

**APPEAL REF: APP/J4423/W/20/3258555 Land off Moorthorpe Way, Sheffield, S20 6PD**

**CASE MANAGEMENT CONFERENCE SUMMARY**

1. The case management conference was led by the Inquiry Inspector, Owen Woodwards.
2. The Inquiry is to be held virtually, opening at 10.00am on Tuesday 12 January 2021.
3. The advocates were confirmed as Richard Sagar for the Appellant and Guy Williams for the Council. The Owlthorpe Fields Action Group (the OAG) are a Rule 6 party and were represented at the conference by Andrew Wood. They are yet to appoint an advocate for the Inquiry.

**Main issues**

1. It was agreed that the main issues in this case are likely to relate to whether or not the development:
2. Would unacceptably harm the ecology of the site and the area;
3. Prejudices the proper planning of the area by not forming part of a comprehensive scheme for the whole of the Owlthorpe development area (Sites C, D and E);
4. Fails to respond sufficiently to the area’s prevailing character, green infrastructure and open space;
5. Makes efficient use of land; and
6. Fails to appropriately integrate affordable housing into the layout.
7. In addition, it is not yet resolved whether the Council can demonstrate a five-year housing land supply. An update regarding the Council’s position is expected in early-December 2020, but this cannot be confirmed at present. If there remains dispute regarding this then it may become a main issue.
8. It was agreed that issues relating to the relevance of certain development plan policies will be tested within each main issue as relevant, rather than forming a separate main issue in its own right.
9. The Inquiry will also look at any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme.

**Dealing with the evidence**

1. It was agreed that Main Issue A will be tested through formal presentation and cross-examination for this topic only. Main Issues B – E will then also be tested through formal presentation and cross-examination but split by party rather than by topic. In each case, the Council will present its evidence first, which will be cross-examined and re-examined if necessary, followed by the OAG, and then followed by the Appellant, both on the same basis.
2. If housing land supply becomes a main issue, then it was agreed that it will be tested in a topic specific round table session. The Inspector will lead the session, but the parties will need to work together in advance to prepare a draft agenda, to ensure that all relevant matters are properly aired and interrogated.
3. The planning balance issue will be tested through formal presentation and cross-examination for this topic only.

**Inquiry running order**

1. It was agreed that the Inquiry sit for five days, with a sixth day held in reserve. Accordingly, the scheduled sitting days will be 12 – 15 January 2021 and 19 January 2021, with 20 January 2021 held in reserve.
2. In general, the Inquiry is expected to finish each day no later than around 17.00 hours and, with the exception of the first day, will resume on subsequent days at 09.30 hours. The provisional timetable will be to provide four 90-minute sessions each day, split by lunch and mid-morning and mid-afternoon breaks, although flexibility will be shown where appropriate.
3. In terms of running order, following the Inspector’s opening comments on the first day of the Inquiry, he will invite opening statements from the main parties (Appellant first, then the OAG, then the Council) which will set the scene. He will then hear from any interested parties who wish to speak, potentially to include Mr Betts MP, although this will need to be confirmed.
4. The first presentation of evidence in chief and cross-examination will deal with ecology. It is anticipated that the Appellant and the OAG will call witnesses for this issue.
5. This will be followed by Main Issues B to E being considered together, split by party rather than by topic. It is anticipated that the Appellant will call four witnesses for this issue, the OAG one witness, and the Council one witness.
6. If housing land supply is a main issue, then it will be considered following Main Issues B to E, in a round table format. It is anticipated that the Council and the LPA will join this discussion.
7. Last in terms of evidence, matters relating to planning policy, any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme, and the overall planning balance will also be dealt with through evidence in chief and cross examination. It is anticipated that each party will call one witness for this issue.
8. On conclusion of that, the Inspector will lead the usual round table discussion on conditions and provisions of the planning obligation. That will be followed by closing submissions (the Council, then OAG, then Appellant) which should set out your respective cases as they stand at the end of the Inquiry, with a written copy provided at the time, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt.
9. The Inspector will carry out an accompanied site visit. This has provisionally been arranged to take place after the discussions on conditions and planning obligations and before the closing submissions. However, the Inspector reserves the right to move this to a different part of the programme or to undertake the visit after the Inquiry has closed if required.
10. Whenever it takes place, its purpose is simply for him to see the site and its surroundings. He cannot listen to any representations during the visit, but parties can point out physical features, so it is important that you give some thought as to where you wish her to see the site from.

