

TEXT_LittleCrow_Prelim1_Session2_20042021

Tue, 4/20 1:14PM • 34:01

00:03

Often every time is 1205 so the hearing is resumed. Can I just check Mr. Mail? You still on? Call?

00:19

I am so sorry. Taking time to amuse.

00:24

Mr. Law. Are you still on the call?

00:27

Yes, still here. Thank you, sir. I miss surgery. Are you still on the call? Yes, sir. Thank you. Okay. And I presume everybody else sitting in the background for the applicant is

00:40

on the call still.

00:45

Right. I'd now like to turn on timetabling to the issue of site inspect in site inspections, or be the future site inspections are actually not timetabled.

01:01

As I indicated earlier, I've already taken one on accompanied

01:06

site inspection and I expect to undertake at least one further on a company site inspection. If it is not possible, it does not prove possible to hold in the company site inspection, because of the issues revolving around

01:23

COVID-19.

01:27

There may however, be something between an unaccompanied site inspection and a fully accompanied site inspection that can be used. And that is something akin to what are referred to as

access required will be an access required site visit, which is akin to what has been used for many years now by new spectra in connection with the determination of

01:58

written representation appeals.

02:02

And effect in effect under an access required site inspection.

02:10

The landowners for the land or properties that I would be requested to inspect would grant me permission to enter their land or premises, either with or without the landowner or on a representative being present.

02:30

So that I could then

02:33

view that land or those premises.

02:38

Now,

02:40

if an access required site inspection was undertaken, and there was somebody representing

02:48

the landowner present

02:54

that that that representative or of the owner themselves, their only role would in effect be to grant people to allow me onto the land if, for instance, a property is gated, and therefore it's not possible to gain access other than a gate being opened.

03:11

And I would then view the land or premises without any direct engagement with whoever it might be in attendance for the owner.

03:25

And that in effect, as I say, is the way that many written representation appeals site visits have been run, particularly for householder cases, but increasingly for other cases

03:40

over the last few years,

03:43

and certainly for some of the national infrastructure examinations that are in process at the moment, that is how some site visits have been conducted.

04:02

As part of the deadline one submissions to be made on the 10th of May. all interested parties, including the applicants

04:13

are being requested to suggest locations for me to inspect However, my site inspections are undertaken

04:24

in the future, I whether they be unaccompanied, fully accompanied or going down the hybrid route.

04:36

Now, given the nature of the relevant representations that have been made on behalf of Heron Lodge, and how those relevant reps may then

04:50

progress into written representations and other submissions during the course of the examination.

04:57

I will I almost

05:00

certainly expect will need to visit

05:05

all the premises that form Heron Lodge.

05:12

So, Miss sedgley for Heron Lodge, have you got any observations to make about how I might conduct a site inspection in the future, including a visit to Heron lodge?

05:27

Thank you.

05:29

No, I think the the proposal that you've outlined was sufficiently clear. There's nothing further I'd want to say about that at this stage.

05:39

Thank you, I'll hear for the council, how are heard from the outcome? And we may come back to that.

05:46

Your position for your client once.

05:52

There has been further just gushing about how others view site visits.

05:58

Mr. Law, have you got any observations to make about how site visits might be conducted?

06:06

Thank you, sir. And you're laughing? Oh, thanks, counsel. I'm

06:10

not really sure. If we're able to have a fully accompanied site visit then obviously, I will be attending that that visit, but I've no objection should do to COVID restrictions, etc. and access only visits

06:27

be undertaken. So no, I don't really have any, any comments, other than to, you know, to say that we would be available to attend a company visit if, if that is possible.

06:40

Thank you, because, as a general point, I would, I suppose make a general observation that no matter what

06:50

restrictions might be enforced, as this examination progresses,

06:57

the Secretary state mhclg has given inspectors the authority to conduct

07:05

site visits, and inspections, no matter what the movement restrictions are generally,

07:15

it then comes down to that individual's discretion as to how he or she feels about the safe way that he or she can conduct a visit.

07:30

We with all without other parties,

07:34

but that

07:36

provision in effect only applies to the inspector. So in fact, we can go anywhere,

07:44

because we've got the exemption, but other parties do not benefit from the exemption that's been granted by the Secretary of State, which is why it makes it slightly tricky.

07:56

And why the hybrid route might be

08:00

a wave forward, particularly for a case like this, where most of the order limit land is farmland,

08:11

particularly as that farmland is in arable use.

08:16

And we don't, for instance, have livestock present,

08:23

which did present an issue for me recently for an appeal case.

