



The Planning Inspectorate

APPEAL REF: APP/N1920/W/23/3320599
LPA - Hertsmere Ref: 22/1539/OUT
Land South of Shenley Hill, Radlett, Herts (WD7 7BD?)

CASE TELEPHONE MANAGEMENT CONFERENCE (14 July 2023) SUMMARY (revised, Version 2)

1. The Inquiry, which is scheduled to sit for **up to 6 days**, will be an in-person event opening at 10am on Tuesday 22 August 2023. Sitting days for the Inquiry have been scheduled between 22-25 and 30-31 August inclusive. The accompanied site visit has been programmed for the middle Tuesday 29 August, the August Bank Holiday being on Monday 28th.
2. The advocates were confirmed as **Mr Jonathon Easton KC** (Kings Chambers) for the appellant, **Mr Joseph Canon** (Cornerstone Barristers) for the LPA & **Mr Ben Du Feu** (also Cornerstone Barristers) for the Rule 6 Party.
3. I suggest the LPA endeavour to provide an officer before and during the Inquiry (possibly the case officer) to assist with administration and act as a point of contact at the event for any interested parties, and to include contact details for this person in the Inquiry notification letter.
4. The LPA may wish to draw the attention of any interested parties to this Note, including posting a copy of it on its web site.
5. In relation to the appellant's request to revise the application by increasing the amount of affordable housing from 40% to 45%, all three parties agreed that this would be unlikely to result in prejudice to anyone and I agree that it would meet the Wheatcoft Principles. Consequently, the Inquiry will address the proposed development as so revised.

Main Issues

6. We discussed the suggested draft main issues in paragraph 5 of my Pre-Conference Note. The main issues (albeit not necessarily the exact wording, which is a matter for me) are agreed as follows:
 - (1) Whether 'very special circumstances' exist to outweigh the harm (inappropriateness, loss of openness and any other harm) to the Metropolitan Green Belt, which will involve me deciding the weights to be attached to each of the alleged benefits identified by the appellant. [This main issue therefore necessarily encompasses a number of sub-issues within it.]
 - (2) Whether the appellant's revised Flood Risk Assessment and SuDS Scheme (dated 15 February 2023) overcomes the LPA's Refusal Reason 3 in that it sufficiently satisfies the LPA and the Leading Local Flood Authority (Hertfordshire County Council) that the proposed

development would overcome or mitigate the risk of surface water flooding of the site or surrounding area.*

*The draft SoCG (in para 4.14) states that it is envisaged that this issue can be resolved and would therefore not be a main issue at the Inquiry. At present this still remains a main issue, but it is anticipated by both parties that it will hopefully be resolved through discussions between the appellant and the County Council as the Leading Local Flood Authority (LLFA) prior to the start of the Inquiry.

Dealing with the Evidence

7. Having heard the parties' submissions it was agreed that Main Issue (2), if it remains as a disputed issue, would be best dealt with by a round table session (RTS) owing to its technical nature. Should this remain a disputed issue, I understand that **Catherine Walters** from WSP will deal with this on behalf of the LPA/LLFA, and **James Mortimer** for the Appellant. If this occurs, then I will need a Statement of Common Ground (SoCG) as well as a draft Agenda for this RTS topic and I will finalise and confirm the latter in advance of the start of the Inquiry.
8. Main Issue (1) will be dealt with by the normal Inquiry procedure: i.e., evidence-in-chief (EiC) by the party's advocate, followed by cross-examination (X-X) by the opposing advocate, followed by any questions from me and any third parties, and then by re-examination (Re-X) by the party's advocate.
9. I will first hear the evidence from the **LPA's** two witnesses, **Peter Radmall** in relation to Green Belt harm & landscape character, followed by **Emily Stafford** in relation to planning matters.
10. I will then hear the evidence of **Valerie Scott** for **Aldenham Parish Council, the Rule 6 Party**. As discussed at the CMC, I don't expect this evidence to take long because the Parish Council's case essentially mirrors the LPA's case, and that evidence will already have been dealt with.
11. I will then hear the evidence from the **appellant's** witnesses (though not necessarily in this order): **Clive Self** regarding Green Belt & Landscape; **Luke Thurley** regarding social & economic benefits; **Dr Andrew Buroni** regarding health issues; **Philip Allen** regarding planning & the planning balance. I will also hear – if necessary – from **Philip Hamshaw** regarding highways & highway safety (if only for the benefit of third parties attending the Inquiry), who will summarise/explain the Highway SoCG and from **James Stacey** of Tetlow King regarding affordable housing, who will do the same for the SoCG on that topic. It is very unlikely any evidence will be submitted regarding housing land supply, since recent appeal decisions have established that the current supply is significantly below 5 years and there is no dispute between the main parties on this issue.

