

Land to the West of Wood Lane and Stocking Lane,  
Kingston Estate, Gotham

## **1 THE APPELLANT**

- 1.1 RES is the world's largest independent renewable energy company, working across 24 countries and active in wind, solar, energy storage, biomass, hydro, green hydrogen, transmission and distribution. As an industry innovator for over 40 years, RES has delivered more than 24GW of renewable energy projects across the globe and supports an operational asset portfolio exceeding 41GW worldwide for a large client base.

## **2 THE DEVELOPMENT**

- 2.1 The appeal seeks permission for a solar powered renewable energy generating installation of ground mounted PV solar together with other necessary infrastructure and landscaping and biodiversity enhancements.
- 2.2 A preliminary issue raised by Interested Parties was to question whether the application is properly within matters that can be considered under the Town and Country Planning Act 1990, following the recent High Court case of *Galloway*.
- 2.3 Adopting the latest Government guidance on this from NPS EN-3 the divide between TCPA 1990 and Planning Act 2008 should be considered by reference to the capacity of inverters forming part of the development, which for this development is a maximum of 17 with a combined export capacity that will not exceed 49.9MWac. A planning condition to that effect is agreed with the Council and the generation export of the development to the grid is also limited by the DNO connection offer to 49.9MWac.
- 2.4 All other matters consequent on this question such as developed site area, number of panels and density of the development are all issues which go to the planning merits of the development. They have been addressed in the evidence but do not determine the legal question of competence of this inquiry to consider this appeal.
- 2.5 One way in which that further information may be addressed would be to ask the question is it possible the same renewable energy generation could be achieved in either a meaningfully smaller area or smaller number of panels, the answer to which is No. Reducing panel numbers or development area would simply mean an overall lesser amount of renewable energy generation to be exported to the grid and a reduction in the length of time at which this development will be at or near to its maximum export capacity of 49.9MWac.

- 2.6 The planning issues to be addressed in this inquiry, informed by the Inspector's CMC Note can be divided into four areas, Visual Amenity, Amenity of Public Right of Way (PRoW) Users, Green Belt Openness and Very Special Circumstances (listed here for brevity in their shortest form)
- 2.7 Other issues raised by Interested Parties have been addressed in proofs and will be discussed in the inquiry but do not comprise main issues.

### **3 VISUAL AMENITY**

- 3.1 The key supporting argument on visual amenity is that the development has been designed to be accommodated within the existing landscape and make minimal changes to it. Existing tree and hedgerow loss is minimal and balanced by a much greater amount of new tree and hedgerow planting, together with negligible change to the existing site topography.
- 3.2 The development has a light footprint with large areas of pasture still remaining between and under the panels with the arrays at a height that will be accommodated within existing and proposed hedgerows, managed to a height quite consistent with the surrounding area.
- 3.3 Design changes suggested in consultation have been adopted and when measured against published assessments of surrounding landscape character, whether of wider or narrower focus, show the development and its landscaping to be consistent with key landscape characteristics and recommendations on how new development can be successfully accommodated.
- 3.4 We flagged in the CMC an issue about the extent to which landscape character impact should be properly considered, as it is not referred to in the Council's reason for refusal. Appreciating it is a matter the Inspector asked to be addressed as a main issue we are of course doing so but will investigate this point with the Council during the course of the inquiry.
- 3.5 Visual amenity here is referring to the experience of people resorting to the area but we submit does not extend to impacts on individual specific residential properties. There are very few in any proximity to the development, most of which have a link to the development itself and there is no reference on the Reason for Refusal to residential amenity impacts.

### **4 PUBLIC RIGHTS OF WAY**

- 4.1 Amenity in respect of public rights of way is specifically referenced in the reasons for refusal although inevitably raises similar issues to general visual amenity given that those resorting to this area are largely speaking those using public rights of way.

- 4.2 This illustrates another key attribute of the development which is that outside of locations very close to, indeed largely speaking adjacent to, the proposed development on public rights of way visibility falls away very quickly indeed.
- 4.3 No public rights of way will be diverted or lost as a result of the development and an additional permissive footpath will be provided around the edge of a number of fields creating an additional connecting route that will have new hedging to one side and existing woodland to the other.
- 4.4 One issue that will be at large in the inquiry is whether the experience of a footpath user on a route that becomes one between existing and new hedging is fundamentally unacceptable in amenity terms compared with its existing condition where to one side the present view is over a field. A green lane experience of this type is not unknown in the immediate area or more widely but whilst these situations occur only occasionally with the development there is nothing about them in any event that should render the development unacceptable.
- 4.5 It is significant that there is no objection from the rights of way officer for Nottinghamshire County Council and this is as good a place as any to flag that this whole development was recommended for approval by the officers on a full assessment of issues such as this and we are now dealing with the substantiation of the members' decision to refuse that permission, against their officer's advice. Whilst it is, of course, accepted that the members have the discretion to do so, it inevitably casts a different light on the evidence that is available to support such a conclusion given that a very careful analysis of all consultation responses over a considerable length of time by the officers led to a clear contrary view on every point now being contended in opposition.

