



Meeting note

Project name	Great North Road Solar
File reference	EN010162
Status	Final
Author	The Planning Inspectorate
Date	17 May 2024
Meeting with	Elements Green Trent Limited
Venue	Virtual Only
Meeting objectives	Project Update Meeting
Circulation	All attendees

Summary of key points discussed, and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Project Progress and Milestones

The Applicant outlined that the project order limits covers some 2900 hectares of agricultural land to the north west of Newark, with the solar panel array to occupy approximately 1600 hectares.

The Applicant confirmed that it was aware of the recent Written Ministerial Statement on the use of Best and Most Versatile (BMV) Agricultural Land for solar projects and will ensure the matters contained therein will be addressed in the application for a Development Consent Order (DCO) in due course.

There has been a delay to the Applicant's programme of approximately one month, due to adverse weather affecting the ability to undertake archaeological trial trenching.

The Applicant will undertake consultation on the draft Statement of Community Consultation (SoCC) in June/July 2024, and there will also be a project design freeze to allow production of consultation documents. Throughout Summer 2024 there will be ongoing non statutory engagement with local communities and representative organisations.

In Autumn 2024 responses to Statement of Community Consultation will be published. The Preliminary Environmental Information Report (PEIR) will also be published and Phase 2 of the statutory consultation will begin.

In winter 2024/25, the Applicant will finalise the Environmental Statement ahead of the submission of the application for a DCO, which is currently planned for Spring 2025.

Pre-application engagement with PINS

The Applicant discussed submitting draft documents for review ahead of the application submission. The Planning Inspectorate advised that there is a 6 – 8 week turnaround time for a review and suggested that the Applicant concentrate on submitting specific documents which they would like advice on rather than a full suite of documents. It was also advised that it is preferable to submit advanced versions of documents, rather than early drafts, to assist in providing more meaningful comments.

The Applicant agreed that any submission would be more targeted to include more complex issues which they needed advice on. The Applicant will confirm in due course whether it wishes to pursue a draft document review.

Statutory and Non-Statutory Consultation Update & Pre-application engagement with PINS

The Applicant advised it hopes to have the majority of the Statements of Common Ground agreed with consultees when the application is submitted for examination.

Fast-track and enhanced applications

The Applicant raised the possibility of using the fast-track process and also asked what steps would be needed for that or an enhanced pre-application process.

The Planning Inspectorate highlighted that the updated pre-application prospectus was published on 16 May 2024 which highlighted the three tiers of pre-application service. The Inspectorate will be writing to all Applicants in the pre-Application stage from the end of May 2024 to allow Applicants to submit an expression of interest for whichever tier they wish to follow. The Applicant will have time to consider their options before responding. However, it is important to note that Applicants may not get the service which they request.

The Inspectorate advised that a quality standard has to be met for fast track. It also advised the Applicant that there are existing powers for an Examining Authority to examine the project in less than 6 months if it is of a high quality with minimal outstanding matters to be dealt with during the examination. The Inspectorate advised the Applicant to review the prospectus in detail, including the quality criteria for fast-track, and to also be aware that it is extremely unlikely a change request could be accepted for a fast-track project, which again emphasises the importance of a finalised application at submission.

Public Consultation

Phase 1 non-statutory consultation was carried out between January and February 2024 and then early design changes have been made in response. Just over 200 people provided feedback; 56% opposed, 17% supported and 27% would support if changes were made.

Key themes arising from the responses were:

- Flooding
- Scale
- Landscape & visual
- Use of agricultural Land
- Footpaths
- Construction traffic

NG+ (Community Benefit Scheme)

The Applicant has undertaken a community support engagement scheme which proposes to contribute £1 million a year to the local community, funding matters such as:

- Local Environment – Biodiversity enhancements and local job creation;
- Education – working with schools and colleges;

- Wellbeing – enhancing local amenity and creating healthier places;
- Food Security – tackling food poverty and waste; and
- Energy Efficiency – home improvement grants supporting local projects.

The Planning Inspectorate suggested documenting all engagement relating to this matter in the Consultation Report. The Applicant confirmed that a charitable trust will be appointed shortly to run the scheme.

The Planning Inspectorate raised a query with regards to whether the Applicant plans to rely on offsite measures provided by the NG+ scheme to offset any adverse effects of the development. The Inspectorate advised that where this is the case, the Environmental Statement should indicate how areas outside the redline order limits have been considered within the assessments.

The Applicant acknowledged this is a complex area which will include some benefits which will be used to enhance support for the project. The Applicant confirmed they will articulate in the application whether works are directly linked to a scheme effect or are part of a broader benefit as part of the NG+ scheme.

