

INSPECTOR'S CASE MANAGEMENT CONFERENCE (CMC) NOTE

Held 1400h on Monday 14 December 2020

APPEAL REF: APP/X1735/W/20/3259067

Land at Lower Road, Bedhampton

Attendees:

- Stuart Castle – Inspector
- Sasha White QC - for the Appellant, with Paul Thomas, David Jobbins and Steven Brown.
- Timothy Leader, of Counsel – for the Council, with Daphney Haywood.
- Ronald Tate – for the Bedhampton Heritage Alliance, with David Hindley, Keith Mayor and Iain Fairley.

Purpose of the Conference

1. Discussion on the ongoing management of the case, and not the merits of the parties' positions.
2. The Inspector explained that the current restrictions on gatherings, social distancing and travel mean that the inquiry will be unable to go forward as a face-to-face event and will proceed as a virtual inquiry. No objections were raised to proceeding as a virtual inquiry.

How the inquiry will be undertaken as a virtual event

3. The virtual inquiry will be held using Microsoft Teams, which enables people to participate from remote locations by clicking on a link in an email invitation or dialling in via a given phone number. 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 a mobile phone that isn't a smartphone. The Microsoft Teams application is free of charge and can also be accessed through a web browser. Those present at the CMC indicated that they had used or were aware of Microsoft Teams.
4. A Test Event for the main parties (including witnesses) is proposed for week commencing 18 January 2021. The time and date is to be confirmed in due course, with Mr White and Mr Leader providing availability details to the PINS case officer. The Test Event will allow a trial run of the technology and provide an opportunity for further case management as necessary.

5. The different locations of the members of each party's 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 that each party should consider and trial before the event.
6. Opening and closing submissions should be shared beforehand and the mechanics for doing this needs to be considered by the main parties in advance of the inquiry. Relevant e-mail addresses, including that of the PINS case officer, should be to hand so that any documents submitted at the event can be shared quickly and easily.
7. Local residents and other interested parties wishing to take part will be required to register with the PINS case officer in advance of the opening of the inquiry. The letter of notification, the site and press notices will give more details on this in due course.
8. A virtual inquiry will require shorter sitting sessions with planned breaks. This means that the inquiry day is likely to be shorter in order to ensure the health and safety of all participants. Sitting days are likely to comprise 3 sessions, each of no more than 1.5 hours and with an aim of finishing no later than 4pm.

Main Issues

9. The Pre-Conference Note set out main issues in relation to heritage and the Council's 5 year housing land supply (5YHLS) position. All parties were content that these represented main issues.
10. Additionally, it was agreed that the Section 38(6) of the Planning and Compulsory Purchase Act 2004 requirement that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise represents a main issue for the inquiry.
11. The appellant currently anticipates presenting 3 witnesses:
 - John Trehay (Heritage)
 - Steven Brown (Housing Land Supply)
 - David Jobbins (Planning)
12. The Council currently anticipates presenting 2 witnesses:
 - Jack Hanson (Heritage)
 - Steven Brown (Planning & Housing Land Supply)
13. The Bedhampton Heritage Alliance's (BHA) statement raises other issues, including, amongst others, highways concerns. The case for the BHA will primarily be presented (advocate and witness) by Ronald Tate (all issues).
14. In addition, interested parties continue to have strongly held concerns that will need to be addressed by the appellant in its submissions and at the inquiry. Whether other issues, including highways concerns, are

dealt with as main issues in the eventual decision will depend on the evidence heard in due course.

15. The Appellant indicated that whether a highways expert would be instructed to attend the inquiry was a matter under review, particularly in light of the submissions of the BHA. The prompt submission of a Statement of Common Ground (SoCG) between the appellant and the BHA would be helpful and is strongly encouraged.

How the Main Issues will be dealt with

16. It was agreed that the inquiry will be structured in a case-by-case manner (i.e, all the witnesses for one party will be heard, followed by all the witnesses for the next party). Witnesses will undergo examination-in-chief, cross examination and re-examination in the usual manner.
17. Any outstanding matters, including matters raised by interested parties, planning policy and any benefits will need to be addressed by the witnesses dealing with the overall planning balance. Questions from the inspector on non-main issue matters will also need to be addressed.
18. Whilst the reservations of Mr White and Mr Leader were noted regarding the usefulness of producing a Position Statement, the Inspector considers that such a document would be of assistance in maintaining focus on those areas where there is not agreement. The Position Statement should set out in a tabular format all issues in dispute and act as a 'travelling document', with a final agreed version submitted before closing. The appellant is to take the lead in the preparation of the Position Statement, liaising both with the Council and the BHA.
19. It was agreed that a dedicated Statement of Common Ground (SoCG) regarding the Council's housing land supply position would be submitted. It should include the parties' respective positions on the housing requirement and a consolidated table listing those sites in the housing land supply that are contested, together with comments of both the main parties on the preferred figures for each site.

Management of inquiry documents

20. The Council confirmed that all appeal documents other than the BHA's statement (which would be added shortly) were on the Council's website.
21. All appeal documents will need to be available to the public on the Council's website. As for the submission of documents during the inquiry, whilst these are not encouraged, it is important that these are shared with the main parties and are available for interested parties to view. The Council confirmed that these would also be displayed on the Council's web site.
22. The parties should liaise on the preparation of the list of Core Documents, so they can be properly referenced in the proofs and at the Inquiry. The Core Documents should comprise only those documents to

which the main parties will be referring. An initial core documents list must be submitted with the proofs.

