

**INSPECTOR'S NOTE OF CASE MANAGEMENT CONFERENCE (CMC)  
HELD AT 10.00AM ON FRIDAY 9 AUGUST 2024**

**APPEAL REF: APP/W1525/W/24/3344509**

**LAND SOUTH OF RUNWELL ROAD, RUNWELL, WICKFORD**

**PROPOSED DEVELOPMENT:** *"Installation of a solar farm with battery storage and associated infrastructure."*

1. Susan Heywood was the Inspector who undertook the CMC and who will be holding the inquiry. The Appellants, Enso Green Holdings J Ltd, were represented by Thea Osmund-Smith, Barrister. Chelmsford City Council was represented by Mark O'Brien O'Reilly, Barrister. All parties confirmed that they had seen and considered the Inspector's pre-conference Note and Agenda, which had been circulated in advance.

**Purpose of the conference**

2. The inquiry will open on 29 October 2024 and is currently scheduled to sit for 6 days. The early engagement conference was an opportunity for the Inspector to discuss the management of the case and the procedural arrangements so that the forthcoming inquiry is conducted in an efficient and effective manner. This CMC Note reflects the discussion that took place.
3. It was made clear that there would be no discussion of evidence at the CMC or consideration of the merits of the appeal.

**The applications and inquiry procedure**

4. The Inspector expressed her preference that the inquiry is held face-to-face and all parties were content with this. The Council is not intending to live-stream or provide for virtual attendance, but the latter could be reconsidered if the need arises. The inquiry will be held in the Council Chamber, Chelmsford.
5. Two identical planning applications were submitted, one to Chelmsford City Council and one to Rochford District Council. They are full applications for a temporary period of 40 years. Two appeals have been submitted against the Councils' joint refusal of planning permission.
6. Rochford District Council devolved its powers for dealing with the application in their area to Chelmsford City Council. Whilst the revised

decision notice issued on 19 April 2024 was issued jointly by both authorities, it only referred to the application which had been submitted to Chelmsford City Council (23/00532/FUL). Both parties agreed that the Rochford application (23/00285/FUL) should be dealt with on the basis that it has also been refused by the decision issued on 19 April, and that is the basis upon which the appeal was made against that application.

7. Rochford District Council will be taking no part in the inquiry. It was agreed that formal confirmation would be sought from Rochford that they support Chelmsford City Council's stance in the appeals and at the inquiry.
8. It was agreed that a list of plans accompanying the applications and any revised plans to be considered at this stage would be set out in a Statement of Common Ground (SCG).

### **Main issues**

9. The Council and Appellant have agreed that the development would be inappropriate development in the Green Belt.
10. Accordingly, the remaining main issues are:
  - Impact of the development on the openness and purposes of the Green Belt.
  - It's impact on the landscape character and visual amenity of the area, including cumulatively with other permitted developments.
  - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to provide the necessary very special circumstances.
11. Other issues have also been raised by the Council as follows:
12. Flood risk
  - The Council confirmed that they remain concerned about flood risk matters having considered the Appellant's Flood Risk Addendum submitted in June 2023. Specifically, they are concerned that the Alternative Sites Assessment does not undertake a proper assessment of alternative sites and why they are not suitable from the point of view of flood risk. As such, the Council considers that it has not been demonstrated that the sequential and exception tests are met.

- The Appellant considers this matter can be dealt with in a SCG and they agreed to provide the necessary evidence to the Council by the end of August.
- It was agreed that the parties will work towards the production of a SCG covering flooding matters by 17 September. Any matters that could not be agreed would need to be dealt with in proofs of evidence.
- If it becomes necessary to hear evidence on this matter, it is understood that this would be likely to extend the inquiry beyond the 6 days currently scheduled.