The Applicant acknowledged that organisations or individuals that are currently supporting works within the red line order limits would also be consulted as to whether they support NG+ measures to be implemented outside the red line order limit.

Flood Alleviation Programme

One of the main workstreams within NG+ is the flood alleviation program. The Applicant has received significant responses relating to flooding, especially in Maplebeck.

The Applicant is proposing to mitigate flooding within the design of the scheme and to also utilize these measures to improve biodiversity. The Applicant currently plans to use engineering works to be able to temporarily store water and discharge more evenly within the order limits. It is proposing to do so under Associated Development, and prepared a briefing note, which is appended at Annex A. The Applicant outlined its understanding that the Associated Development guidance is expected to be reviewed in Autumn 2024 and asked whether the Inspectorate had received similar queries to this, ie whether certain elements of projects could be classed as Associated Development. ¹

¹ Since the meeting, the Applicant decided that the flood alleviation works will not form part of their DCO application. These works will be brought forward under separate Town and Country Planning Act Applications. The Applicant is engaging with the Environment Agency, Newark and Sherwood District Council, and all relevant consultees on their proposed approach.

The Planning Inspectorate confirmed with the following points:

- The Inspectorate is unable to provide a legal view on whether the Applicant's proposed approach is acceptable; that is ultimately part of what will be considered during acceptance.
- A draft document review, which includes this matter, may be beneficial to the Applicant as the Inspectorate can make any comments as s51 advice that it considers necessary on the Applicant's approach (without confirming its agreement to the approach);
- The Applicant would need to consider whether any required addition of land for these works, and the requirement for the works themselves, affect the outcome of the Scoping Opinion, including consideration of whether any works are required outside of the red line order limit. The Inspectorate would encourage the Applicant to speak to the Environment Agency and Local Planning Authority to discuss its approach and seek their thoughts on it. The Applicant also confirmed that at present, the planned works are within the Order Limits provided for the scoping.
- Include the Associated Development position in the Consultation Report, to demonstrate regard to consultation responses;
- The Applicant should consider contacting the Department of Levelling Up, Housing and Communities regarding the guidance review to discuss timescales and to highlight the live example of an Associated Development query;

Possible project name change

The Applicant is considering a new project name: GNR Solar and Biodiversity Park.

The Inspectorate suggested it would be helpful for the Applicant to send us a letter documenting the name change, which can then be published on the project page of the Inspectorate's website. The Applicant should also seek its own legal advice to see if there are any consultation implications following the name change.

AOB

The Inspectorate advised the Applicant to be aware that the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 listing the bodies that need to be consulted has recently been amended by The Infrastructure Planning (Miscellaneous Provisions) Regulations 2024. As such, the Applicant must ensure that the correct bodies are consulted in due course. The Inspectorate also advised that there is likely to be some Correspondence from the Inspectorate in the next few weeks relating to the changes to the APFP regulations.

The Inspectorate also advised the Applicant of a recent application for the Cleve Hill Solar Park (CHSP) to Swale Borough Council (SBC) for the approval of the Battery Safety Management Plan, which was a requirement in the CHSP DCO. The application was refused by SBC, and as such, the Inspectorate advised the Applicant to ensure early discussions with are held Local Authorities and key consultees on the outline Battery Safety Management Plan, and to ensure that the appeal mechanism is included within the DCO.

Annex A

Briefing note on proposed Associated Development

**Great North Road Solar park
PINS update meeting
17 May 2024**

Briefing note on proposed Associated Development

1. Background

- 1.1 As part of its development proposals Elements Green has undertaken informal consultation with the local community in order to, amongst other things, identify possible enhancements that might be brought forward in association with the project. One of these enhancements is associated with flooding.
- 1.2 In response to consultation feedback, Elements Green has designed proposed flood alleviation works across areas on land already affected by flooding. One example of such an area is the village of Maplebeck, where flood modelling indicates improvements could be made to alleviate the flooding issues experienced by the residents of Maplebeck.
- 1.3 This note provides a short briefing on the proposed flood alleviation measures which Elements Green are considering bringing forward as Associated Development ("AD").

2. The proposed works

- 2.1 The works proposed to alleviate flooding at Maplebeck would comprise a number of strategically placed sustainable drainage and storage systems (detention basins), scrapes and new planting designed to collect surface water and slow its release, prior to it flowing downslope to Maplebeck and watercourses downstream. The proposed works would be located on land within the control of the applicant and at this stage it is not expected that any compulsory acquisition would be required. Should the principle of these works be deemed acceptable, this approach could be brought forward in other target areas across the scheme.
- 2.2 The proposed features and modelling indicating the effectiveness of the proposed measures are illustrated in a slide deck which will be presented at the forthcoming meeting.
- 2.3 In addition to having flood enhancement benefits, it is also considered that the detailed design of the water storage features may also allow for biodiversity enhancements.