08:36

So Mr. Male turning to the applicant, and I'm aware of the observations that of course, you've made in your procedural a

08:45

deadline letter.

08:49

And for the preference for an accompanied site inspection.

08:59

Taking that on board, if the landowner were prepared to, in effect, Grant me

09:07

permission to enter any parts of the order limits that are not accessible directly by a public footpath.

09:20

Have you any thoughts?

09:22

Well, certainly. So I mean, that, for the for the reasons set out in the in the letter, our preference would be for an accompanied inspection. And just to very, very briefly elaborate on reasons for that there may be things that is, I mean, it's a large site, there may be things that that you

09:38

would probably have questions on on the ground. There's the some of the plans for example. So

09:45

vegetation that might be removed or retained as part of the hydro plans, for example might be might be one, one instance of that, but that that aside.

09:59

arrangements could

10:00

He made for you to visit the site, if necessary.

10:08

And I think what would need to be understood is obviously that the timing of that, and also the route and the method by which you would you would travel around. And the reason why I say that, so it is possible to drive around the site in in a four by four. And there are obviously advantages to doing that in terms of in terms of the time taken. And certainly when, when these things are allowed, and I've done in that kind of form, it did take a good couple of hours to get around the site by by that method, but it certainly, it certainly speeded up, but the state is managed. And we would need to get the necessary permissions and notify the relevant people in advance that

10:55

that you were on site. Yeah.

10:58

Yeah, I certainly take the point about using a vehicle to get around because of the sheer size of it.

11:06

But

11:08

I do tend to like to get down and dirty, so to speak.

11:14

And

11:17

my preference probably would be to walk

11:24

the site or the bits of the site that I think that need to be walked.

11:29

And that actually might mean that I undertake a city

11:35

might undertake a series of USI unaccompanied site inspection or the hybrid. If the landowner is agreeable to the hybrid, I think, I suppose the first question about the hybrid is I presumed there are no health and safety issues that will preclude me, if I were granted

11:57

access to view the site by myself.

12:02

This is not like a situation where there might be a need to go on to some plant, or an operational power station, for instance, where there was an extension being considered and there were health and safety issues, because you never get on to

12:17

a power stations without being escorted, because of security and or health and safety type issue, because there's always something going on to the power station, they always seem to have contractors doing things

12:31

even when they're fully operational. But I presume there are no general health and safety type issues that arise from this particular case. Not not of that magnitude. So I mean, the site is obviously in inactive use, there are lorries accessing the site, I understand and travelling down the existing access tracks that are there. So you need to be aware of that. I think there is also

12:57

an estate manager who is present on site in terms of warding off trespassers, and, and those kinds of things. So again, with the appropriate notifications that of when you were attending

13:11

that that that I would anticipate could all be could all be dealt with. But But other than that, I think it's probably the standard sort of things that you've come across on a site visit on a regular basis. Yeah, from from the the visit that I've already undertaken, the one thing I can say is actually this visit or this site is a lot easier

13:34

to deal with. And sometimes when you're up a hillside, crowded in trees, and you can't find the boundaries and things like that.

13:47

This site would become difficult to inspect. In very inclement weather, I would have thought because it can vary when windswept and if you get in the middle of it and suddenly get caught in heavy downpour, you've got no cover.

14:01

So yeah, that sort of thing is likely to be the main limiting factor rather than physically what's on the ground.

14:10

And as I say, just because of the sheer size of the site,

14:15

it may well be that if I am doing USI and or the hybrid that would be spread over a day or two, just so that I got to see it all and didn't rush, trying to do it in a day.

14:32

But certainly, yeah, it would be easy enough to ensure that via your cells, the landowner could be notified or when I was expected to be in the area. And the land manager would therefore be notified. He or she could meet me know who it was was wandering around and be content.

14:57

who it was that was run wandering around.

15:00

Yeah, I mean, certainly having the the, the the access track, for example is gated, someone would need to let you in through that, through that lock gate, etc.

15:10

Thank you.

15:23

I think we're for the moment on site inspections, it's it's still a bit of a moot moving feast.

15:33

What will be of assistance, though, from all parties is the deadline once submissions in terms of you indicating what it is you would like me to see, no matter what form the site inspection is conducted.

15:50

So that if I'm doing

15:53

that, I completely unaccompanied inspection, I know what it is you'd like me to see. If I'm doing the hybrid, I know what it is that you would expect me to see. I can then if nothing else, make sure that I've planned enough time

16:09

to make sure that I know where I'm going, or need to go.

16:14

And also for a year, and ASI. Again, we'll have a better idea of where we might need to be going and how we might be able to plan that in terms of well, do we do it by some sort of vehicle?

