

APPEAL REF: APP/R3705/W/24/3349391 Council Ref: PAP/2023/0071

**Site at “Land 800 Metres South of Park House Farm, Meriden Road, Fillongley”
in the Borough of North Warwickshire.**

Appellant - Enviromena Project Management UK Ltd

**The proposed development is the “Construction of a temporary solar farm to
include the installation of ground mounted solar panels together with
associated works, equipment and necessary infrastructure”.**

Note of Case Management Conference (CMC) held at 2pm on 7 January 2025

1. Welcome/Introduction

The Inquiry is scheduled to open on 8 April 2025 at 10am and the Planning Inspector is Helen Heward.

Attendees at the CMC

For PINS Helen Heward Planning Inspector and Aimee Peckham, Major Casework Operations Officer.

For the Appellant: Odette Chalaby, Counsel, No5 Chambers and Andrey Bisbey Clerk. Appellant Mark Harding, Lee Adams, and Matt Roberts. Steven Bainbridge, and Amy Hindson, Enviromena. Andrew Cooke, Caroline Roe, and Hannah Armstrong, Pegasus. Tony Kernon, Kernon Countryside.

For the Council: Howard Leithhead Counsel, No5 Chambers and Clerk Mark. Instructing solicitor Sofia Ali and Jeff Brown Head of Development Control, North Warwickshire. Jonathan Weekes, Aitchison Rafferty Group, and Sam Oxley, LUC.

For Fillongley Parish Council, Rule 6 Party: Jack Smyth, Counsel, No5 Chambers, Gail Collins, Tyler Parkes, Cathy Tuck, Keystone Heritage, and Heather Badham, Fillongley Parish Council.

2. Purpose of the CMC

To give a clear indication as to the ongoing management of the case.

This note is a summary of the discussion.

3. Advocates and witnesses for the inquiry

Advocate for the Appellant: Odette Chalaby, No5 Chambers.

Steven Bainbridge, planning witness, Enviromena,
Andrew Cooke, landscape witness, Pegasus,
Tony Kernon, Best and Most Versatile Land witness, Kernon Countryside,
Hannah Armstrong, heritage witness, Pegasus.

Advocate for the Council: Howard Leithhead No5 Chambers.

Jonathan Weekes, planning witness, Aitchison Rafferty Group,
Sam Oxley, landscape witness, LUC.

Fillongley Parish Council, Rule 6 Party: Jack Smyth No5 Chambers.

Gail Collins, planning witness, Tyler Parkes,
Cathy Tuck, heritage witness, Keystone Heritage,
Heather Badham, drainage, Fillongley Parish Council.

4. Likely Main Issues

Clarifications and updates:

The Appellant submits two folders for plans, one with, and one without, ponds. The Appellant pursues the scheme without ponds.

Just before Christmas, the Appellant indicated to the Council a change in position. The Appellant now argues that the proposed development is not inappropriate development in the green belt having regard to the revised National Planning Policy Framework issued 13 December 2024 (the Framework). The Appellant has issued a draft revised Statement of Common Ground (SoCG) to the Council.

To allow time for publication and consideration of Planning Practice Guidance on grey belt, the Council will respond to the revised draft SoCG by 24 January.

Considering the revised Framework, and the Appellant's position, the main parties agree that the likely main issues will be around the following issues:

- 1 Whether the proposed development would not be inappropriate development in the green belt having regard to the Framework and any relevant development plan policies.
- 2 Likely effects upon the significance of various heritage assets

The assets identified by the Appellant and Council are:

Fillongley Conservation Area
Park House Farm Listed Building (LB) Grade II
Fillongley Mount LB Grade II
Manor House Farm LB Grade II
White House Farm House LB grade II
The 12th century Ringwork Scheduled Ancient Monument.

The Rule 6 Party raise additional designated and non-designated assets.

3 Likely effects upon the character and appearance of the area having regard to landscape and visual effects – including public viewpoints and effects upon users of public rights of way.

4 The weight to be attached to effects upon Best and Most Versatile [agricultural] Land.

Other matters may include flooding and drainage.

The evidence for the main issues will lead to a balancing exercise, to weigh whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations including the nature and extent of any benefits of the proposal and the wider environmental benefits associated with increased production of energy from renewable sources.

5. How the main issues will be dealt with

Evidence relating to heritage and landscape and visual impacts will be dealt with by formal presentation of evidence in chief and cross examination.

Landscape witnesses will also deal with landscape and visual aspects relating to green belt purposes and openness.

Matters relating to planning policy, arguments about the harms and benefits of the proposal to be weighed, and the overall planning balance, will also be dealt with through the formal presentation of evidence in chief by the main parties' planning witnesses after all other evidence has been heard.

The Appellant's planning witness will also deal with matters relating to Best and Most Versatile Land, although the Appellant have an expert on this matter at the inquiry in case of a need to call them to answer questions. The Appellant will prepare a topic based SoCG on this issue.

In terms of running order, for each of these issues, the Council witness will give their evidence first, then the witness for the Rule 6, then the Appellant's witness.

Any necessary time at the inquiry on flooding and drainage might be best dealt with by way of a round table discussion. This is a more informal format. The Appellant's expert should be ready to initiate the discussion with a summary of key points.

A without prejudice session on planning conditions that would be necessary in the event of a grant of permission will also be held as a round table format. For this, the Council's witness should be ready to lead the discussion condition by condition.

The Appellant will take the lead on preparing topic specific SoCGs, including one between the Council, Appellant, and the Local Lead Flood Authority on flooding where the purpose will be to set out the agreed position in summary form.

The Appellant will work with the Rule 6 party to clarify their concerns/objections relating to flooding and drainage to see if matters can be resolved in advance of the inquiry, or if they will need a witness to attend the inquiry to answer questions.

