



APPEAL REF: APP/R4408/W/19/3242646

Land to the South of Lee Lane, Royston, Barnsley S71 4RS

Residential development of 250 dwellings with associated access, parking, engineering, landscaping and ancillary works.

Case Management Conference 4 February 2020 - SUMMARY

1. The Planning Inspector appointed to conduct the Inquiry is Mrs Susan Hunt, a chartered town planner. The Inquiry is scheduled to sit for four days and is to be held at Barnsley Town Hall opening at 10.00am on Tuesday 24th March 2020.
2. The advocates were confirmed as Mr Richard Sagar for the Appellant and Mr Stephen Whale for the Council.
3. The Council may wish to draw the attention of interested parties to this Note. At the very least, a copy should be posted on the Council's website.
4. All parties should familiarise themselves with the latest Procedural Guides in relation to appeals and Inquiries in particular, as they have recently been updated to reflect the recommendations in the Rosewell Review.
<https://www.gov.uk/government/publications/planning-appeals-procedural-guide>

Amended and Additional Plans and Documents

5. A range of amended and additional plans and documents, including a legal opinion, were submitted by the Appellant on 29 January 2020. An additional e-mail was submitted on 3 February, listing a number of issues that require a response from the Council.
6. Given the limited time available to consider the amendments before the case management conference, both by the Council and the Inspector, the Appellant explained the purpose of the submissions.
7. Amended planning layout reference 1867.01 revision M is proposed to supersede reference 1687.01 revision L. An additional plan details the elevations of a proposed substation; reference 1867.SS.01. Those plans would require a consultation exercise.
8. Two additional plans have also been submitted; a Masterplan layout and a retail provision plan. The Appellant confirmed these are not proposed plans but are put forward for use as evidence to assist in understanding the potential effects on the wider MU5 allocation.
9. The Appellant indicated that further evidence would be submitted early next week in respect of the wider Masterplan, as well as further details of the proposed access.

10. The Appellant went on to explain the submission of an Ecology Summary Response, with the purpose of responding to the comments from the Council's Biodiversity Officer and narrowing down any dispute on biodiversity issues. The Council requested time to consider this.
11. The Council confirmed that in principle, subject to consultation, they had no objection to the substitution of the layout plan and the substation, which could be the subject of a condition. Written confirmation of this, and details of the consultation, shall be submitted by **6 February**.
12. The Inspector has considered the request and agrees that that the amended layout plan 1687.01 revision M is not fundamentally different to the previous layout revision L, and does not alter the substance of the development for which planning permission was applied for. The agreement to accept the plan is subject to consultation for a period of 14 days and as such would not lead to possible prejudice to interested parties.
13. The Inspector requests that all responses to such consultation are forwarded to the Case Officer within 2 working days of the expiry of the consultation. The Inspector will subsequently formally confirm if the plans have been accepted.
14. The Inspector has considered a timetable for the Council's response to the amended/additional information received on 29 January and 3 February, and the request for putative reasons for refusal, including the most important policies for the appeal.
15. **14 February (12 noon)** is acceptable as the latest date for receipt of an addendum to the Statement of Case from the Council. This should further inform and narrow down the main issues for the inquiry. The minutes from the Planning Committee on Tuesday 18 February in relation to this matter, including any necessary updates to putative reasons for refusal, shall be forwarded by the next day **19 February**.

Likely Main Issues

16. In the light of the above outstanding matters, the Inspector cannot yet confirm the likely main issues in relation to this appeal.
17. At present, they are based on the range of issues noted in Section 7.1 of the Council's statement of case and pages 45-47 of the annexed Committee Report, together with discussion at the conference relating to housing trajectory.
 - Whether, with particular regard to policy MU5 of the Barnsley Local Plan 2019, the development proposed would prejudice the Council's ability to manage the comprehensive development of the wider area of allocated land within which the appeal site is located in the longer term;
 - Whether current housing delivery rates and trajectory indicate adequate delivery of *relevant* strategic and mixed use allocations;

- Whether the proposals make adequate provision for additional need for infrastructure requirements arising from the development; including viability of the scheme and whether the contributions as required by the Council meet the tests;
 - The adequacy of the proposed means of access and internal road layout and effects of the proposals on highway safety and capacity;
 - Whether the density of the scheme is appropriate;
 - The effects of the proposals on the character and appearance of the area;
 - The effects of the proposals on the living conditions of future occupiers; and
 - Whether sufficient information has been provided to demonstrate that the proposals would not adversely affect trees and hedgerows or biodiversity.
18. The Inquiry will also look at any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme.
 19. The parties confirmed that they are in agreement that the Council are able to demonstrate a five year housing land supply and evidence would not be given on this matter.
 20. Although not comprising any reason for refusal, local residents have concerns in relation to a number of matters including (but not limited to) impact on the local community and village identity, lack of local facilities, loss of green space, and impact on green belt. Other points raised by interested parties are currently included in the main issues, however may drop away. The Appellant's planning balance witness would be expected to briefly cover such issues raised by interested parties in their proof of evidence.
 21. It is confirmed that there is no Parish Council in the area relating to the appeal site.
 22. A potential Rule 6 party was referred to by the Council. However the Inspector had not received any notification of such a request within 5 weeks of the start date of the appeal, nor at the time of the Case Conference.