16:28

Or do we all have to walk? If the restrictions are alpha that whenever that might be?

16:41

Does anybody therefore have anything further to say on site inspections at this point?

16:48

Mr. Miles, you're still not for me, sir. Thank you, Mr. Law.

16:54

Nothing further from me. Thank you, sir. And essentially, nothing sad for me, sir. Thank you.

17:01

I'm sorry, Mr. Joshi, I suppose I should check if I'm

17:07

the inspection ends, or one of the inspections ends up being via this this hybrid

17:15

approach?

17:18

Would you do know whether your client would be an A, in effect, able to

17:25

open the front gate and allow me onto the land and be content for me just thereafter to wander around?

17:34

I don't have specific instructions on that point, sir. Although, as at all, so there are residents, I anticipate it would be relatively easy to secure their preference for that purpose. Yeah, I think then, possibly, if I would ask, certainly for Heron Lodge,

17:54

I suppose actually, for that matter, the the applicant that when you make your deadline, once submissions about

18:01

where you would like me to view if you can also explain

18:07

how

18:09

if we can't do the full

18:13

accompanied site inspection route, what procedures would need to be put in place? Firstly, to grant me access, and then how that might be managed on the day.

18:26

Yes, that's noted. Thank you.

18:29

Mr. Male. Is that something that? Yes,

18:32

sir. Thank you. Thank you.

18:55

Right, that then takes us on to agenda item six, which are the procedural decisions

19:04

that I've already made up to the point that they're all six letter was issued, and they're all contained in annex F.

19:15

Again, I'm not going to run through all of them.

19:32

I've asked that the applicant provide a regularly updated guide to the application. The applicant has suggested that actually be referred to index which seems perfectly reasonable. I think guide to the application comes from somewhere in the instructions and inspectors issued. But there are actually two documents that can be a guide to an application which is where can

20:00

fusion arises. So I think the applicants suggestion of using index,

20:06

which is there, in fact running record of what documents are still live on what documents may have been superseded, and what might have become new documents along the way,

20:18

is a good way to, in fact refer to that document tracker,

20:23

which is slightly different to a course examination library.

20:29

The examination library being the vehicle where all the documentation is held and recorded, when it's only individual number.

20:42

There is a procedural decision of requesting the applicant to submit

20:50

low res Rowlett low resolution plans and possibly other documents, in effect as duplicates of those documents that already have been submitted.

21:03

That all comes about because there have been some issues, particularly in the early days of using

21:12

the virtual event technology where we were finding difficulties with some documents being unstable, because of their size, and or the way they have been compiled,

21:22

which was causing some quite severe screen flicker and making running virtual events quite difficult.

21:31

And therefore,

21:33

some documents have been requested and they are there only or would only be in effect, or primarily will be used during a hearing.

21:45

But they also have a wider benefit

21:49

in those accessing the documents may actually find them easier to handle

21:56

than the full resolution documents.

22:00

And in that regard, I would would ask the applicant, but when you submit plans and documents as the examination report

22:09

evolves,

22:11

could you check the way in which particularly plans are being submitted, because it looks like the way particularly the ones with layers on maybe have been set up for printing, which means that they present themselves through Acrobat or whichever software that's being used. And those layers actually then create a bit of a problem when you come to open some of the documents electronically. I have definitely had issues with some of the documents taking a long time to open it and get to a state stable state, even though the actual file sizes are not that large. And I think it's because they say they're geared up for printing.

22:59

And because of

23:01

that layers individually open. That's where like this instability arises.

23:10

Mr. Man, is that something that you can take away and ask your team to look at in terms of the way they submit documents? Yes, certainly, sir. You know, will will bear that in mind in the future. Thank you.

23:27

I'm various documents have been submitted by the applicant further to the section 651 advice that the inspector issued when the application was formally accepted.

23:44

Most of those documents deal with minor drafting corrections or

23:53

provide clarifications. And I have accepted all of that documentation. Having regard to the guidance provided within

24:07

paragraphs one and nine to 115 of the Ministry of housing Communities and Local governments guidance for the examination of applicants applications for development consent, though that guidance

was issued by the department on more in March 2015. And content that the acceptance of that documentation which is everything that's listed in annex f under item one of the rule six

24:39

or six that it can be done without prejudice being caused to any party.

24:54

I've already touched on what is set out in

25:01

annex f about

25:04

document handling and formatting.

25:08

And again, I just give the reminder that everybody should get into the practice of using the reference numbers that have been attributed to each document in the examination library.