Whilst identifying areas of agreement, all SoCGs should focus on the areas where there is no agreement.

Summary tables will also be prepared for the final balancing of effects and apportioning of weight.

Topic based SoCGs will be submitted by 24 January.

The main SoCG will be submitted by 7 February.

Summary tables will be submitted not later than 25 March.

6. Conditions

There are lists of draft conditions with the latest draft SoCG.

A final agreed schedule of suggested planning conditions and the reasons for them, including references to any policy support, should be submitted at the same time as the proofs of evidence.

The Council should take the lead on finalising the list, ensuring that all conditions are properly justified having regard to the tests for conditions, particularly the test of necessity. Conditions should be kept to a minimum and conditions that are required to be discharged before development commences should be avoided unless there is a clear justification. The reasons for any pre-commencement conditions will need to include that justification. Any difference in view on any of the suggested conditions, including suggested wording, should be highlighted in a schedule with a brief explanation given.

7. Planning Obligation

A single-issue obligation has been completed and submitted and is not in dispute. If not already done, the Council should submit a detailed justification for the obligation sought, setting out how it complies with the Regulations, reference to any policy support, how it has been calculated and on what it would be spent.

8. Core Documents

The Appellant is taking the lead co-ordinating and preparing a list of Core Documents. It should be completed in advance of finalising proofs of evidence so that all documents are consistently referenced. The final Core Document list is to be submitted with proofs.

Core Documents should comprise only documents which will be referred to. A copy of the Framework does not need to be included.

Any appeal decisions and/or legal authorities relied upon need to be prefaced with a note explaining the relevance of the document to the issues arising in the inquiry case, together with the propositions relied upon and relevant paragraphs flagged up.

The Council will organise hosting and managing the virtual Core Document library for the inquiry.

9. Inquiry Venue

The inquiry will be held in the Council Chamber. North Warwickshire Borough Council, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE.

The Council will ensure there is a virtual back up plan and arrangements for live streaming if deemed appropriate.

10. Inquiry Sitting Time, Running Order/Programme/Evening Session

It was agreed that 6 sitting days would be required. Day 6 is a reserve.

They will be Tuesday 8 to Friday 11, Tuesday 15 and Wednesday 16 April.

It may be that closing submissions are heard virtually.

The inquiry will open at 10am and finish by 5pm each day. The Council need to give advance notice of any evening use of the Council Chamber that may impact arrangements.

The following broad running order was agreed. This may be subject to change depending upon the finalising of evidence and the agreement of detailed timings.

For the first week, 8-11 April, the running order will be:

- Tuesday morning: Openings, interested parties, possibly flooding & drainage,
- Tuesday afternoon: site visit.
- Wednesday: heritage evidence
- Thursday: landscape and visual evidence
- Friday: planning evidence

On the first day, following opening comments, the inquiry will hear opening statements from the Advocates for the main parties, which should be no longer than 10 minutes. Appellant first, followed by the Council and then the Rule 6 Party.

The inquiry then hears from any interested parties present who wish to speak. (The Council will keep under review if there is a need for an evening session for interested parties. If so, this should be flagged at the earliest opportunity so that it can be scheduled, and parties made aware of the arrangements.)

If there is a need and time permits, a round table on flooding and drainage matters will be held on Day 1 before the lunch break.

The accompanied site visit will take place on the afternoon of the first day.

The parties will liaise to agree an itinerary for the site visit, including meeting location, parking arrangements, route, and likely timings. Details of the arrangements will be submitted not later than 25 March.

The purpose of the site visit is to see the site and its surroundings. Parties can point out physical features, but no representations, discussion or arguments will be heard.

For the second week, 15 & 16 April:

- Tuesday – any remaining round tables for flooding and drainage and/or finalising conditions and legal agreement, any unheard interested parties, costs, and closings.
- Wednesday – reserve for closings and formal close of the inquiry.

Closing submissions will be heard in reverse order – so Council first, Rule 6 Party, then Appellant.

Closing statements should aim to be no longer than 30 minutes and written copies should be provided. They should simply set out the respective cases as they stand at the end of the inquiry and should be fully cross-referenced.

As soon as SoCGs and scope of proofs of evidence are finalised, Advocates should work collaboratively to agree time estimates for each stage of their respective cases to fit within the scheduled time and agreed running order.

Final timings should be submitted to PINS by 10 March.

Other than in exceptional circumstances, Advocates and witnesses are expected to take no longer than the timings indicated, which will require the cooperation of all.

11. Timetable for submission of documents

Topic based SoCGs will be submitted by 24 January.

A final main SoCG between the Council and Appellant will be submitted by 7 February.

All proofs of evidence are to be submitted not later than 10 March.

Timings by 10 March.

Agreed summary tables not later than 25 March.

Rebuttal proofs: there is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and PINS does not encourage the provision of such. However, if they are necessary to save Inquiry time, copies should be provided no later than 25 March.

It is important that any rebuttals do not introduce new issues. As an alternative to a rebuttal, it may be that the matter could more succinctly be addressed through an addendum to a SoCG.

The Council should make sure a copy of the notification letter setting out details of the inquiry, and a list of those notified is sent in to PINS no later than 25 March.

The Inspector will issue a draft inquiry programme following receipt of final timings.

12. Any other matters

An application for costs was indicated when the appeal was following the hearing procedure.

The Appellant will review and ensure that any application to be made at the inquiry is provided in writing in advance to allow the Council time to respond.

To support an effective and timely planning system all parties are required to behave reasonably. Unreasonable behaviour can include not complying with agreed timetables.

Helen Heward
8 January 2025