Conditions

23. A set of conditions have been agreed between the Council and the appellant as per the SoCG and set out in the Council's Committee report dated 05 March 2020. Any further updates should be submitted as necessary and at the end of each inquiry day (if appropriate). Any difference in view on the suggested conditions, including suggested wording, should be highlighted in the schedule of conditions with a brief explanation given.
24. The Inspector will lead a round table discussion on conditions where careful attention will be paid to their wording and justification having regard to the tests for conditions.

Planning Obligation

25. The Council and appellant confirmed that the heads of terms had been agreed and that work is ongoing to complete the S106 legal agreement. The Council confirmed that it was anticipated a completed S106 legal agreement would address the Council's 2nd reason for refusal.
26. The final draft should be accompanied by a Community Infrastructure Levy (CIL) Compliance Statement prepared by the Council. The statement should contain a fully detailed justification for each obligation sought, setting out how it is necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. It should explain how any financial contribution has been calculated and on what it would be spent.

Inquiry Running Order and Programme

27. The inquiry will commence at 1000h on Tuesday 02 February 2021 and will resume at 0930h on subsequent days. It was agreed that the number of sitting days currently allocated would be sufficient and that there are no availability constraints for the main parties.
28. The Inspector will draw up a draft timetable based on the time estimates to be provided by the main parties. These should be sent to the Case Officer by **22 January 2021** and include the preferred order of witnesses. The estimates should be complied with and this will require a collaborative approach between advocates and witnesses.
29. Following the opening remarks of the Inspector the main parties will make opening statements if they wish to do so. The appellant will be first, followed by the Council and then the Rule 6 Party.
30. The Inspector will hear interested parties, including local residents, next. If they are unable to speak at this time, an alternative convenient point in the programme will be arranged.

31. The main parties' witnesses would then be heard. The Inspector is currently minded for the evidence of the Council to be heard first, followed by the BHA, and finally the appellant. The Inspector will further seek the main parties' views on the most efficient order for the cases to be heard following submission of the proofs of evidence.
32. The Inspector will then lead the usual round table discussion on conditions and provisions of the planning obligation. That will be followed by closing submissions (BHA, Council, then appellant) which should set out your respective cases as they stand at the end of the Inquiry, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt.

Notifications

33. The notification letter has been adjusted to take account of the virtual nature of the event and asks interested persons to register with the Case Officer if they wish to observe or participate in the inquiry. The notification letters should be sent out by the Council, and the site notice put up by the appellant, at least 3 weeks before the inquiry commences. Details of the site notice/notification letters to be sent out by the PINS case officer.
34. The Council should place a copy of the notification letter on its website and in the local newspaper prior to the inquiry commencing.

Costs

35. An application for a full award of costs against the council has been received. If any further applications are to be made, advance notice would assist, with any application and rebuttal submitted in writing before closings. The appellant will be given the opportunity to make any final response, if required, after closings. No further applications for costs were anticipated at the time of the CMC.
36. Costs can be awarded in relation to unreasonable behaviour which may include not complying with the prescribed timetables. You are also reminded in this regard, that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the ability to initiate an award of costs.

Timetable for submission of documents

37. It is common ground that the Council is unable to demonstrate a 5YHLS. The Council advised that it is currently working on producing an update to its 5YHLS calculation. It was agreed that the Council and appellant would work together to provide a dedicated SoCG regarding the Council's current 5YHLS position no later than 12 January 2021. An extended deadline of 19 January 2021 for submission (if necessary) of Proofs of Evidence providing detailed 5YHLS evidence was agreed by all main parties.

38. All other Proofs of Evidence are required no later than 05 January 2021. Following submission of the dedicated SoCG, regard should be had as to whether the previously submitted Proofs of Evidence need to be updated or supplemental documents submitted.
39. Timetable for Submission of Documents:

05 January 2021	Deadline for submission of: • Proofs of Evidence including ○ Heritage ○ Planning Balance (Not including detailed 5YHLS evidence). ○ Any BHA Proofs of Evidence
12 January 2021	Deadline for submission of: • Dedicated SoCG regarding the Council's housing land supply. • Core documents list. • Schedule of conditions • Early draft of planning obligation (if updated). • Appellant and BHA SoCG (strongly encouraged).
19 January 2021	Deadline for submission of: • Proofs of Evidence (supplemental or otherwise) providing housing land supply details. • A Position Statement document completed by all main parties. To be updated as a 'travelling document'. • Final draft planning obligation • CIL Compliance Statement
22 January 2021	Deadline for submission of: • Any necessary rebuttal proofs. • Final notice of witnesses to be called and their timings. • Likely site visit itinerary.
Tuesday 02 February 2021 Inquiry opens 10.00 am	Deadline for submission of: • Updated Position Statement document. • Updated schedule of conditions (if necessary).

Site visit

40. The Inspector will visit the site in advance of the inquiry and, if necessary, after its close. Initial advice at the CMC was that it may not be necessary for the Inspector to access private land in order to perform the site visit. As such, it is envisaged that the visit(s) will be unaccompanied. It would assist if, the parties liaise and the Council then provide the PINS case officer an itinerary and map of any specific locations that the Inspector should visit as part of the site visit(s).

Any other procedural matters

41. Thank you to all those who participated in this case management conference. The Inspector apologises for the technical issues with the telephone line and appreciates participants perseverance with the CMC despite the difficulties. If there were any questions that you were not able to ask at the CMC, or that arise out of this note, please contact the PINS Case Officer. Close and continuing collaboration between all parties in advance of the Inquiry and the next CMC / Test Event is encouraged. That will not only help to continue to minimise and refine areas of dispute, but it will also help to ensure the efficient overall running of the event procedurally.

Stuart Castle

INSPECTOR
22 December 2020