3. Associated Development

- 3.1 Elements Green would ideally like to bring forward these works as AD.
- 3.2 The Planning Act 2008 specifies development for which consent may be granted. This includes development for which development consent is required and associated development. AD is then defined as "*development which is associated with the [NSIP] development...*". The statutory definition of AD is therefore very broad.
- 3.3 The April 2013, DCLG guidance on AD is "*designed to help those who intend to make an application for development consent under the Planning Act to determine how the provisions of the Planning Act in respect of associated development apply to their proposals*". Without reproducing the guidance in full, some relevant paragraphs are set out below:

"5. It is for the Secretary of State to decide on a case by case basis whether or not development should be treated as associated development. In making this decision the Secretary of State will take into account the following core principles:

(i)The definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts.

(ii) Associated development should not be an aim in itself but should be subordinate to the principal development...

...It is expected that associated development will, in most cases, be typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project, for example (where consistent with the core principles above), a grid connection for a commercial power station."

3.4 Annex A and B to the guidance contains some examples of Associated Development. Relevant examples include:

- *Diversion or realignment of watercourses.*
- *Flood defences and flood mitigation measures*
- *Creation of compensatory habitats or replacement green space*
- *Settlement lagoons and surface water balancing facilities*

3.5 On the face of the guidance, whilst the flood alleviation works are clearly capable of being AD¹, in this instance the direct relationship with the principle development results from NPS policy which requires applicants to seek to achieve various environmental enhancements and net gain. This is considered further below.

3.6 Whilst the concept of AD for net gain and environmental enhancement is not specifically addressed in the AD guidance, it must be recognised that this is now over 10 years old and is expected to be reviewed in Autumn of this year. Since the guidance was published, there have been a number of other policy developments that focus on national infrastructure providing an opportunity to achieve net gain, notably in NPS EN1:

"4.6.1 Environmental net gain is an approach to development that aims to leave the natural environment in a measurably better state than beforehand. Projects should therefore not only avoid, mitigate and compensate harms, following the mitigation hierarchy, but also consider whether there are opportunities for enhancements.

4.6.2 Biodiversity net gain is an essential component of environmental net gain. Projects in England should consider and seek to incorporate improvements in natural capital, ecosystem services and the benefits they deliver when planning how to deliver biodiversity net gain...

4.6.6 Energy NSIP proposals, whether onshore or offshore, should seek opportunities to contribute to and enhance the natural environment by providing net gains for biodiversity, and the wider environment where possible...

4.6.10 Biodiversity net gain should be applied after compliance with the mitigation hierarchy and does not change or replace existing environmental obligations, although compliance with those obligations will be relevant to the question of the baseline for assessing net gain and if they deliver an additional enhancement beyond meeting the existing obligation, that enhancement will count towards net gain.

4.6.13 In addition to delivering biodiversity net gain, developments may also deliver wider environmental gains and benefits to communities relevant to the local area, and to national policy priorities, such as:

- *reductions in GHG emissions*
- *reduced flood risk*

¹ Cleve Hill Solar Park DCO is also an example, since it contains powers to undertake flood defence works.

- *improvements to air or water quality,*
- *climate adaptation,*
- *landscape enhancement*
- *increased access to natural greenspace, or*
- *the enhancement, expansion or provision of trees and woodlands* *The scope of potential gains will be dependent on the type, scale, and location of specific projects. Applicants should look for a holistic approach to delivering wider environmental gains and benefits through the use of nature-based solutions and Green Infrastructure...*

...4.6.15 Applications for development consent should be accompanied by a statement demonstrating how opportunities for delivering wider environmental net gains have been considered, and where appropriate, incorporated into proposals as part of good design (including any relevant operational aspects) of the project."

- 3.7 There are a number of references back to these paragraphs in NPS EN3.
- 3.8 It would therefore seem entirely consistent with NPS policy that works proposed to achieve such policy requirements should be regarded as capable of comprising AD.
- 3.9 It is entirely possible in fact, that this is being contemplated in the updated guidance on AD which is expected to be revised in the Autumn of this year.
4. **Conclusion and next steps**
- 4.1 Following the presentation of the proposed flood alleviation measures at Maplebeck Elements Green would like to discuss the planning inspectorate's views on the incorporation of such measures within its DCO application, as AD.

Eversheds Sutherland

May 2024