

**APPEAL REF: APP/J1915/W/24/3340497**

**Land East of the A10, Buntingford, Hertfordshire**

**Case Management Conference Note**

**10:00 21 May 2024**

**Appeal by:** Countryside Partnerships Ltd and Wattsdown Developments Ltd

**Proposed Development:** Outline planning application (with all matters reserved except for access) for up to 350 dwellings, up to 4400 sq m of commercial and services floorspace (Use Class E and B8) and up to 500 sq m of retail floorspace (Use Class E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping.

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1. The purpose of the CMC was to enable the Inspector to discuss the management of the case and the procedural arrangements so that the forthcoming Inquiry is conducted in an efficient and effective manner. There was no discussion of evidence at the CMC or consideration of the merits of the appeal.
2. This CMC Note reflects the discussion that took place. It would be helpful if this Note could be added to the Council's website and if the Council can confirm to the Case Officer when this has happened.
3. The Inspector appointed to conduct the Inquiry is K Ford. The Inquiry will open at 10:00 on Tuesday 16 July 2024. Based on the discussions at the conference the Inquiry may run up to 6 days.

#### **Advocates for the Appellant and Council**

4. The advocates for the main parties are:

Appellant: Zack Simons  
Council: Josef Cannon KC

#### **Appearances**

5. The appellant is to call the following witnesses:
  - Mem Ahmet dealing with locational transport
  - Hannah Albans dealing with planning matters
  - Roland Bolton dealing with 5 year housing land supply and custom house building
  - Jon Etchells dealing with landscape character
  - Heather Knowler of EFM (if required) dealing with education contributions

- Andy Williams dealing with density
6. The Council is to call the following witnesses:
    - Bobby Browne of Wynne Williams Associates dealing with landscape and urban design
    - Vic Hester of VLM Associates dealing with planning matters and the deliverability of housing sites
    - Jonathon Lee of ORS dealing with housing need and supply and affordable housing
    - Charlie Thompson of Hertfordshire County Council (if required) dealing with education contributions
  7. The level of public interest or likely involvement in the Inquiry is unknown at the present time. There were a large number of representations at the planning application stage but relatively few at the appeal stage to date. Nevertheless, a slot will be made available to hear interested parties after the opening speeches and local people and organisations are welcome to take part.

### **Format of Event**

8. The Council will be hosting a virtual event online only and will open at 10:00 on Tuesday 16 July 2024, resuming at 09:30 on subsequent days. The Inquiry is not expected to sit later than 16:30 on any given day. There will be no ability for people to attend in person and so it is critical that the Inquiry is advertised as such to avoid confusion.
9. The Inquiry is scheduled to sit for up to 6 days. In addition to this the closings will be heard online at 10:00 on Tuesday 30 July 2024 to give each party adequate time to prepare.
10. If there are any time constraints for any witnesses that need to be catered for please advise the PINS Case Officer at the earliest opportunity.
11. The Council will provide the technology to support the Inquiry and will share details of the technology and how people can access it. The Council will arrange to have a point of contact available before and during the event and details of this will be added to the Inquiry notification letter.
12. Sessions at the Inquiry will last for about 1.5 hours with breaks in between.

### **Main Issues**

13. Following discussion at the CMC the main topic areas of the case are likely to relate to:
  - Whether the proposal would be a suitable location for residential development having regard to the spatial strategy of the development plan.

- The effect on the character and appearance of the area with specific reference to density and landscape character.
  - Whether the Council can demonstrate a deliverable housing land supply as required by the NPPF.
14. There are ongoing discussions between the parties related to transport and education contributions. It is hoped that these will be resolved prior to the start of the Inquiry.
  15. Any benefits and the overall planning balance will need to be addressed. Matters raised by interested parties should also be addressed by the appellant.
  16. Flood risk was identified as a reason for refusal in the Council's decision notice. However, subject to appropriately worded planning conditions the reason for refusal on flooding has been addressed and no longer forms a main issue.
  17. The main parties were encouraged to continue their discussions with a view to narrowing the points of disagreement as much as possible prior to the start of the Inquiry.