### 13. Heritage

- There is some dispute relating to the impact on designated and non-designated heritage assets, although the Council accepts that any harm would be less than substantial, and the public benefits would outweigh the harm to designated assets.
- The Council would not be intending to call a separate heritage witness and any outstanding matters would be dealt with in the planning evidence.
- The appellant is intending to produce heritage evidence specifically drawing on the evidence already submitted with the applications. However, it is envisaged that it will not be necessary to present that evidence to the inquiry.
- It was agreed that the parties will liaise to produce a SCG on heritage matters. The Appellant's heritage evidence will, in all likelihood, be treated as written evidence to be read alongside the SCG.

14. It was agreed that the need for the development will be dealt with in a SCG, with the planning evidence dealing with the weight to be given to the matter as a benefit of the scheme.

15. It was agreed that the Appellant would deal with all matters raised by local residents in their planning evidence. These matters can be dealt with at the inquiry by the planning witness, or separate witnesses for the Appellant could be called to deal with specific questions from interested parties if that situation arises.

### **How the evidence will be heard**

16. The Appellant confirmed prior to the CMC that they will be calling two witnesses: Andrew Cook to deal with Green Belt openness, landscape and visual matters and Paul Burrell dealing with the planning evidence.

17. The Council confirmed that Ms Alison Hutchinson, Hutchinsons Planning, would be their planning witness. Their landscape / openness witness has not yet been appointed. The Council agreed to confirm the name of the witness as soon as possible in order to allow the two landscape witnesses to confer prior to the production of evidence.
18. It was agreed that the evidence will be heard on a topic basis with the Council's witness for each topic giving evidence first followed by the Appellant's witness before moving on to the next topic.
19. It was agreed that there will be the need for formal evidence and cross examination on landscape, Green Belt openness and the planning evidence, incorporating the very special circumstances arguments. Whilst the Council have not raised concerns in relation to the impact on Green Belt purposes, it was agreed that the Inspector will need to consider these matters. Agreement on this matter could usefully be set out in the overarching SCG.
20. If there is a need to hear evidence on flood risk and/or heritage, these witnesses will be heard after the landscape evidence and before the planning evidence.

## **Statements of Common Ground**

21. The Inspector requested separate, topic based SCG. They should set out agreement and disagreement on the points covered.
22. Matters to be covered in topic SCG:
  - **Overarching SCG:**
    - List of application plans & any amendments.
    - Policies – which ones are in dispute?
    - Any emerging policies and weight to be given.
    - SPD – which aspects of the SPD are in dispute? Weight to be given.
    - National policy including draft revised NPPF.
    - Amount of Biodiversity Net Gain.
    - Details of other solar farms granted pp in locality – including a copy of the recent appeal decisions within Chelmsford City Council;
    - location plan showing permitted solar farms nearby; also location of housing on former hospital site.
    - Agreement on Green Belt purposes should also be included.
  - **Heritage** - Which heritage assets are affected, level of harm and the reasons for the harm. Location plans / grade of LB, copy of list descriptions if not already in evidence.
  - **Landscape SCG** – any relevant designations; agreed viewpoints – which viewpoints does the Council allege harm; which parts of the LVIA are agreed / disagreed.

- **Flood Risk SCG** – evidence to be agreed; agreement, or otherwise, that it meets sequential and exception tests; agreement to FRA, or points of disagreement to be set out. Agreement of Environment Agency / Lead Local Flood Authority.
- **Need** for Solar development / other claimed benefits - relevant energy / climate change legislation / policy to be set out. It was also agreed that a table could be produced listing each benefit and the weight given to that benefit by each party.
- **Conditions:** Agreed list of conditions - word version emailed to PINS case officer.  
Appellant's written agreement to the wording of any pre-commencement conditions.

