



APPEAL REF: APP/ F1610/W/20/3248674
Scrap Haulage Yard Gilder, Fosseyway, Lower Slaughter, GL54 2EY

CASE MANAGEMENT CONFERENCE CALL - 20 August 2020

SUMMARY NOTE

1. The Case Management Conference (CMC) was led by the Inquiry Inspector, Paul Singleton. The Inquiry is due to open at 10.00am on Tuesday 24 November 2020 and is currently scheduled to sit for 3 days.

Format of Inquiry

2. Due to the current restrictions relating to Covid 19 it is expected that the Inquiry will be conducted as a 'virtual' Inquiry using video conferencing facilities rather than as a face to face event. The event will be hosted by the Planning Inspectorate and joining instructions will be issued to parties who wish to take part in or observe the Inquiry. Arrangements will be made available for interested parties (IPs) to make oral submissions via a telephone call if they do not have access to video conferencing facilities or the internet.
3. The Planning Inspectorate is currently using the Microsoft Teams software to host virtual Inquiries and Hearings. A test event will be conducted prior to the commencement of the Inquiry to test connectivity for those wishing to participate and to enable participants to familiarise themselves with the video conferencing facilities. The Inspector and the Case Management team have agreed that the Test Event will be held on **Tuesday 3 November 2020, commencing at 10.00 AM**. Joining instructions will be sent to the parties in due course.

Appellant's Representatives

4. The appellant's advocate was confirmed as Charles Banner QC who expects to call 3 witnesses dealing with:
 - The concept and design of the proposed development;
 - Transport and highways matters
 - Planning issues and compliance with relevant policy.

Mr Banner reserved his position on the calling of evidence in respect of the effect on the Cotswolds AONB.

Cotswold District Council Representatives

5. The Council is to be represented by Michael Brett, of Counsel. As the Council has resolved not to defend its decision to refuse the application it will not be calling any evidence at the Inquiry and will not be able to cross examine the appellant's witnesses. Mr Brett and officers from the Council will be in attendance to assist the Inspector with any queries that might arise, for example in relation the handling of the planning application, the responses received to the consultation on the application, and relevant local planning policies and guidance. The Inspector agreed

that Mr Brett would be given the opportunity to make comments and submissions at the Inquiry to clarify the Council's position if necessary.

Invitation to Parish Councils and other Bodies/ Interested Parties to apply for Rule 6 Status

6. The Parish Councils and other bodies/organisations who have submitted written representations to the appeal are invited to consider applying for 'Rule 6' status which would provide them with a role as a main party in the Inquiry procedure. The granting of Rule 6 status would entitle that body or organisation to be formally represented at the Inquiry (for example by a legal or planning agent); to call witnesses in support of their case who would be able to submit a proof of evidence to the Inquiry; to formally cross-examine the appellant's expert witnesses; and to make formal submission to the Inspector in support of their case.
7. The Inspector is issuing this invitation as he thinks this may assist the Parish Councils in presenting their objections and concerns to the Inquiry and to represent the members of their respective communities who object to the appeal proposal. It may also assist other groups or bodies in enabling them to present technical or expert evidence to the Inquiry. The District and Parish Councils are requested to draw the attention of interested parties to this Note by publishing this on their websites so that IPs are aware of this opportunity to be represented by a group or body that seeks Rule 6 status.
8. Interested parties (IPs) should be aware that, while Rule 6 status provides additional rights, these are accompanied by responsibilities including an obligation to submit proofs of evidence and any supporting documents in accordance with the timescales set out by the Inspector (see below) and a general responsibility to act reasonably in their preparation for and involvement in the Inquiry process. A Rule 6 party may be at risk of an award of costs against it if it is found to have acted unreasonably and such unreasonable behaviour has resulted in another party in the appeal incurring unnecessary or wasted expenditure.
9. IPs are referred to the Planning Inspectorate's '*Procedural Guidance on Planning Appeals*' (July 2020) and '*Guide to Rule 6 for interested parties involved in an inquiry – planning appeals and called-in applications*' (September 2019) for further information on the benefits and responsibilities of Rule 6 Status. These are available on the Planning Inspectorate's website.
10. If any party wishes to apply for Rule 6 status, they should make this request in writing to the Planning Inspectorate's Case Officer by **Monday 7 September 2020**. The Inspector will issue a ruling on that request(s) as soon as possible after that date.