### **How the Evidence will be Heard**

18. The Inquiry will be topic based. At this stage the following topics will be dealt with through the formal presentation of evidence; character and appearance, density and landscape character. Subject to the outcome of ongoing discussions there may be a round table on locational sustainability. This will be confirmed when the statements of common ground are received. There will be a roundtable discussion on housing land supply. The planning obligation and conditions will also be dealt with through round table discussions and will be held on a neutral and non-prejudicial basis.

### **Inquiry Running Order/ Programme**

19. Following the Inspector's opening comments on the first day of the Inquiry, the main parties will be invited to make their opening statements. Interested parties will then be given the opportunity to speak, although there may be scope for some flexibility if someone has difficulties that prevent them from speaking on day one.
20. Matters relating to the likely main topics and any other general planning matters will then be dealt with. On conclusion of that there will be Inspector led discussions on planning obligations and conditions. This will be followed by closing submissions setting out each parties' respective cases as they stand at the end of the Inquiry.
21. Written copies of opening statements and closing submissions in Word format are to be emailed to the PINS Case Officer before they are heard

and are to be appropriately cross-referenced where evidence is relied on for the avoidance of any doubt.

22. Advocates are requested to work collaboratively on their time estimates for each stage of their respective cases and these should be sent to the Inspector as soon as possible after the exchange of proofs.

### **Statements of Common Ground (SoCG)**

23. The deadline for the submission of the Statement of Common Ground has been extended to 7 June 2024.
24. A Housing Statement of Common Ground should also be produced for the same date. The document should focus on the areas of disagreement between the parties. At the CMC it was indicated that this was likely to include matters associated with both need and supply. A Scott Schedule will be prepared identifying the sites where there is disagreement. The specific differences on individual sites will be listed along with the reasons for the differences and the consequences for the housing land supply.

### **Management of Appeal Documents**

25. The main parties should work together to produce an agreed Core Documents list with the appellant taking the lead. The documents should be numerically ordered and organised into topics so that they can be easily found during the Inquiry. The list should only comprise those documents to which the parties will be referring.
26. The core documents should be accessible electronically. The library will be hosted by the appellant with links from the Council's website. It must be easy for everyone to access, including members of the public.
27. Attached to this Note is Good Practice Guidance regarding Core Documents and Proofs. Parties should have regard to this.
28. Documents handed in at the Inquiry should be kept to a minimum and should contain no surprises. They will be accepted at the Inspector's discretion and she will give them a reference number. They should be emailed to the Case Officer with the agreement of the Inspector. All such documents must be added to the document library in their own folder.

### **Planning Obligation**

29. Discussions regarding the Planning Obligation are ongoing.
30. The draft obligation would be provided with the proofs of evidence. However, the positions of the parties should be clear before the submission of proofs of evidence and if the contributions sought cannot be

resolved through the submission of an appropriate planning obligation, then proofs of evidence will be required from both parties.

31. It may be that changes will be needed to the obligation following discussion at the round table session. As such, a short period following the close of the Inquiry will be made available for the document to be completed.
32. The Planning obligation should be accompanied by a fully detailed CIL Compliance Statement providing justification for any obligation sought. This 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.
33. With regards to any financial contributions, whilst the pooling restriction has been rescinded, the Inspector will still need to know whether any relevant schemes are the subject of other financial contributions in order to be able to come to a view on whether any contribution sought in relation to this appeal is justified.
34. Regulation 122 of the CIL regulations have been amended to make provision for local planning authorities to charge monitoring fees in planning obligations. That said, the sum to be paid must fairly and reasonably relate in scale and kind to the development and must not exceed the authority's estimate of the cost of monitoring the development over the lifetime of the planning obligation. The CIL Compliance Statement will therefore need to include detailed information to fully justify any such requested amount, explaining how the figure is derived.

### **Conditions**

35. An agreed schedule of draft conditions should be written out in full within a Word document. Careful attention must be paid to the wording and the conditions will need to be properly justified having regard to the tests for conditions, in particular the test of necessity. The policy basis for the conditions will also be required.
36. Any difference in views on the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation of the differing views and the reasons for them.