Conditions

12. It was agreed that the two main parties would provide an agreed list of conditions, with columns setting out any in-principle or wording differences between them.
13. The LPA will lead on preparing this schedule, in discussion with the appellant, paying attention for the need for conditions to comply with the tests set out in NPPF and PPG and avoiding the need for discharge of conditions prior to commencement of development unless there is clear justification.

Planning Obligation

14. The S106 will deliver the agreed heads of terms as set out in the appellant's draft heads of terms. It is likely to be a unilateral deed.
15. The LPA will submit a CIL compliance Statement. This must contain a fully detailed justification for each obligation sought, setting out how it complies with the CIL Regs, in particular the test of necessity. Any monitoring fee required by the S106 will need to be justified and must not exceed the LPA's estimate of the cost of monitoring over the lifetime of the relevant obligations.

Core Documents and Hard Copies

16. It was agreed that a list of core documents will need to be agreed in advance of preparing your proofs, and that this list will follow the template in Annex 1 of my Pre-Conference Note. That list is to be co-ordinated by the appellant and must be submitted with the proofs or preferably earlier.
17. In terms of the actual core documents themselves, it was agreed that ideally these could be in one specific digital location so that all participants at the Inquiry (main parties, Rule 6 Party and third parties as well as myself) can refer to them from the same place. Ideally this would be the LPA web site or failing that, one hosted by the appellant. I would ask the main parties and Rule 6 Party to work together to ensure that this takes place.
18. I would re-emphasize, as per paragraph 17 in my Pre-Conference Note, that I am provided with the crucial documents in hard copy including the D&AS, LVIA, and all Plans & Elevations at A3 size together with copies of all the Proofs and any Appendices to them. All hard copies should be sent to the case officer to arrive on the relevant submission dates.

Inquiry Running Order/ Assessment of Likely Duration

19. The running order below appears to be the most likely, though it is obviously lacking in any detail at this stage.

Day 1

-Following my opening comments, I will invite opening statements of no more than 20 minutes each from the main parties (appellant first, followed by the Rule 6 Party, followed by the LPA).

-The Inquiry will then hear from any interested parties who wish to speak, although there is scope for some flexibility if someone has difficulties that prevent them from attending on the first day.

-Followed by RTS on Main Issue (2).

Days 2-5

-As per paragraph 8-10 above.

Day 6

-I will then hear the parties' closing submissions (Closings), the LPA first, then the appellant including any comments it has on the LPA's submissions. I anticipate that these closings are unlikely to last more than a maximum of 1½ hours each.*

*If dealing with all the witnesses/evidence is not achieved by end of Day 6, then the preference would be to have Closings on **Friday 1 September** and I understand that the Council Chamber can be secured/reserved in case this should happen. Failing that, the Closings would have to be virtually on a date no earlier than 22 September when I and Mr Du Feu have both return from leave.

20. Given this likely timetable, all parties' witnesses will be available at all the relevant times. I would ask the advocates to work collaboratively on their time estimates for each stage of their respective cases to at least achieve the above timetable. I will endeavour to issue a draft programme following receipt of your final timings in due course, when I will have a better feel for the overall duration.

Timetable for the Submission of Documents

21. It was agreed that a **signed and dated SoCG** dealing with the overarching issue between the appellant and LPA would be submitted by **21 July**, in order to inform the Proofs. It was also agreed that separate **signed and dated SoCGs** in respect of **Affordable Housing, Highway issues and Flooding issues** between the appellant and LPA would be submitted at the same time as the exchange of Proofs.

22. **All proofs and core documents (including the agreed List of Core Docs)** are to be submitted by **25 July**. Details of the preferred format and content of proofs and the template for the arrangement of Core Documents were annexed to my pre-conference note.
23. A final agreed draft **List of Conditions, including Reasons and Policy references (in Word form)** to be submitted by this same date, 25 July.
24. A draft of the **S106** and an accompanying **CIL Compliance Statement** is to be submitted **no later than two weeks before the Inquiry: 8 August**.
25. The LPA is to ensure a copy of the **notification letter** setting out details of the Inquiry and a list of those notified is sent in to PINS no later than **25 July**.
26. I am not encouraging the submission of any **rebuttal proofs** but if there are any they must be submitted by **8 August**. Rebuttal proofs must not introduce new issues.
27. The advocates agreed to work collaboratively on their time estimates for each stage of their respective cases and to submit an **agreed timetable** by **8 August**. I will endeavour to issue a draft programme following its receipt. Other than in exceptional circumstances you are expected to take no longer than the timings indicated, which will require the cooperation of both advocates and witnesses.

Costs

28. No application for costs is currently anticipated by either party at this stage, although positions were reserved. If an application were to be made, that should be done in writing ideally before the Inquiry but certainly before Closings. You are reminded that in order to support an effective and timely planning system in which all parties are required to behave reasonably, I have power to initiate an award of costs inline with PPG. Unreasonable behaviour may include not complying with the prescribed timetable.

Nick Fagan

INSPECTOR

Revised Version 18 July 2023