

PRE-INQUIRY MEETING NOTE

WATER RESOURCES ACT 1991 (AS AMENDED) – SECTION 43 THE WATER RESOURCES (ABSTRACTION AND IMPOUNDING) REGULATIONS 2006 Abstraction Licence Appeals Ref:

APP/WAT/640	7/34/09/*G/0094
APP/WAT/641	7/34/09/*G/0152
APP/WAT/645	7/34/09/*G/0001
APP/WAT/647	7/34/09/*G/0045
APP/WAT/648	7/34/09/*G/0101
APP/WAT/655	7/34/09/*G/0094
APP/WAT/656	7/34/09/*G/0086

MEETING HELD VIA TEAMS AT 10.00 ON MONDAY 18th MARCH.

Purpose of the Pre-Inquiry Meeting (PIM)

1. To discuss arrangements for holding the Public Inquiry scheduled for Tuesday 14th May to Thursday 6th June. The PIM provided an opportunity to discuss procedural matters. There was no consideration of the merits of the appeal. Those who took part in the call:

Anne Jordan – Inspector

Helen Wilson – Programme Officer

Matthew Dale-Harris Barrister– on behalf of the Environment Agency

David Forsdick KC – for R&JM Place and Albert Bartlett and Sons (Airdree Ltd)

David Egan DWF - for J A Paterson & Co Ltd and Rumford Ltd

Kayleigh Gratwick – appeals coordinator for the Environment Agency

Means by which the Inquiry will proceed

2. The Inquiry will be held at Dragonfly House, 2 Gilders Way, Norwich NR3 1UB. The building is used by the Environment Agency (the Agency) and a number of other occupiers. The event will be run as a physical event. Ms Gratwick confirmed that the venue may be able to provide a virtual link via Teams whereby invitees can observe the event. The event will not be recorded or livestreamed.
3. Ms Gratwick confirmed that she would update Ms Wilson of the arrangements at the venue in relation to parking. Ms Gratwick confirmed the availability of a break out room for the appellants and a retiring room for the Inspector.
4. The Agency confirmed their understanding that the appeals by Boardman and Collier, Barton Hall Farms, Nicholson Ltd and HE Alston have now been withdrawn and those appeals that remain are APP/WAT640, 641, 656 and 657 by RMJ Place Ltd,

APP/WAT/645 by Albert Bartlett and Sons, APP/WAT/647 by Rumford Ltd and APP/WAT/648 by Messrs Paterson.

5. Mr Egan and the Agency confirmed that the terms of licence ref 7/34/09/G/0133 - issued on 26th June 2023 had not been appealed and the licence has not been revoked. Accordingly, this licence was not before the Inspector. Mr Egan stated that the licence was relevant to the case of Rumford Ltd and as such would be referred to within his evidence.

Notification of the appeal

6. The Inspector sought clarification as to the notifications that have been carried out and the statutory requirements for consultation in the Act. Mr Dale-Harris confirmed that he would provide an update on what the requirements for consultation are under the Act, what consultation has been completed to date and what consultation would be completed in advance of the Inquiry to meet those requirements.

Inquiry running order, duration and programme

7. The main parties confirmed that they would be available for the Inquiry to open on 14th of May 2024 to 6th June 2024. The parties also confirmed their availability for virtual closings on the 10th of June if necessary. Twelve days were agreed to be sufficient to complete the Inquiry. The Inquiry will not sit on Mondays or Fridays.
8. The Inquiry will start at 10.00am on the 1st day and then 9.30 on subsequent days. There will be a break mid-morning and another mid-afternoon with a longer break of around an hour for lunch. We will finish each day around 5.30pm.
9. The Inspector identified the following running order. This allows the “in principle” or technical evidence to be heard up front and for site specific issues for each licence to be heard on a case-by-case basis:

Day 1 – opening statements by Inspector, the Agency, Place and Bartlett, and Rumford and Paterson. Then

ENVIRONMENT AGENCY’S CASE:

All witnesses in turn:

- (a) evidence-in-chief
- (b) cross-examination by advocate for Place and Bartlett
- (c) cross-examination by advocate for Rumford and Paterson
- (d) questions by Inspector
- (e) re-examination

TECHNICAL CASE FOR PLACE AND BARTLETT:

In turn [repeated for each subsequent witness] :

- (a) evidence-in-chief of professional witnesses
- (b) cross-examination by EA
- (c) questions by Inspector
- (d) re-examination

