeal should be made before the close of the Inquiry. As a matter of good practice, an application should be made in writing and the party against whom the application is made alerted in advance. That should allow the response to be in writing and final comments made orally at the inquiry.

The application for costs in relation to the withdrawn appeal is a separate process that will be dealt with by the Costs Decision Team.

Any other procedural matters

None were raised.

The CMC closed at 1535 hours.

Diane Lewis

Inspector

19.12.2023