### **Site Visit**

37. The Inspector intends to carry out an unofficial unaccompanied site visit prior to the Inquiry to inform their understanding of the event. This will be done from publicly accessible places. Another site visit may be undertaken if considered necessary and is also likely to be done on an unaccompanied basis.

38. Parties are invited to work together to produce a walking route identifying anything they wish to draw to the attention of the Inspector ahead of the site visit.

### **Timetable for Document Submission**

39. The following timetable sets out the deadlines for the submission of documents.

<b>Date</b>	<b>Document</b>
7 June 2024 (extended from 9 May 2024)	Deadline for Statements of Common Ground
18 June 2024	Deadline for submission of: <ul style="list-style-type: none"> <li>• All proofs</li> <li>• Suggested planning conditions</li> <li>• Core documents list</li> <li>• Initial draft planning obligation</li> <li>• Draft timings/timetable</li> </ul>
2 July 2024	Deadline for submission of: <ul style="list-style-type: none"> <li>• Final draft planning obligation</li> <li>• CIL Compliance Statement (Council)</li> <li>• Any necessary rebuttal proofs</li> <li>• Updated statements of common ground where necessary</li> <li>• Final timings/timetable</li> <li>• Map and itinerary for site visit (if considered necessary)</li> </ul>
Tuesday 16 July 2024	Inquiry opens 10.00 am

### **Costs**

40. No applications for costs have been made at this time. Should either party intend to make an application, as a matter of good practice, it should be made in writing before the Inquiry.
41. You are reminded that the Inspector has the power to initiate an award of costs in line with Planning Guidance.

*K Ford*

INSPECTOR

## **Annex 1**

### **TEMPLATE FOR CORE DOCUMENTS LIST (adapt headings to suit)**

#### **CD1 Application Documents and Plans**

- 1.1
- 1.2 etc

#### **CD2 Additional/Amended Reports and/or Plans submitted after validation**

- 2.1
- 2.2

#### **CD3 Committee Report and Decision Notice**

- 3.1 Officer's Report and minute of committee meeting
- 3.2 Decision Notice

#### **CD4 The Development Plan**

- 4.1
- 4.2

#### **CD5 Emerging Development Plan**

- 5.1
- 5.2

#### **CD6 Relevant Appeal Decisions\***

- 6.1
- 6.2

#### **CD7 Relevant Judgements\***

- 7.1
- 7.2

#### **CD8 Other**

- 8.1
- 8.2

\* Any appeal decisions on which a party intends to rely must each be prefaced with a note explaining the relevance of the decision to the issues arising in the current Inquiry case, together with the propositions relied on, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon.

## **Annex 2**

### **Content and Format of Proofs and Appendices**

#### **Content**

Proofs of evidence **should**:

- Focus on the main issues identified, in particular on areas of disagreement;
- Be proportionate to the number and complexity of issues and matters that the witness is addressing;
- Be concise, precise, relevant and contain facts and expert opinion deriving from witnesses' own professional expertise and experience, and/or local knowledge;
- Be prepared with a clear structure that identifies and addresses the main issues within the witness's field of knowledge and avoids repetition;
- Focus on what is really necessary to make the case and avoid including unnecessary material, or duplicating material in other documents or another witness's evidence;
- Where case law is cited in the proof, include the full Court report/ transcript reference and cross refer to a copy of the report/ transcript which should be included as a core document.

Proofs **should not**:

- Duplicate information already included in other Inquiry material, such as site description, planning history and the relevant planning policy;
- Recite the text of policies referred to elsewhere: the proofs need only identify the relevant policy numbers, with extracts being provided as core documents. Only policies which are needed to understand the argument being put forward and are fundamental to an appraisal of the proposals' merits need be referred to.

#### **Format of the proofs and appendices:**

- Proofs to be no longer than 3000 words if possible. Where proofs are longer than 1500 words, summaries are to be submitted.