

**LAND ADJACENT TO THE A614, WORKSOP, NOTTINGHAMSHIRE**

**LPA REF 4/00384/FUL**

**APPEAL REFERENCE: APP/A3010/W/25/3367817**

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**OPENING ON BEHALF OF THE COUNCIL**

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1. As detailed in the Statements of Common Ground and as previously communicated to PINS, the position of the Council is now that had they the power to determine the planning application subject of this appeal they would grant planning permission. The purpose of this opening is to set out how that position has been arrived at.
2. The appeal was made on the grounds of non-determination. Had the Council been in a position to determine the application they would have refused planning permission for three reasons concerning the impact on heritage assets, an unacceptable level of landscape and visual harm and insufficient information relating to the impact on below ground heritage assets.
3. The appeal site is located in a sensitive location. Clumber Park, which sits on the opposite side of the road, is a Grade 1 registered park and garden that is understood to be the most visited national trust site in the country. Within and adjoining the park are a series of other heritage assets which are intrinsically related to the significance of Clumber Park as well as having historical significance in their own right. The appeal site is a large open area made up of a series of agricultural fields bounded on all sides by woodland of varying degrees of thickness. Along the eastern edge of the appeal site for almost the entirety of its length runs the historic West Drayton Avenue, a public right of way, that leads to the Drayton Gate entrance into Clumber Park.
4. In light of the sensitivity of the appeal site's location, throughout the currency of the application it was subject to representations from consultees with an interest in the preservation and safeguarding of heritage assets:

- a. Historic England – 2 May 2024<sup>1</sup>, 8 October 2024<sup>2</sup>, 20 December 2024<sup>3</sup>, 4 March 2025<sup>4</sup>;
  - b. National Trust – 20 May 2024<sup>5</sup>, 4 December 2024<sup>6</sup>;
  - c. The Gardens Trust – 21 January 2025<sup>7</sup>, 17 March 2025<sup>8</sup>; and
  - d. Historic Environment Team at Lincolnshire County Council – 1 May 2024<sup>9</sup>, 30 October 2024<sup>10</sup>, 30 December 2024<sup>11</sup>, 27 February 2025<sup>12</sup>.
5. In addition the Council’s own heritage team were involved throughout the determination process providing advice and comments on the application<sup>13</sup>.
  6. Throughout these representations the consistent concern raised was that the development could have an impact on the heritage significance on the Grade 1 Clumber Park, the Grade 1 Thoresby Park, Grade II\* Drayton Gates, Grade II\* Normanton Gate and West Bridge scheduled monument. The concern flows from the fact that the appeal site falls within the setting of all the assets, there is a sequential experience of the assets along their approach such that change in setting has a clear potential to harm the significance of these valuable assets.
  7. Having issued an appeal against non-determination the Appellant shortly thereafter submitted revised plans and invited the appeal to be determined on the basis of those revised plans. The reason those revised plans were submitted was to attempt to address the heritage and landscape concerns that had been raised throughout the determination period. It is not entirely clear to the Council why they were submitted at that point in time rather than during the currency of the application, in particular

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<sup>1</sup> CD3.11

<sup>2</sup> CD3.23

<sup>3</sup> CD3.31

<sup>4</sup> CD3.48

<sup>5</sup> CD3.18,

<sup>6</sup> CD3.30

<sup>7</sup> CD3.41

<sup>8</sup> CD3.56

<sup>9</sup> CD3.7

<sup>10</sup> CD3.24

<sup>11</sup> CD3.33

<sup>12</sup> CD3.45

<sup>13</sup> CD3.14, CD3.29, CD3.40, CD3.54

given the revised site layout plan<sup>14</sup> is dated 4 March 2024 well before the appeal was lodged by the Appellant.

8. The changes brought about by the revised plans are material and have a material impact on the impacts of concern raised by consultees and the Council in the putative reasons for refusal. The revised plans reduce the quantum of development proposed by removing rows of solar panels in a number of locations, increases buffer planting of hedgerows and trees, increases set back distances and crucially it does all of this in the most sensitive locations. The scale of these changes is significant. On the southern boundary of the site along the historic West Drayton Avenue the Appellant now proposes a triangular area of land which will not be developed that is approximately 800m in length and roughly 130m in width at its western end. That is a substantial area of land. Further, in this sensitive location the Appellant is proposing a line of tree planting to mark the boundary of the appeal site parallel to the historic West Drayton Avenue.
9. Upon these revised plans being accepted by the Inspector as part of the appeal process, the Council has considered these plans in full, reviewed the updated consultation responses that have been received in response to them and now considers that the material changes brought about by the revised details means that the harms of the scheme remain, but are reduced to a level whereby they are acceptable in policy terms and outweighed by the benefits of the appeal scheme.
10. Having reached this view, the Council have positively engaged with the Appellant and have agreed matters as recorded in the four additional topic specific statements of common ground which record the agreement between the parties on Archaeology, Heritage, Landscape and Planning. In light of those detailed agreements being reached and the indication being given by the planning inspectorate that the appeal would proceed by hearing, the Council have not submitted proofs of evidence. The Council has available today in attendance at the Inquiry Kirsty Harte, the case officer for the application, and Jamie Wignall, conservation officer, who can assist in answering any questions the Inspector may have regarding the Council's position.

