



The Planning Inspectorate

APPEAL REF: APP/T5720/W/20/3250440

265 Burlington Road, New Malden, KT3 4NE

CASE MANAGEMENT CONFERENCE (CMC) SUMMARY NOTE

Conference held at 13.00 hours on 5 November 2020

Spokesperson:

For the Council: Annabelle Graham-Paul of Counsel

For the Appellant: Paul Tucker QC

For the Rule 6 Party: John Elvidge, Chairman of the RPWBRA

Procedural Matters

1. The inquiry will open at 10.00am on Tuesday 8 December 2020.
2. Discussion took place regarding how the inquiry could proceed during the circumstances of the current Covid-19 pandemic. In particular a virtual event. The main parties all expressed the view that in principle the inquiry could proceed in this manner. Currently dates have been agreed for the inquiry of 8 to 11 and 15 & 16 December 2020. Should it be necessary a date for a test of the technology will also need to be arranged. If the parties consider that a test of technology is required please let the PINS case officer know by **13 November 2020**.
3. The virtual inquiry will be held using a system that enables people to participate from many remote locations, such as their own homes or offices by clicking on a link in an email invitation or dialling in via a given phone number. This enables the widest possible participation whilst the rules on social distancing, travel restrictions and limitations on gatherings are in force. Importantly, the inquiry will be held on the same basis, and subject to the same provisions of the Rules and Regulations as conventional face-to-face inquiries.
4. The Planning Inspectorate uses Microsoft Teams to provide access to virtual events. This is a digital conference and meetings application that operates similarly to other platforms. It allows several people to speak to one another in a virtual forum and involvement can be by video or audio or a mixture of both. Those wishing to attend can join by means of a digital device such as a laptop, tablet or smartphone. They can also join by analogue devices such as a landline or mobile phone that isn't a smartphone.
5. In a conventional inquiry we normally sit for full days with breaks. However, sitting in front of a screen or being on the telephone for long

periods can be stressful in all sorts of ways. So, with health and safety in mind and in order to ensure that all participants are as comfortable as they can be, we will be sitting for shorter days broken up into chunks of time with breaks in between. Sessions will last for about 1.5 hours with at least 15 minutes in between. If we start at 0930 on each day and that is likely to mean two sessions in the morning and one after lunch. This will have implications for the timetable and duration as we discussed at the CMC.

6. For the main parties I appreciate that the different locations of members of the team is likely to place new demands in terms of the ability to communicate with one another during the event, for example taking instructions. That is something you will need to consider and trial yourselves before the event and I will ensure that breaks in the timetable are sufficient for this to take place.

Main issues and evidence

7. At the conference the parties confirmed that the issue of housing land supply is a matter in dispute. Accordingly, the main issues in this case relate to the effect of the scheme on:
 - Highway safety;
 - The character and appearance of the area; and
 - Whether the LPA is able to demonstrate a five-year supply of deliverable housing sites sufficient to meet assessed housing need and the implications of this in terms of national and local planning policy.
8. In addition, although not raised in the putative reasons of the Council, local residents raise concerns that will need to be addressed. This includes matters relating to the mix of units in the scheme, loss of employment, demand for community facilities, surface water flooding and energy/carbon impact. It was agreed at the CMC that these matters should be addressed through a question and answer session as part of the inquiry.
9. The procedure at the inquiry will generally follow the 2000 Inquiry Procedure Rules. The Council will have the opportunity to present its case first, followed by the Rule 6 party and then the appellant. Based on the content of the evidence and the views expressed at the case management conference it remains my intention to proceed on a topic-based approach. The topics will be grouped as highway matters, character and appearance, housing land supply and planning.
10. Matters relating to highways, character and appearance and planning will be dealt with through the presentation of evidence in chief by the relevant witnesses for each side. As agreed at the CMC the Council is to provide additional information to the appellant team regarding housing land supply and copy it to the R6 party. Following this further consideration will be given to whether this issue is best heard as evidence in chief or as a round table discussion. The position statement on the various topics will assist in narrowing areas of dispute in the run up to the event and focus the

evidence. I understand that the parties have a document in progress with a first draft to be provided to PINS by **10 November 2020**.

11. As set out above 'other planning matters' will be dealt with through a round table discussion. If necessary, I will prepare an agenda for this discussion informed by the written evidence. This will be sent out by the Planning Inspectorate case officer in advance.
12. The evidence should be supported by the table of differences and a statement of common ground (SoCG). This will avoid unnecessary repetition in the presentation and cross examination of witnesses on the issues at the Inquiry. The SoCG must not only confirm areas where there is consensus, but along with the table of differences should also identify areas where there is disagreement, summarising the reasons for those differences. I would reiterate my view that this approach will assist in the smooth running of the inquiry by distilling areas of agreement and disagreement.
13. An updated and agreed Core Document List will need to be provided and made available for the inquiry on a website. The Council agreed to take the lead on this and liaise with the other main parties. The core documents and inquiry documents should be made available on the Council's web site. As agreed at the CMC example links are provided¹. Please can the parties advise the PINS case officer of the arrangements as soon as possible. Whilst late evidence is not encouraged this arrangement should also include provision for sharing of any additional/late documents. The main parties should ensure they share documents with the Rule 6 team.
14. In terms of the inquiry running order, following my opening announcements, I will invite opening statements from the Appellant, Council and Rule 6 party which will help set the scene. I will then hear from any interested parties who may wish to speak, although there is scope for some flexibility if someone has difficulties that prevent them from attending and speaking then.
15. That will be followed by presentation of evidence in chief by the Council on highway matters followed by cross examination. The Rule 6 evidence will be heard on the same basis. The appellant's witness will then be heard, also on the same basis. This format will be repeated for character and appearance. Evidence relating to housing land supply will be heard after this in a format to be agreed. A round table discussion on the 'other planning matters' will then follow. Evidence on planning issues will be heard last by presentation of evidence in chief followed by cross examination in the order of Council, Rule 6, Appellant.
16. A round table discussion on possible conditions will follow and any planning obligation matters. My understanding from the CMC is that there is a list

