

Contact: Neil Carter  
Direct Tel:  
email: Neil.Carter@durham.gov.uk  
Your ref: GAL00003  
Our ref: NC



Goodenough Ring Solicitors  
Temple Chambers  
3-7 Temple Avenue  
London  
EC4Y 0HA  
FAO Emilio Miranda-Graham

By email only: [emirandagraham@grsolicitors.co.uk](mailto:emirandagraham@grsolicitors.co.uk)

23 September 2024

Dear Sirs,

**Hett Solar Farm planning application DM/23/01868/FPA**  
**Your client: Ian Galloway & others**

I refer to your letter of 9 July 2024 in which you assert that the Planning Committee resolution of 8 May 2024 was infected by factual error. Whilst not set out as formal grounds of challenge as such, and your letter is not expressed to be a JR pre-action protocol letter, the clear implication is that you are alleging that the 8 May decision was erroneous in law.

The Council rejects all of the grounds advanced in your letter. However, as a precautionary measure, this application is to be re-presented to Members for re-determination at the County Planning Committee meeting on 2 October 2024. I must stress that this course of action is taken with the aim of seeking to avoid expensive and time consuming litigation with your client and is not reflective of the merits of your client's grounds.

In order to assist us on the matters which your client has raised, we asked the applicant to provide us with further information which is contained in the note from Lichfields dated 22 August 2024 (copy attached).

Accordingly, this letter sets out the Council's response, as Local Planning Authority, to your letter of 9 July 2024.

Grounds

Your letter alleges 3 errors of fact in the previous decision making, namely as to the calculation of peak output (DC), approach to overplanting and approach to community benefits to be provided by the applicant.

In addition, your letter is accompanied by a Technical Note which appears to have been prepared by your client. It is unclear whether your client holds any relevant professional qualifications in this regard and we also note that it contains legal argument/submissions as to the lawfulness of the existing planning resolution for this application.

**Legal & Democratic Services, Resources**  
Durham County Council, PO Box 717, Durham, DH1 9RB  
Main Telephone 03000 26 0000  
Text Messaging Service 07860 093 073

*Ground 1 – that the peak output capacity would exceed 77MW DC*

Your client has purported to count the total number of panels at 135,360 and has then used the Trina 685 panel in order to come up with an output capacity figure of 94.607MW.

The applicant has confirmed that they have used computer software (autocad) to produce a count of the panels on the relevant drawing which is 135,420 and is considered more accurate than the manual method employed by your client. Furthermore, as the type and specification of panel is not fixed by the application but is proposed to be controlled by planning conditions, then your client's reliance upon the Trina 685 panel is erroneous. The applicant has provided details as to how the 77MW figure is arrived at and Officers are satisfied with the basis of this calculation.

*Ground 2 – excessive overplanting*

Your client says that based upon his calculation of peak DC output, the overplanting ratio proposed by the applicant is (approximately) 1: 1.86, or 86%. However, clearly that is entirely reliant upon the accuracy of your client's calculation of peak output (which is disputed).

The applicant has advised that the overplanting ratio has been determined on a site specific basis which factors such as technical requirements, irradiance location of land, characteristics/topography of the site and potential impacts upon surroundings/environmental constraints being considered. Accordingly, they have calculated the optimum overplanting ratio for this site as 54% (77MW DC). That is accepted by Officers who have assessed the quantum of the development as acceptable in planning terms.

*Ground 3 – Community Fund*

Your client says that Members took into account an immaterial consideration, namely the benefits of the applicant's community fund proposals. The minutes of the 8 May meeting are cited in support of that contention.

It is not in dispute that the community benefits which operate outside of the planning system are immaterial to the planning assessment. However, the allegation that weight was afforded to this matter is erroneous. In particular, it is of note that the Officer Report to the Committee does not afford any weight to this matter and when brought up at the Committee meeting, the Council's Solicitor advised Members that they were unable to afford any weight to this matter. That is clearly recorded in the minutes at paragraph 17.

In conclusion, your client's grounds of challenge/issues raised are wholly misconceived. There has been no error of fact or otherwise in the consideration by the County Planning Committee of this application on 8 May 2024 and Members' resolution to grant the application subject to the prior completion of a Section 39 agreement. Your client has failed to make out the requirements of the *E v SoS for the Home Department* case referred to in your letter.

However, as a precautionary approach, the application will now be presented to Members for reconsideration.

Yours sincerely,

Neil Carter  
Solicitor  
Planning and Development Team