

**Environmental Permit Appeal Ref: CAS-02313-Z1D6V4 by Platts
Agriculture Ltd in respect of premises at Llay Industrial Estate, Wrexham
Note of the Pre-Inquiry Meeting held on 27 February 2024 (Online)**

Preliminary Matters

Inspector Aidan McCooey opened the meeting.

The parties were represented by Counsel: Mr Gordon Wignall for the Appellant and Mr Emyr Jones for Natural Resources Wales (NRW). Other persons were introduced but did not take part in the meeting. The meeting followed the Agenda previously circulated by the Inspector.

The appeal procedures to be followed are set out in The Environmental Permitting (England and Wales) Regulations 2016, regulation 31 and Schedule 6. As there is little detail therein, and as is customary, the Inquiry will be held in the general accord with the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017. It is Planning and Environment Decisions Wales (PEDW) policy not to permit filming or recording of Inquiries, Hearings and other meetings.

Item 2 Amended Application

It was agreed that the Statement of Common Ground (SOCG) be amended to omit Section 5 (1) as a matter on which the Inspector had already issued a ruling in writing. It was further agreed that the SOCG be amended promptly following the meeting to address the matters identified below and agreed in the meeting that were readily capable of correction or being updated.

Items 3 and 4 Topics & Progress on SOCG

The parties confirmed that the SOCG would be updated now to omit the final sentence of paragraph 1.5 and provide the source of the quote in paragraph 5.5. Discussions to narrow the areas of dispute are ongoing and further iterations of the SOCG will be issued, probably on a topic by topic basis.

The respective noise experts were in discussion with a view to agreeing that the issues raised can be addressed. NRW are to issue a letter to the Appellant regarding the issues with the Fire Prevention and Mitigation Plan that remain to be addressed. The aim is to resolve the differences between the parties on this issue.

The parties raised the issue of whether the Inspector can and should issue an end of waste decision, a matter on which they fundamentally disagree. NRW acknowledge that the relationship or overlap between Articles 6 and 13 and the extent of compliance is an issue for the Inquiry. The Inspector confirmed that this is a matter on which he will hear evidence at the Inquiry and reach a conclusion as to whether the Appellant is entitled to a decision on this matter.

Section 5(2) of the SOCG deals with NRW's regulatory position on the use of treated wood. After discussion NRW agreed that whilst this is relevant, it does not bind the Inspector or indeed NRW. It is not to be slavishly followed.

The Inspector indicated that Sections 5(3) of the SOCG – Terminology and 5(4) Deemed refusal do not appear to have any bearing on the outcome of the appeal and should not be matters for discussion at the Inquiry.

The Inspector queried whether an agreed position on the library of results of chemical analysis of wood waste received at the Site was achievable (see paragraph 5.18 of SOCG). The Appellant has been seeking a way forward on this issue for some considerable time. NRW indicated that it was considered necessary to see the laboratory reports on which the results are based in order to ascertain how reliable they are. The Appellant pointed out that this could entail significant costs and asked that NRW confirms what laboratory reports would suffice. It was agreed that NRW would reply to a letter that the Appellant had sent to them on this matter and that discussions would ensue in order to provide information for the expert witnesses to seek to agree a position. The inspector stressed the importance of a resolution being found.

NRW advised that it has not been possible to progress matters on the main issue of principle (the use of treated wood) because its expert witness, Dr Hepple of the Animal and Plant Health Agency, has not produced her report/witness statement. The reasons for this were explained. NRW confirmed that report the would be provided by 26 March 2024. The Appellant's witnesses would then have until 23 April to consider and discuss the content with a view to agreeing technical matters as far as possible, prior to the preparation of proofs.

The Inspector again emphasised the importance of resolving outstanding issues that had been identified and finalising the Statement of Common Ground. This will have considerable benefits in reducing Inquiry time and wasted effort on exploring detailed technical matters that could have been agreed in advance.

Item 5 Draft Permit & Conditions

NRW confirmed that this information would be produced by 6 May in order to facilitate preparation of proofs. As this date is a Bank Holiday, it is requested that the information be submitted by 3 May.

Item 6 Participation at the PI

The Inspector will wish to ensure that inquiry time is efficiently used. The advocates should provide their estimates of the time they expect to take in evidence in chief and cross-examination. This information should be received no later than 3 weeks before the inquiry opens. This will facilitate preparation of a programme/ timetable for the inquiry before it opens which will be sent to all parties in advance. The Programme may be adjusted to accommodate witness availability if the parties inform the Inspector of any issues.

Proofs of evidence to be submitted by 24 May. Summaries are to be provided if proofs are over 3000 words (summaries to be a maximum of 1500 words). It was agreed that NRW will co-ordinate the list of Core Documents and ensure that the Inspector has received copies or links to the relevant documents.

There is no provision within the Regulations for rebuttal or supplementary proofs. However, where these may save inquiry time arrangements will be made for their acceptance and circulation if the Inspector is notified in advance. Any such supplementary or rebuttal statements should be submitted at least 1 week before the inquiry.

Units of measurement should be in metric and all documents should be numbered and prefixed by something which identifies the author e.g. NRW1, APP1. Appendices should be tabulated and paginated and filed separately from the proofs.

Opening statements are to be brief and it was agreed that 15 to 20 minutes would suffice.

A topic based approach will be adopted, where each party presents their case on the topic and then we move on to the next topic. This approach presents advantages for the parties and the Inspector. The order for presenting cases will be NRW first followed by the applicant. Proofs will be taken as read and accepted as introduced in evidence before the Inspector.

The Advocates are requested to produce closing statements in writing and that they be sent to PEDW by email. A copy is to be supplied in advance of the final Inquiry session to assist the Inspector in noting any alterations during delivery. References to documentary evidence should include relevant document number, page and paragraph (whether a core document, appendix to a proof or a proof). Any reference to oral evidence should give the date, the name of the witness and whether given in evidence in chief, in cross-examination or in re-examination.

Item 7 Dates for the Inquiry

It was agreed that the Inquiry would take place in the week beginning 24 June. The Inspector advises that the Inquiry will commence on Monday 24 June at 10:00 online on the Microsoft Teams platform. This is contingent on the agreed dates for submission of documents, etc. being met by the parties.

The inquiry will open at 1000 hours on the first morning and thereafter it will resume daily at 0930 hours. Normally, the inquiry will adjourn at about 1700 hours every day. A break for lunch will normally be for one hour at a convenient point and there will be mid-morning and mid-afternoon breaks of about 15 minutes each.

Arrangements for an accompanied site visit will be discussed during the Inquiry.

Summary of Key Dates

26 March – submission of report/witness statement by Dr Hepple

23 April – consideration of report by Appellant and discussion on technical matters.

3 May – Submission of Draft Permit & Conditions by NRW

24 May – Submission of Proofs of evidence (and Summaries), list of Core Documents and the Final Statement of Common Ground

3 June – Advocates to provide their time estimates and indicate witness availability

14 June – Inquiry Programme issued and Rebuttal Proofs to be submitted.

Inspector Aidan McCooey

28 February 2024