25:21

Because as I highlighted earlier, those are the core references numbers that I'm going to be using in the recommendation report, and that the Secretary state will ultimately go on to rely on when making his decision.

25:36

I have also made a further procedural decisional set of decisions

25:45

on the 13th of April, and they are all recorded in a letter, which is appearing in the examination library as pd 005. And that relates to some further documents that the applicant submitted at procedural deadline a. But again, those documents were either some of the documents that

26:13

refer referred to in the section 51 advice issued by an inspector on acceptance, or relate to some documents that the applicant has picked up some type of graphic type errors or documents that need clarification points

26:32

made in them.

26:34

So again, I'm content that under the guidance that I pre release, refer to the acceptance of that documentation will not

26:44

prejudice,

26:47

other party's

26:49

interest interested parties.

26:52

So in terms of the procedural decisions that I've already made up to date, is there anything that anybody wishes to raise with me,

27:01

starting with the applicant?

27:07

And the notes are very, very little there was just one thing in terms of the documentation that was submitted at procedural deadline a, I noticed that there was a specific comment, I think within annex f about the the documents that were originally submitted in response to the fifth section 51 advice, there being the opportunity to comment on those by deadline one. And I think that a similar deadline should also be extended to the documents that you have

27:39

recently accepted into the examination at the procedural deadline. I Other than that, so I've got nothing else.

27:48

Thank you, Mr. mile.

28:08

Thank you, Mr. Law. Have you got anything on procedural decisions already made that you wish to raise with me?

28:17

No. So I don't have any further comments to make on those procedural decisions. queue.

28:27

And,

28:31

essentially,

28:34

I think that for me, that's a thank you. Thank you.

28:50

Okay, well, that takes us to

28:56

really, agenda item seven, and eight.

29:02

Which is really the opportunity for any of you to raise any other procedural type matters about the examination that you'd like to raise with me now.

29:18

So starting with me sexually, is there anything from your perspective?

29:23

No, I believe we've covered everything. Thank you, sir. Thank you.

29:28

Mr. All.

29:30

Nothing further. Tres. Thank you, sir. And, Mr. Male, likewise, nothing further from me. So thank you.

29:43

Thank you. Well, that

29:46

really brings me to the adjournment. Sorry, the

29:51

close of the preliminary meeting. I'd like to thank you all for your attendance and contributions

29:59

at this

30:00

meeting this morning.

30:02

I remind you that notes, and an audio recording of the proceedings today will be made available as soon as practicable.

30:13

And that material will be available via the website for this app, saw the web page for this application.

30:23

And I would remind those of you who are attending

30:29

the issue specific hearing

30:32

that will be held this sort of issue specific hearing one that will be held this afternoon. And that will start at 2pm preceded by the arrangements conference,

30:46

which will commence at 130.

30:56

And I suppose, really for the benefit of those that are going to attend the issue specific hearing, I suppose really,

31:07

it might assist Mr. Male more so that he can Marshal his troops.

31:12

What I'm proposing to do is based on the agenda is to start

31:20

sort of high level with I suppose, issues revolving around

31:27

solar Park technology,

31:30

and

31:32

how, how a generating station of this nature sort of fits in with the grid,

31:39

and then start to look at some of the issues around consideration of alternatives, cumulative impacts, etc. And so probably the front end

31:55

of certainly the start of that hearing is will be more of a technical

32:03

session. And then we'll probably get into more flex planning or land use planning type and more general environment statement matters once we've got past

32:17

that sort of technical stuff. And really, the technical stuff is just so that I've got a better understanding of the technology. And

32:29

what I would also say, though, is if I if I raised questions, and the applicant feels that you haven't got the right person available to answer that question,

32:42

then it's going to be perfectly in order to say, Sorry, we can't answer that now. We'll either deal with it in writing, or we'll need to come back to it.

32:51

But we'll certainly play that by ear.

32:55

And as I indicated earlier, and being mindful of Mrs. Lee's availability,

33:03

for for the hearing,

33:06

we might, depending on the sorts of issues that she wishes to raise on her client's behalf

33:14

may end up diving into a bit of the decio earlier

33:20

if we're not going to be able to conclude all of the issues specific hearing this afternoon. So I hope that that provides a little bit of

33:28

guidance as to how

33:31

the issue specific hearing is likely to pan out this afternoon and possibly into tomorrow.

33:38

I'm grateful. So yes, well, we'll address that.

33:41

Thank you for therefore.

33:45

I'm going to close the preliminary meeting out on my clock is

33:51

1239. And I'll see some of you later on this afternoon. Thank you