## **5 OPENNESS**

- 5.1 On openness of the Green Belt there is a continuation of the theme of evidence spanning across the main issues. There is agreement between the parties that the only Green Belt purpose with which there is conflict from this development is that related to preventing the encroachment of development into the countryside. All the other four purposes of Green Belt designation from the NPPF are agreed not to be affected.
- 5.2 Openness inevitably brings with it questions of the visibility of the development but also its spatial dimension i.e. not just how much of it can you see but actually how much of it there is. That of course takes us back to the light footprint of the development.
- 5.3 Planning guidance on Green Belt impacts also highlights the importance of duration of the development and its reversibility and here the temporary nature of solar developments such as this becomes a very important consideration. Not only is the development time limited but the very low levels of intrusion needed into existing ground contours mean that

at the end of the 40 year development period the land can be fully restored to its original condition (indeed the soil health is likely to have improved in that time and there will have been a level of biodiversity improvement). Those may be usual consequences for a solar farm but it is quite unusual for many other types of development at which the Green Belt restraint on inappropriate development is directed.

5.4 It is perhaps unsurprising then that renewable development in the Green Belt is frequently being approved where it is temporary and reversible and because it is low level allowing it to be well accommodated in the right locations.

5.5 Effects on openness also consider what subsequent activity levels there will be from a development and again by its very nature solar development responds well on this account as once the relatively short construction period is complete, movement to and from the site for any purpose is extremely low.

## **6 VERY SPECIAL CIRCUMSTANCES**

6.1 Inappropriate development in the Green Belt can only be approved where there is a finding of very special circumstances. Here, through application of planning policy and current appeal decisions it is possible to identify a number of considerations which inform whether VSC exists in this case. Just by way of reference now rather than any attempt at commentary on them these considerations involve:

- The wider benefits of renewable energy generation;
- Improvements to biodiversity (and during the life of this development, to public rights of way);
- The ability to restore land to its former condition (and potentially improve its overall quality);
- Minimisation of conflict with Green Belt purposes; and
- Minimisation of any other planning harm.

6.2 As before, this list inevitably draws on wider considerations of amenity and effects on rights of way but also brings into view the level of demand for new renewable energy development and the urgency with which it is needed.

6.3 Planning Authorities should not dispute the need for renewables and indeed they do not do so here, however that risks the scale of national demand falling out of view. When the latest Government response to energy security and climate change states that a five-fold increase in ground mounted solar is required by 2035 and that nationally we are way short (that is, not even achieving 20%) of the annual installation rate at which that target would be met, all available suitable sites should be developed as soon as possible.

- 6.4 And this final question of development being needed as soon as possible raises the well-publicised UK wide problem of inadequate existing grid capacity to meet this level of demand. All energy development need an appropriate grid connection and here there is a 49.9MW offer to take up existing capacity that means this development could be exporting renewable energy just as soon as it is consented and built. That frankly is becoming a rarity.
- 6.5 Recognising that we are in Green Belt with a heightened level of sensitivity this issue of how grid availability has influenced the choice of site was addressed in the planning application, to the satisfaction of the planning officer. Then, on submission of the appeal, further material was submitted by way of investigation of alternative, less constrained sites being available to provide this level of energy generation and make use of this available grid capacity. No such lower impact sites have been identified.
- 6.6 Part of this reasonable and responsible approach assumes that grid connection should be kept as short as possible and should not end up being disproportionate infrastructure development in itself, with more land use impacts than the solar development it supports. For that reason we will be defending the 2km from the overhead line search criteria on which the alternative assessment was based.

## **7 DEVELOPMENT PLAN POLICY**

- 7.1 Outside of national policy on Green Belt we do not expect significant inquiry time will need to be involved on development plan policy analysis, the two most relevant policies being 16 and 21 referenced in the reason for refusal. Policy 16 is specific to renewables and lists 10 criteria (a – p) that reflect the usual material planning considerations for this type of development, to be judged against a test of impacts being “acceptable in terms of” those considerations, which we contend is the case. The lack of any express reference in that policy to any impacts needing to be balanced against the benefits of the development does not in any way reduce the substantial weight that should be attached to them. Policy 21 on Green Belt in terms defers to the NPPF as the basis of decision making.

## **8 THE PLANNING BALANCE**

- 8.1 Development such as this in the Green Belt can only be approved if the benefits clearly outweigh any harm. That ultimately is a matter for the Inspector’s discretion, however we are confident in putting this evidence before you that the level of harm is as low and the benefits as high as they realistically can be, such that this proposal is very clearly in the range where you can comfortably conclude that permission should be granted and we respectfully ask you to do so.

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