Dealing with the Evidence

23. The Inquiry will focus on areas where there is disagreement. With that in mind, the conference will explore how best to hear the evidence in order to ensure that the Inquiry is conducted as efficiently as possible.
24. Whilst the main issues are not confirmed as yet, it was discussed which issues would be best dealt with via round table discussions informed by the Proofs of Evidence (Proofs) and a Statement of Common Ground (SoCG). The Appellant's preference for cross examination on Highways issues has been noted.

25. The Inspector has had regard to the table provided by Mr Johnson on 3 February and section 7.2 of the Council's statement of case, but will reserve judgement on this until she has sight of the further information to be submitted by 14 February. She requests the further views of each party and will confirm the approach as soon as possible afterwards.
26. Formal presentation of evidence would be topic based, with the order being confirmed after the Proofs have been considered and time estimates considered. Time estimates for opening statements examination of witnesses and round table discussions are expected to be provided by **10 March**.
27. The agreement of the Statement of Common Ground (SoCG) is ongoing. A separate Highways SoCG would be acceptable. The Inspector expects the latest versions after the Planning Committee meeting of 18 February; by **20 February**.
28. The deadline for submission of Proofs is currently **25 February**. The parties expressed a preference for a week's delay to the submission of Proofs, given the short time period between that date and the submission of the Council's addendum and the SoCG.
29. The Inspector has considered this request and agrees that in the interests of narrowing down the matters in dispute, and thereby shortening inquiry time, Proofs of Evidence should now be submitted by **3 March**.
30. An agreed list of core documents should be submitted on the same date. The appellant would be responsible for providing a printed set for the Planning Inspector and a library copy.
31. The documents should be in lever arch files, with dividers and tabs, fully paginated. Essential documents only should be included with extracts rather than full documents where possible if they are lengthy. Appeal decisions should include paragraphs to be referred to.
32. Any documents submitted once the Inquiry has opened will be recorded as additional Inquiry Documents on a separate list, overseen by the Inspector.
33. A minimum of four copies of any new documents produced at the Inquiry will be required - one for each of the other main parties and one for the Inspector, together with extra copies to be made available to assist interested parties.

Conditions

34. The Council have provided a list of conditions should the appeal be allowed with their statement of case. A final list should be agreed with the Appellant, including specific agreement to any pre-commencement conditions, **by 10 March**.
35. The list of suggested planning conditions should include the reasons for them, including references to any policy support. The conditions will need

to be properly justified having regard to the tests in paragraph 55 of the National Planning Policy Framework. Any difference in view on the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given.

Planning Obligations

36. Heads of Terms for a range of obligations have been provided by both parties and it is understood that there is an ongoing dialogue in relation to a forthcoming draft Section 106 Agreement.
37. A final draft of the Agreement should be submitted by 10 working days before the inquiry; **10 March**, and on receipt of this the Council should then submit a CIL compliance statement in time for the start of the inquiry.
38. The statement must contain a fully detailed justification for each obligation sought, setting out how it complies with the 2010 CIL Regulations, in particular the test of necessity, in terms of how it would mitigate a harm arising out of the development proposed. It should include reference to any policy support and, in relation to any financial contribution, exactly how it has been calculated and on precisely what it would be spent. Although the restrictions on pooling of contributions has been lifted, the Inspector will still need to know whether any of the schemes are the subject of other pooled financial contributions in order to be able to come to a view on whether any contribution sought in relation to this appeal is justified. A short time will be allowed after the Inquiry for submission of a signed version if necessary.

Inquiry Running Order/Programme

39. In terms of running order, following her opening comments on the first day of the Inquiry, the Inspector will invite opening statements from each of the main parties which will set the scene and should be no longer than 15 minutes each.
40. She 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 and speaking on day one. Witnesses should be prepared to respond to their comments as part of their evidence if necessary. Interested parties that object would also be given the opportunity to make representations after hearing the Council's planning witness. It is understood that currently there is a low level of public interest in the appeal proposals.
41. Pursuant to the points raised above and discussion at the case conference, the Inquiry will then proceed either with a round table discussion or formal examination, with the round table discussions on conditions and legal agreements towards the end of the inquiry.
42. Round table discussions would be led by the Inspector. Input into the content of the agendas for the round table discussions from the parties' advocates is expected and agreed drafts are requested by **20 March**.

43. The accompanied site visit will fit in either before or after the conditions session. The purpose of the visit is simply for the Inspector to see the site and its surroundings. Whenever it takes place, she will not be able to listen to any representations/ discussion/arguments during the visit, but parties can point out physical features. Therefore, it is important that you give some thought as to where you wish her to see the site from and submit a map with list of suggested viewpoints, including those off site, in advance of the inquiry by **23 March (12 noon)**. This is important as the Inspector will visit the site from public viewpoints in advance of opening the Inquiry.
44. Closing submissions (Council, then the Appellant) should be no longer than 45 minutes each. They should set out your respective cases as they stand at the end of the Inquiry, with a written copy handed up at the time, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt. There will then be a final opportunity for submission of costs, which should be in writing.