TECHNICAL CASE FOR RUMFORD AND PATERSON:

In turn [repeated for each subsequent witness] :

- (a) evidence-in-chief of professional witnesses
- (b) cross-examination by EA
- (c) questions by Inspector
- (d) re-examination

CASE FOR EACH OBJECTOR

In turn [repeated for each subsequent witness] :

- (a) evidence-in-chief of each objector (Mr Place, Mr Murray, Messrs Paterson - may include professional witnesses)
- (b) cross-examination by EA
- (c) questions by Inspector
- (d) re-examination

10. The Agency identified that they may seek to recall witnesses to deal with site specific issues. If this were to be the case the Agency witness would set out their case and be cross examined first.
11. Mr Egan identified that Mr Paterson would not be available until after the 28th of May. The Inspector confirmed that she would be able to accommodate Mr Paterson appearing after the 28th but that this would not extend to professional witnesses speaking to broad technical issues.
12. Mr Egan confirmed that he or Counsel on behalf of his client would be cross-examining the Agency witnesses. He also confirmed that Mr Grapes – who is appearing for both Place and Bartlett and Rumford and Paterson would potentially be appearing twice.
13. The Inspector advised that she would not be allowing questions of third parties – for example Mr Egan asking questions of Mr Biggin's witnesses or vice versa. She also confirmed that she would ask her questions before re-examination.
14. There was some discussion of the time necessary to hear witnesses. At this point the parties advised that it was difficult to predict how long cross-examination might take. The Agency advised that they would have an additional witness – Mr Linton Wood. Mr Forsdick advised that Alastair Black would be appearing from Groundwater Science on behalf of Place and Bartlett.
15. The Inspector requested that the parties consider whether formal cross-examination of all witnesses will be necessary and asked that, where possible, the parties identify instances where they are content to proceed by way of exchange of written proof.
16. The advocates agreed to provide an agreed preliminary running order for the Inspector's consideration once proofs were issued. The Inspector has attached a first draft for the advocates to work from.

Main issues and other evidence

17. The Inspector advised that she had identified the main issues below. No comments were offered on these :
 - Is the Agency's methodology for assessing groundwater capacity and availability for abstraction soundly based?
 - Has it been soundly applied?

- Has the Agency's approach in relation to each of the licence applications been necessary, justified and proportionate ?
- Would to do otherwise result in serious damage ?

Management of Inquiry documents

18. The Inspector is grateful for the advice of the advocates on this matter and requests that the parties identify the key documents from the core list and provide them in paper form. She will also identify any further documents she needs in hard copy by the **3rd of May** which should be brought to the Inquiry. The Agency confirmed they will assist Ms Wilson in setting up the Inquiry website and keeping it updated.
19. There is no formal provision for the submission of rebuttal proofs and the Inspectorate discourages their use. The receipt of any additional evidence is at the discretion of the Inspector and should be submitted in good time prior to the event. All parties are asked not to hand documents into the Inquiry unless absolutely necessary. If this cannot be avoided, they will need to be submitted electronically the night before they are required to be shared and placed on the Inquiry website.
20. Openings should be provided in paper form at the opening of the Inquiry. Closing submissions should be provided at least one hour before delivery in paper form. Time will be built into the programme to facilitate the preparation of closing submissions which may take place virtually on the 10th of June if required.

Other Matters

21. Mr Forsdick and Mr Egan advised that an unaccompanied site prior to the Inquiry opening would be helpful to gain an understanding of site geography. A further accompanied site visit of each licence site was also considered necessary. The Inspector identified Friday 24th of May as an appropriate date for this to take place. Ms Wilson has agreed to accompany the Inspector on these visits.
22. The Agency identified that they have not had sight of background documents referred to within the appellants' statements of case. Mr Forsdick confirmed this would take place by the 25th of March.

Actions

23. The timetable for actions, including the submission of Inquiry documents is as follows:

25th March 2024

- Mr Biggin to provide relevant background reports to the Agency.

3rd April 2024

- Submission of comments on Statements of Case.
- Agency to confirm details of venue arrangements with Programme Officer (parking, screen for Teams).

23rd April 2024

- Submission of Proofs of Evidence.
- Submission of core documents lists to Programme Officer.

3rd May 2024

- Inspector to confirm documents required in paper copy.
- parties to provide agreed preliminary Inquiry timetable.

24. The Inspector looks forward to a productive event and reminds all parties of the importance of complying with the timetable of actions.

Anne Jordan

18th March 2024