¹ <https://www.uttlesford.gov.uk/article/6719/Planning-appeal-Homebase-Limit>
<https://planningregister.sutton.gov.uk/online-applications/appealDetails.do?activeTab=documents&keyVal=Q9K1ILKC08L00ed-Saffron-Walden;>

of conditions already in draft form. The Council is to take responsibility for updating this document and circulating it to the other parties. It was agreed that it should be submitted with the proofs of evidence. It would be helpful to have notes explaining the disagreement regarding any conditions where there is dispute. Please ensure that applicable policy references are provided for conditions where they are relied on.

17. The appellant team indicated that a unilateral undertaking is being prepared. The final document will be circulated 10 days before the inquiry. It was agreed that the CIL compliance statement would be circulated. The main parties must ensure that copies of the conditions and obligation documents are shared with the Rule 6 party. I will then hear closing submissions from the Rule 6 Party, Council, and Appellant followed by any applications for costs.
18. The advocates are to work collaboratively on their time estimates for each stage of their respective cases. Attached to this note is a draft inquiry timetable (Annex 2). As outlined at the CMC once evidence has been exchanged I expect the advocates to collaborate on adding timings to this for each witness and share it with the Rule 6 party before sending a final draft to PINS no later than **24 November 2020**. Indeed, based on the draft order I have set out in the Annex more than the 6 days discussed at the CMC may be required. However, this will require review once you know your timings. I would appreciate timely feedback on this matter. Once the timetable is agreed, 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.
19. I currently intend to visit the site unaccompanied; the date will be notified in due course. It would assist me if, as discussed, the parties liaise and that the Council then provide the PINS case officer with a list of locations they wish me to visit in advance. This should be provided by **24 November 2020**. This matter will also be announced at the inquiry.
20. If either party intends to make an application for costs I would remind you that these should be made in advance of the inquiry and in writing. If an application(s) is/are made then there will be a session allocated at the inquiry and an opportunity to make oral submissions to supplement the written application/response. In addition, in order to support an effective and timely planning system in which all parties are required to behave reasonably, you are reminded that I have the power to initiate an award in line with the Planning Practice Guidance. Unreasonable behaviour may include not complying with the prescribed timetables. Any written applications should be sent to PINS no later than **27 November 2020**.
21. The Council must ensure that a copy of this note is made available on its website and with the inquiry documents.

D J Board

9 November 2020

Annex A

Timetable for the submission of documents

10 November 2020	Deadline for submission of: <ul style="list-style-type: none">• All proofs• Suggested planning conditions (Council)• Core documents list• Table of differences – current version• Statement of Common Ground
24 November 2020	Deadline for submission of: <ul style="list-style-type: none">• Any necessary rebuttal proofs• Site inspection information• Draft timetable & final timings
27 November 2020	Deadline for submission of: <ul style="list-style-type: none">• Planning obligation• CIL compliance statement• Table of differences if it changes• Any costs applications
8 December 2020	Inquiry opens 10.00 am

Annex B – Draft timing for virtual event

Date	Time	Content
Day 1	10.00-11.00	Opening by Inspector
	11.30-13.00	Opening statements
	14.00-15.30	Interested parties
Day 2	9.30-11.00	Council Highways in Chief
	11.30-13.00	XX by Appellant & re exam
	14.00-15.30	R6 highways evidence & XX by appellant
Day 3	9.30-11.00	Appellant Highways in Chief
	11.30-13.00	XX by LPA
	14.00-15.30	XX by R6 and re exam
Day 4	9.30-11.00	Council CAP in Chief
	11.30-13.00	XX by Appellant & re exam
	14.00-15.30	R6 CAP evidence & XX by appellant
Day 5	9.30-11.00	Appellants CAP in Chief
	11.30-13.00	XX by LPA
	14.00-15.30	XX by R6 and re exam
Day 6	9.30 – 11.00	Housing Land Supply – round table?
	11.30-13.00	Round table session other matters
	14.00-15.30	Council Planning in Chief
Day 7	9.30-11.00	XX by appellant & re exam
	11.30-13.00	R6 Planning evidence & XX by appellant
	13.30-15.00	Appellant Planning in Chief
Day 8	9.30-11.00	XX by LPA & R6, re exam
	11.30-13.00	Round table conditions and UU
	14.00-16.00	Closing Submissions

**Please consider this outline timetable and advise how it aligns with your timings for the presentation of evidence and cross examination of witnesses. Please collaborate to edit it and return to PINS by the deadline.*