Timings

45. As put forward at the case conference, all proofs are to be submitted no later than **3 March**. Details of the preferred format and content of proofs and other material are set out in Annex F.11 of the Procedural Guide: Planning Appeals – England (January 2020).
46. The Statements of Common Ground, which should inform your proofs, and are to be submitted by **20 February**.
47. An agreed draft of the proposed planning obligation is to be submitted by **10 March**), with a CIL Compliance Statement prepared by the Council to be submitted by **23 March**.
48. The Council is to make sure a copy of the Inquiry notification letter, and a list of those notified is sent in to PINS no later than **10 March**.
49. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and the Planning Inspectorate does not encourage the provision of such. However, where they are necessary to save Inquiry time, copies should be provided no later than **13 March**. It is important that any rebuttal proofs do not introduce new issues. As an alternative to a rebuttal, it may be that the matter could more succinctly be addressed through an addendum to the Statement of Common Ground(s).
50. The advocates are to work collaboratively on the time estimates for each stage of their respective cases, with timings for openings and closings, evidence in chief and cross-examination, together an indication of round table discussions, to be submitted no later than **10 March**. A draft programme will be issued following receipt of your final timings prior to the start of the Inquiry, when the Inspector will have a better feel for the overall duration. 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.

Date Required By	Task (<i>responsibility</i>)
Thursday 6 February	Response to additional plans/documents inc. consultation arrangements (<i>Council</i>)
2 days following consultation on amended plans	Responses sent to PINS (<i>party responsible for consultation</i>) Followed by formal of confirmation of whether the amended plans are accepted (<i>Council and Inspector</i>)
Friday 14 February	Addendum to Statement of Case, including putative reasons for refusal (<i>Council</i>)
Wednesday 19 February	Planning Committee minutes and any update to putative reasons for refusal (<i>Council</i>)
Thursday 20 February	Statement(s) of Common Ground (<i>both parties</i>)
Tuesday 3 March	All Proofs of evidence (<i>both parties</i>) Core documents list (<i>Appellant</i>)
Tuesday 10 March	Final draft S.106 agreement (<i>both parties</i>) Agreed Planning Conditions (<i>both parties</i>) Final timings for examination of witnesses and openings (<i>both parties</i>) Inquiry notification letter and list of notifications to PINS (<i>Council</i>)
Friday 13 March	Any <u>necessary</u> rebuttal proofs (<i>both parties</i>)
Friday 20 March	Draft round table agendas (<i>both parties</i>)
Monday 23 March	CIL Compliance Statement (<i>Council</i>) Map for site visit (<i>both parties</i>) Draft Inquiry timetable and round table agendas (<i>Inspector</i>)
Tuesday 24 March	Inquiry opens 10.00 am

Costs

51. The Council have suggested an application is likely to be made for costs and the Appellant reserved their position. If any application is to be made, the Planning Practice Guidance makes it clear that they should be made in writing to the Inspector before the Inquiry. You are also reminded that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the power to initiate an award of costs in line with the Planning Guidance. Unreasonable behaviour may include not complying with the prescribed timetables.

Practical Matters

52. The inquiry will commence at 10.00 on Tuesday 24 March at Barnsley Town Hall. The Inspector will aim to adjourn each day between 17.00 and 17.30, and will resume at 09.30 on subsequent days.
53. The Inquiry is currently scheduled to sit for four days. Every effort should be made by the parties to ensure that evidence can be dealt with within this time period. In anticipation of the main issues being narrowed down in the forthcoming Statement of Common Ground, the Inspector sees no reason why the evidence could not be dealt with well within that time.
54. The Council is expected to double check various housekeeping matters as discussed at the conference in relation to the venue. This would include parking arrangements for the Inspector, disabled access, adequate seating arrangements for interested parties, Wifi access code, provision of microphones and photocopying facilities. Please refer to the following guidance :
<https://www.gov.uk/government/publications/setting-up-a-venue-for-a-public-inquiry-hearing-or-examination>
55. The Inspector requires a large table (preferably with a cloth to the front) with side table, and access to power for a laptop. A retiring room is necessary for the Inspector at all times during the Inquiry.
56. An Officer of the Council is to be on hand at all times during the Inquiry to assist with administration and act as a point of contact for interested parties, as well as taking responsibility for the attendance sheet each day.
57. The parties are urged to inform the Case Officer of any anticipated issues with witness availability that may affect timings or order of proceedings as soon as possible.

Survey

58. Following the conference, you will have been sent a link to a short survey asking for views on the conference call as a part of the early engagement process. You are urged to complete the survey if at all possible. Feedback on this is very important to us in helping to ensure that the early engagement is as productive as it can be in supporting effective improvements to the way we conduct inquiry appeals following the Rosewell Review.

S. Hunt
PLANNING INSPECTOR

5 February 2020