

PPG: P19-2022

17th July 2024

The Planning Inspectorate,
Temple Quay House,
2 The Square,
Bristol,
BS1 6PN

Dear Alison,

RE: APP/Y2430/W/24/3340258 – Fields OS 6700 6722 And 5200, Muston Lane, Easthorpe.

On behalf of the Appellant, we wish to raise with the Inspector our concerns over how the LPA are progressing the clarification of its case in 2 regards; first, concerning the clarification of the heritage case as discussed at the CMC, and secondly in respect of negotiations in respect of the SoCG in which the LPA are unwilling to commit either way to whether they will contest matters which did not form part of their Statement of Case and which were not raised during the CMC.

LPA's Clarification of Heritage Matters of 12th July 2024.

The information provided by the Local Authority on 12th July 2024 comprises of two documents:

1. Document Ref. '240703 Belvoir Solar – Table DHA and settings'.
2. Document Ref. 'MBC Heritage Assets affected table'.

The content of these documents is summarised below.

1. Document Ref. '240703 Belvoir Solar – Table DHA and settings'.

This document comprises a table which summarising the following:

- The conclusions of the Environmental Statement (*Core Document 1.31*) submitted by the Appellant as part of the determination of the application.
- Discussions presented by MBC within the September 2023 Committee Report (*Core Document 3.1*).
- Assets summarised at paragraph 7.41 of Version 7 of the overarching SoCG.

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It should be noted that in regard to the assets summarised at paragraph 7.41 of Version 7 of the overarching SoCG, Document Ref. '240703 Belvoir Solar – Table DHA and settings' incorrectly states that the list of heritage assets and level of harm had been 'agreed'. This is not the case, with the overarching SoCG having been subject to revision and discussion on heritage matters suggested to be removed in lieu of confirmation of the case of the Local Authority.

2. Document Ref. 'MBC Heritage Assets affected table'.

This document comprises a table which makes reference to the following heritage assets and the identification of 'less than significant' harm in terms of said document:

- Grade I Listed Belvoir Castle.
- Grade II* RPG at Belvoir Castle.
- Grade I Listed Church of St Mary, Bottesford.
- Scheduled Moated Grange, Muston.

No reference it made within Document Ref. 'MBC Heritage Assets affected table' to the additional four designated heritage assets previously identified by the Local Authority via Reason for Refusal 4, their Statement of Case and the letter issued by Heaton on their behalf on 17th June 2024.

Accordingly, no clarity has been provided as to which heritage assets form part of the case of Melton Borough Council.

Furthermore, Document Ref. 'MBC Heritage Assets affected table' makes reference to the harm being 'less than significant'. It is not clear whether the Local Authority by using this terminology are misreferring to the harm being 'less than substantial' in the terms of the NPPF, or are referring to the harm being 'less than significant' using EIA terminology.

If the former, the Local Authority should clearly indicate where on the less than substantial harm spectrum they consider the harm to arise, as per the PPG.

If the latter, then to reach this position then the Local Authority witness must have identified a level of harm which they could feed into the matrix led methodology of the ES Chapter to reach this ultimate position.

In summary, we consider that the additional information provided by the Local Authority on 12th July does not confirm the heritage assets which the Local Authority consider are impacted upon by the Appeal Scheme, nor the level of harm that they consider to arise, as requested by Inspector.

Whilst we recognise that detailed evidence is still being prepared by the Parties, it remains that the Local Authority are still unable to confirm what their heritage case is, with less than a month before exchange of evidence.



We believe it is unreasonable for the Appellant to have to wait until the point of exchange to ascertain the case of the Local Authority. Indeed, it could be that there are matters of common ground between the parties on heritage impacts, the agreement of which would save time at the Inquiry; however, without the relevant information from the Local Authority this cannot be confirmed and potentially unnecessary evidence is having to be prepared on behalf of the Appellant.

Other Matters on Valued Landscape, Residential Amenity and Glint & Glare.

During negotiations on seeking to agree the SoCG, three matters of concern have arisen in respect of the LPA's position and potentially enlarging its Statement of Case.

The first concerns whether the LPA considers if the Appeal Site is a valued landscape under the terms of the NPPF paragraph 174. The LPA commented on the SoCG as follows: *'we would prefer to remain silent on this issue and see if the inspector brings this into the conversation. We are not relying on it, it is not just being introduced at the SoCG stage'*.

The Appellant considers this to be an unreasonable and imprecise position from the LPA given that their Statement of Case has already been submitted.

The second concerns whether the LPA consider there to be residential visual amenity argument point. The Appellant reverted asking again for clarification as to whether the LPA are suggesting they consider there to be a residential visual amenity point, and if so, raised concern that this has only been introduced at the SoCG stage. The LPA replied as follows: *'We are remaining neutral / silent on this point. Local residents use the footpaths, and there is a RfR in regards to appreciation of the landscape from PRow. There is an 'indirect' amenity impact in the non traditional sense of amenity. It is too soon in the process to set this aside.'*

Again, the Appellant considers this to be an unreasonable and imprecise position from the LPA given that their Statement of Case has already been submitted. Acknowledging that there is an issue between the parties on the PRow, we had understood there not to be so on residential amenity but are entirely unclear on what the LPA are not saying in this regard.

The third matter concerns glint and glare, where the LPA will not clarify in the SoCG whether there is a glint and glare argument in respect of residential and highway matters. Whilst we accept that there is a dispute between the parties on the potential effect on Belvoir Castle, the LPA are unwilling to confirm their position in these other regards.

Next Steps

We do not believe this is an appropriate way in which to proceed in regard to any of the above matters, if the LPA does seek to introduce new matters into its evidence, this will potentially cause prejudice to the Appellant and detailed rebuttal evidence may have to be prepared potentially delaying the Inquiry and causing unnecessary costs. As such, the Appellant would



appreciate the Inspector's clarification and guidance to all parties on how to proceed as exchange of evidence is now less than 1 month away.

Specially, we request that the Inspector seek clarification from the LPA on:

1. Which heritage assets do the Local Authority consider are impacted upon by the Appeal Scheme?
2. What level of harm do the Local Authority consider to arise in respect of each heritage asset?
3. Are the Local Authority seeking to argue that the Appeal Site is a valued landscape under the terms of NPPF para 174?
4. Are the Local Authority seeking to argue that there will be an adverse effect upon residential amenity (as distinct to amenity of the Public Right of Way)?
5. Do the Local Authority consider there to be an unacceptable glint and glare impact in respect of either residential amenity or highway matters?

Kind regards,

Ellen Fortt

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