

**APPEAL REFERENCE APP/U2235/W/23/3321094**

Proposed installation of a renewable energy led generating station comprising of ground mounted solar arrays, associated electricity generation infrastructure and other ancillary equipment comprising of storage containers, access tracks, fencing, gates and CCTV together with the creation of woodland and biodiversity enhancements.

Land north of Little Cheveney Farm, Sheephurst Lane, Kent.

APPELLANT – STATKRAFT UK LTD

Record of the Case Management Conference (CMC) held at 10:00am on 10 November 2023.

**Preamble**

The Appellant was represented at the CMC by Mr Hereward Phillpot KC. Maidstone Borough Council was represented by Miss Kimberley Ziya, Counsel.

The CMC was led by the appointed Inspector, Philip Major.

There was no consideration of the merits of the appeal at the CMC.

**The Proposed Development**

The proposed development is as described above. However, the exact nature of the application was subject to discussion since the Appellant has put forward a number of amendments to the scheme as part of the planning appeal. It is accepted that amendments are not appropriate at the appeal stage if they significantly change the nature of the proposal such that it becomes fundamentally different and/or that there would be procedural unfairness in the amendments being considered.

I heard submissions from both parties on these matters. I do not need to go into the submissions in detail.

Suffice to say that in relation to the proposal itself it is my judgement that the proposed amendments are relatively minor in nature, reduce the scale of the proposal and do not, either individually or cumulatively amount to significant changes which fundamentally alter the nature of the proposal. There is no need to amend the description of development as set out above.

With regard to procedure the amendments proposed have been in the public domain for some months alongside the appeal. The Council addresses the amendments in its statement of case, as do some third party consultees. There is some time before the inquiry opens, and provided a reconsultation exercise were to take place to make it clear that the proposal had been amended there would be no prejudice to any party as sufficient time exists to submit representations on the basis of the amendments.

Hence it is my judgement that the amended scheme can be accepted subject to reconsultation with those consulted on the appeal initially so that it is absolutely clear on what basis the scheme is being considered. The Appellant has undertaken to carry out the necessary consultation. Therefore the inquiry will consider the scheme as amended with the amendments set out in the Appellant's statement of case at paragraph 5.5.

### **Procedure and venue**

The appeal will be held as a face to face event.

The venue will be the Town Hall, Maidstone.

The letter of notification sent out by the Council, site, and press notices will give information relating to venue and attendance.

### **Dates, duration and sitting times**

The inquiry will open on 16 January 2023 at 10.00am. There are currently 6 sitting days allocated. It may be necessary to add sitting days and the main parties are to consider this point and seek to draw up a draft programme for the inquiry.

There will be sessions for interested parties to make representations on the first day of the inquiry and, if necessary, later in the proceedings. The draft programme will ensure that time is available for interested parties on the first day, and the Inspector will ensure that any further necessary time is added to the programme as the inquiry proceeds.

It is not expected that sitting times will fall outside of the hours of 09.30 (on days subsequent to 16 January) and 17.00 unless there is specific justification for doing so.

### **Main Issues**

It is agreed that the main issues to be considered are likely to be:

- Impact on the character and appearance of the countryside;
- Impact of the proposal on the supply of best and most versatile (BMV) agricultural land (and the necessity for such use on that land);
- The impact of the proposal on heritage assets;
- The impact of the proposal on biodiversity/ecological matters;
- The planning balance.

In order to examine these issues the parties intend to call witnesses as follows:

- Council      Mr Peter Radmall (landscape)  
                    TBC (BMV land)  
                    Mr Jeremy Fazzalano (heritage)  
                    Ms Helen Forster (biodiversity)  
                    Mr Martin Robeson (planning)
- Appellant    Ms Allison Walters (landscape)  
                    Mr Tony Kernon (BMV land)  
                    Mr Robert Sutton (heritage)  
                    Mr Danny Thomas (ecology)  
                    Mr Chris Cox (planning)

In addition it may be necessary to hear from noise experts (not listed here) should this matter not be agreed prior to the inquiry.

The Appellant will also ensure that a flood risk expert is present to explain the Appellant's position and to answer any questions on this topic.

The parties will discuss whether any of these matters can be dealt with as round table sessions and include any such sessions in the draft programme.

Any other relevant matters, which may be raised by interested persons, will be heard as appropriate.

### **Hearing the evidence**

The inquiry will proceed on a topic by topic basis in the order which the parties will agree based on witness availability. However, the planning balance and evidence will be heard last. Any round table session will proceed on the basis that the expert witnesses will each give a brief summary of their case, followed by discussion led by the Inspector.

### **Documents and timings**

Core documents should be kept to a minimum, preferably as an agreed list between the main parties. They should be organised by topic and available to view on the Council's website together with other inquiry documents. A set of core documents should be provided electronically to the case officer for the benefit of the Inspector.

Proofs of evidence must be submitted by 19 December 2023 (4 weeks before the inquiry opens). Any necessary rebuttals should be submitted by 2 January 2024.

The Inspector will require hard copies of the following:

- Proofs of evidence
- Original scale drawings of site layout and detailed matters such as landscaping proposals. (Detail of matters such as fencing, cctv, transformers and smaller elements are acceptable in electronic format)
- LVIA material in its original form

These hard copies should be sent to the case officer at the time of the submission of proofs of evidence for onward transmission to the Inspector.

A statement of common ground should be submitted no later than 2 weeks before the opening of the inquiry. This should include a list of agreed conditions (for use in the event of the appeal being allowed).

### **Site Visits**

The Inspector will visit the site prior to the opening of the inquiry. If available a pre-inquiry viewpoint map agreed by the parties would be welcomed.

Accompanied site visit(s) will be carried out at times agreed at the inquiry.

### **Other Matters**

As agreed at the CMC the Council will provide details to the Appellant of the evidence it relies on dealing with matters identified in paragraphs 59 and 95 of its statement of case. These details should be supplied within 7 working days of 10 November 2023 unless there is a satisfactory reason given for any delay.

Philip Major – November 2023