### **Inquiry duration, running order and timetable**

23. It was agreed that opening statements should be no longer than 15 minutes each. Interested parties' statements will be taken after the openings if there are any to be heard, although flexibility may be needed on this matter at the inquiry.
24. The formal evidence will then be heard on landscape / openness, flood risk and heritage (if necessary), followed by the formal planning evidence. A round table discussion would take place on conditions towards the end of the inquiry, followed by closing submissions by the Council then the Appellant.
25. The inquiry is scheduled for 6 days. The Inspector set out her views that the openings and interested parties could take half a day. It was agreed that evidence on landscape / openness was likely to take 1.5 days and the planning evidence 2 days. Conditions and closings will be likely to take 1 day in total. If evidence is needed on flood risk and/or heritage this could add 1 to 1.5 days to the programme.
26. All agreed therefore that the 6 days allocated for the inquiry should be sufficient. However, it was agreed that a further day should be reserved on Thursday 7 November to allow for any potential over-run and the need to hear flood risk / heritage evidence if necessary.
27. Sitting times for the inquiry will generally be 10am to 5pm, however a shorter sitting day will be needed on Friday 1 November due to the distance for the Inspector to travel home. Earlier starts on days other than Tuesdays can be discussed at the inquiry.

### **Management of appeal documents**

28. It was agreed that the appeal documents would be accessible electronically. The Appellant agreed to set up a dedicated web page for the inquiry. It was agreed that a link would be provided from the

Council's website so that the documents could be easily accessible to the public. The Inspector requests that a link be provided to the PINS Case Officer once the web page is set up.

29. The Inspector requested that the documents are separated into clearly marked folders on the web page. The parties were requested to agree a list of Core Documents prior to producing the evidence.

30. Documents handed in at the inquiry should be kept to a minimum and should contain no surprises to other parties. They will be accepted at the Inspector's discretion. They should also be emailed to the PINS Case Officer with the agreement of the Inspector. All such documents will be added to the web-based document library.

31. The Inspector requested:

- that with large documents only the relevant sections and cover page should be provided;
- large appendices are kept to a minimum;
- that the whole of the development plan should be included on the website;
- that restraint should be shown with including appeal decisions and, if they are added to the Core Documents, it should be made clear which part of the evidence they relate to;
- that the evidence makes clear why any relevant judgements have been included in the document library.

32. One hard copy of the proofs of evidence and any rebuttals should be provided to the PINS Case Officer, for forwarding to the Inspector, at the same time as the electronic versions are submitted. Rebuttals should only be submitted where necessary and where they would reduce the matters to be discussed at the inquiry.

33. The Inspector also requested a hard copy of the application plans (minimum A3) and the LVIA photos / photomontages (A3 colour copies).

34. The Inspector requested that these hard copies be stapled or hole-punched rather than formally bound with separate covers.

### **Costs applications**

35. Neither party had any instructions to apply for costs at the time of the CMC. The timetable for submission of any written costs application and response is set out below.

### **Site visit**

36. The Inspector confirmed that she would see the site and surroundings from publicly accessible places in advance of the inquiry. A further

accompanied or unaccompanied site visit would be made, either during the course of the inquiry or after its close. Arrangements will be made during the inquiry.

**Timetable for document submission:**

<b>17 September 2024</b>	<ul style="list-style-type: none"><li>• Each topic SCG to be submitted.</li></ul>
<b>1 October 2024</b>	<ul style="list-style-type: none"><li>• Proofs / written statements to be submitted.</li><li>• List of conditions agreed between Council / Appellant to be submitted.</li><li>• Appellants' confirmation of any pre-commencement conditions.</li><li>• Written costs applications.</li></ul>
<b>15 October 2024</b>	<ul style="list-style-type: none"><li>• Rebuttal proofs (if necessary).</li><li>• Written response to any costs applications.</li></ul>
<b>21 October 2024</b>	<ul style="list-style-type: none"><li>• Final timings provided by the main parties for the formal presentation of evidence and cross examination.</li></ul>
<b>29 October 2024</b>	Inquiry opens at 1000 hours.

*Susan Heywood*

INSPECTOR

9 August 2024