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<sup>14</sup> CD7.1

11. The planning benefits and the weight to be attached to them are recorded in the planning statement of common ground and set out in the table at paragraph 3.5 therein. Whilst the Council and the Appellant differ on the weight to be attached to the various material considerations, there is no dispute that there are significant benefits stemming from the appeal proposal most noticeably those associated with the delivery of renewable energy and the contribution the scheme would make to the country's need and ambitions to source more of its energy from renewable sources.
12. The Council considers that there is harm to four heritage assets:
  - a. Clumber Park – low level of less than substantial harm, which is agreed with the Appellant;
  - b. Drayton Gate – low level of less than substantial harm, which is agreed with the Appellant;
  - c. Normanton Gate – low level of less than substantial harm, which is not agreed with the Appellant who considers there would be no harm; and
  - d. West Bridge - low level of less than substantial harm, which is not agreed with the Appellant who considers there would be no harm.
13. Whilst the Council and Appellant disagree on whether there is harm to Normanton Gate and West Bridge, both parties are in agreement that under paragraph 215 of the NPPF the public benefits of the scheme outweigh the less than substantial harm that is caused to the affected heritage assets. Further, the Council accepts that there is compliance with the relevant local policies set out in putative reason for refusal one.
14. The Council notes that the Inspector has requested the parties' views on the position of the National Trust and the Gardens Trust. Whilst the Council cannot speak for those parties, the Council is of the view that the consultation responses made by those parties to both the original application and the revised appeal scheme is not one of outright objection but instead one of raising concerns that must be taken into account when assessing the application. The Council has taken those concerns into account, has made a decision informed by its own internal expert heritage advisers, and is content that it has properly considered the harm caused by the appeal proposals. What

national policy requires when there is a less than substantial harm to the significance of heritage assets is that it is weighed against the public benefits of a proposal. If those public benefits outweigh that harm then planning permission can be granted. That is a matter of planning judgment which requires the weighting of matters beyond simply heritage impacts. After careful consideration, the Council has concluded that policy test is passed here.

15. The changes brought about by the revised plans have a material impact on the landscape and visual impacts of the appeal proposal. As recorded in the landscape statement of common ground there will still be impacts but they are reduced. The parties agree that the effects upon landscape character will be very limited and highly localised and that the effect upon visual amenity would be limited and highly localised. In light of this, the revised appeal proposals accord with the local policies cited in putative reason for refusal two and the relevant national policy.
16. It is now agreed by the parties that within the appeal site there is potential for archaeology to survive but that any such archaeology is likely to be of low significance and tied to agriculture. In light of this the parties are agreed that archaeological concerns can be overcome by the use of suitably worded conditions and such appropriate conditions have been agreed by the parties. The purpose of these conditions is to secure the necessary scheme of investigation, evaluation and, if required, mitigation. Consequently, the parties are now agreed that putative reason for refusal three has been overcome.
17. All other relevant planning matters were considered by the Council in the officer report prior to the adoption of the three putative reasons for refusal. The Council does not consider that there are any other main issues to be addressed at the Inquiry but is happy to answer any questions the Inspector may have.
18. It follows from this, that the Council are now satisfied that the revised appeal proposals are in accordance with the development plan as a whole and that there are no material considerations that indicate planning permission should be refused.

19. The only outstanding issue between the parties is the mechanism for securing the necessary financial contribution for the monitoring of the ecological works. The Appellant is proposing biodiversity gains well in excess of the statutory requirement and relies on these as one of the benefits of the scheme. They must therefore be secured at this point in time and this requires a monitoring contribution to be made so that the Council can ensure the works take place and are retained. The Appellant agrees with the principle of this but has insisted on producing a unilateral undertaking rather than a bilateral s.106 agreement. The Council considers that this could and therefore should be done by bilateral agreement as this would allow the Council to enforce any breaches as a simple breach of contract.
20. In summary, the revised changes proposed by the Appellant and accepted by the Inspector are meaningful. They have a material impact on the principal issues of concern and the Council is now content that the putative reasons for refusal have been addressed and planning permission can be granted.

FREDDIE HUMPHREYS

20<sup>th</sup> January 2026

Kings Chambers

Manchester – Leeds – Birmingham – London