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**F.A.O Mr Andy Lumber**

**Date:** 10 August 2023  
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Dear Sir

**APP/U2235/W/23/3321094 Land to the North of Little Cheveney Farm, Shephurst Lane, Marden ("Appeal")**

We write further to your letter dated 7 August 2023 in relation to the determination of the procedure for the above Appeal.

You indicate that appeals of this nature lend themselves to the inquiry procedure and invite our views, by reference to the guidance<sup>1</sup>, on whether the Appeal should follow the inquiry procedure.

We consider that written representations, rather than inquiry, forms the appropriate procedure in this case, as proposed in section 7 of the Appellant's Statement of Case. We set out our reasons below.

**An inquiry would be appropriate if:**

***There is a clearly explained need for the evidence to be tested through formal questioning by an advocate (this does not preclude an appellant representing themselves as an advocate)***

Neither The Planning Inspectorate nor the local planning authority have put forward clear reasons, by reference to the facts of the Appeal, why the evidence needs to be tested through formal questioning by an advocate. In the absence of such reasons, this test cannot therefore be met.

***The issues are complex (for example where large amounts of highly technical data are likely to be provided in evidence)***

The Appeal proposals may be readily understood from a review of the application and Appeal documents. The form of solar energy farm does not present any novel components which require clarification through formal questioning.

The issues raised in the reasons for refusal, relating to best and most versatile agricultural land and landscape/visual, heritage, ecological and noise impacts, are clear on the face of the decision notice.

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<sup>1</sup> "Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals", The Planning Inspectorate, 21 April 2022

The policy framework applicable to the Appeal does not raise any particular complexities. It has not undergone recent changes such that its interpretation would benefit from formal questioning.

There are no particularly unusual aspects to the assessment of the Appeal proposals against the development plan and other material considerations. This will be evident to The Planning Inspectorate through a review of the officer report to planning committee and the Appellant's Statement of Case.

Whilst some of the Appeal supporting information is technical in nature (eg within the Noise Impact Assessment), the volume of this information is not large. It would not therefore align with the example of a '*complex*' issue provided in the guidance.

For the above reasons, we do not consider that the particular facts relating to this Appeal give rise to a level of complexity envisaged by the guidance which would trigger the requirement for an inquiry.

***The appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by hearing***

The planning application generated 58 objections and 1 representation in support. Following the amendments to the application (see paragraph 6.4 of the Appellant's Statement of Case), 12 further objections were made.

Whilst we have not yet received details of any objections made in response to the Appeal, we do not consider that the level of local interest generated to date could reasonably be described as '*substantial*' in the context of a renewable energy development of this nature. As such, the threshold within the guidance for an inquiry is not in our view met in this case.

Further, to our knowledge, none of the objectors have indicated a desire to attend an inquiry or appear as a rule 6 party<sup>2</sup>.

We also note that the issues raised by objectors substantially replicate the issues contained within the reasons for refusal rather than raising entirely new issues (see paragraphs 10 and 11 of the Appellant's Statement of Case).

We wish to reiterate the Appellant's position that written representations forms the most appropriate procedure in this case.

**Written representations would be appropriate if:**

***The planning issues raised... can be clearly understood from the appeal documents and a site inspection***

As indicated above, we consider that the planning issues raised can be clearly understood from the application and Appeal documents. We would direct the Planning Inspectorate to the Appellant's Statement of Case which draws together the relevant planning issues.

***The issues are not complex and the Inspector is not likely to need to test the evidence by questioning or to clarify any other matters***

Again, we have set out above why we consider that a review of the Appeal proposals and an assessment of these proposals against the development plan and other material considerations do not raise issues of particular complexity. In our view, determination by the Inspector is not likely to require testing of the evidence or clarification through questioning.

Applying the tests under the guidance relating to the written representations and inquiry procedures, we remain of the view that written representations forms the most appropriate procedure. When the specific facts relating to this Appeal are reviewed, we do not consider that the thresholds which would trigger the inquiry procedure are met in this case.

Yours faithfully

*Eversheds Sutherland (International) LLP*

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