**Planning obligation**

1. The OAG are to provide their feedback to the draft planning obligation to allow for any comments to be incorporated as appropriate. This should be provided in good time to allow for the final draft to be produced by 29 December 2020. The final draft must be accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council. That statement is to set out a fully detailed justification for each obligation sought, detailing how it complies with the CIL Regulations, in particular the test of necessity in terms of how it would mitigate a particular 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.
2. With regard to any financial contributions, the Statement will still need to set out whether any relevant schemes are the subject of other financial contributions in order for the Inspector to be able to come to a view as to whether any contribution sought in relation to this appeal is properly justified. The CIL compliance statement will need to include detailed information to fully justify the requested amount, explaining how the figure is derived.
3. A short time will be allowed after the Inquiry for submission of a signed version of the obligation.

**Core documents**

1. A draft core document list has already been produced. The parties will need to discuss and agree the final list in advance of preparing their proofs so they can be properly referenced. That list is to be co-ordinated by the Appellant and must be submitted with the proofs. The Core Documents should comprise only those documents to which you will be referring and do not need to include a copy of the National Planning Policy Framework or deal with areas where there is no dispute. Any appeal decisions and/or legal authorities on which any party intends to rely will need to be prefaced with a note explaining the relevance of the document to the issues arising in the Inquiry case, together with the propositions on which you are seeking to rely, with the relevant paragraphs flagged up.
2. Where any documents on which it is intended to rely are lengthy, only relevant extracts need to be supplied, as opposed to the whole document. Such extracts should, however, be prefaced with the front cover of the relevant document and include any accompanying relevant contextual text.
3. Any documents submitted once the Inquiry has opened will be recorded as Inquiry Documents on a separate list, overseen by the Inspector.

**Timescales**

1. A final draft Statement of Common Ground has been produced. This is to be further updated by the Council and the Appellant in relation to the drawing list. The OAG are also to provide feedback on the draft schedule of conditions. As a post conference note, the Inspector asks that this is agreed by **30 November 2020**. It should then be used to inform your respective proofs.
2. As set out in the start letter, all proofs are to be submitted no later than **15 December 2020**. Details of the preferred format and content of proofs and other material were Annex’d to the pre-conference note.
3. Submissions in relation to housing land supply are contingent on the release of additional information by the Council independent of the Inquiry process. It is agreed that this issue will be progressed as quickly as possible within this constraint.
4. The draft final planning obligation is also to be submitted by **29 December 2020**, accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council.
5. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and the Inspectorate does not encourage the provision of such. However, where they are necessary to save Inquiry time, copies should be provided no later than **5 January 2020**. 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.
6. The advocates are to work collaboratively on the time estimates for each stage of their respective cases, with final timings for openings and closings, evidence in chief and cross-examination to be submitted no later than **15 December 2020**. A draft programme will be issued within one week of receipt of your final timings, 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.

**Costs**

1. No application for costs is currently anticipated by any party at this stage, although positions were reserved. If any application is to be made, the Planning Practice Guidance makes it clear that it should be made in writing before the Inquiry. 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, although hopefully ‘he won’t have to use it.

**Any other business**

1. The Council are encouraged to draw the attention of interested parties to this Note, including posting a copy on its web site.
2. The OAG are to provide information on land ownership to the Appellant. The Inspector is to provide the related consultation response to the Appellant.
3. The OAG are to clarify their approach to the issue of Environmental Impact Assessment, as set out in Paragraph 5.5 of their Statement of Case. As a post meeting note, the Inspector requests that this clarification be provided by **30 November 2020**, so that it can inform the ongoing production of the proofs.
4. A test event in order to ensure that all parties are comfortable with the virtual format will be arranged to be held in advance of the Inquiry.
5. As a post meeting note, the Inspector can confirm that the Planning Inspectorate do not routinely live stream Inquiries. They may make an exception but that would only be if there was a large number of interested parties. This decision can be made nearer the Inquiry.

O S Woodwards

INSPECTOR

13 November 2020