Involvement of Other IPs in the Inquiry

11. It is not necessary for IPs to obtain Rule 6 status in order to participate in the Inquiry. The Inspector will have regard to all of the written representations received in respect of the original planning application and the appeal and it is not helpful to the Inspector for parties simply to read out what they have already put in writing. However, if IPs wish to

make an oral statement to expand or elaborate on points that they have already made in writing they will be able to do so. Those wishing to speak will need to register their intention to do so with the Case Officer in advance of the commencement of the Inquiry so that appropriate time slots can be put into the Inquiry programme for them to be heard. Those requests will need to be made by **17 November 2020**. IPs wishing to make a statement to the Inquiry should be prepared to respond to any questions that the Inspector may have about their representations and, preferably, be willing to respond to questions that the appellant's advocate may have on their evidence.

12. IPs who do not have Rule 6 status will not, however, be invited to submit any further written evidence to the Inquiry and the Inspector will be unlikely to accept any further written submissions from them. They will not be able to have formal representation at the Inquiry and will not have the formal right to cross examine the appellant's witnesses. However, IPs who make an oral statement to the Inquiry will, at the Inspector's discretion, be permitted to ask questions of individual witnesses on matters that the IP has raised in their written and/or oral representations to the Inquiry.
13. IPs who feel that they may have such questions will need to review the written evidence in advance and notify the Case Officer by **17 November 2020** of their request to ask questions at the Inquiry. Such requests should identify the witness that they wish to question and give an indication of how many questions they wish to ask of that witness. This information is required to enable the Inquiry programme to be finalised before opening and to enable the efficient running of the Inquiry in the interests of all participants.

Updated Statement of Case by the Council

14. When the appeal was lodged, the Council submitted a Statement of Case setting out its objections to the appeal proposal. In view of its decision not to defend its refusal of planning permission it has been agreed that the Council will prepare and submit an updated Statement of Case to clarify its revised position. It is considered that this will assist the Inspector and IPs to understand the stance that the Council is now taking with regard to the proposed development.
15. This updated Statement of Case is to be submitted to the Planning Inspectorate by **7 September 2020** and will be published on the portal for all parties to see.

Statements of Common Ground/ Draft Conditions

16. The appellant and Council will seek to agree a Statement of Common Ground (SoCG), primarily dealing with agreed facts, but also to include a schedule of draft planning conditions to be attached to the planning permission in the event that the appeal is allowed. The agree SoCG is to be submitted by **13 October 2020** and will be published on the portal when it is received.

17. The draft conditions will be discussed during the Inquiry and all parties will have the opportunity to comment on these at that session.

Main Issues

18. Following his initial review of the appeal documents the Inspector considers that the main issues in this case are likely to relate to:
 - a. Whether the proposal constitutes sustainable development for the purposes of section 2 of the National Planning Policy Framework.
 - b. The effect on the character and appearance of the area including on the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty.
 - c. Whether the appellant's transport assessment provides for a robust assessment of the level of traffic movements into and out of the proposed development.
 - d. The effect on the safety of pedestrians, cyclists and other road users including persons travelling between the site and local service/facilities in Lower Slaughter and Bourton-on-the Water.
 - e. Whether the proposals comply with and derive support from relevant national and local planning and environmental policies and objectives.

Dealing with the Evidence

19. All main issues will be tested through formal presentation of evidence by the appellant and any Rule 6 party. If there is a Rule 6 party that party will have formal cross examination rights and the evidence will also be tested by questions from the Inspector and by IPs who have registered their request to ask questions of the appellant's witnesses. Any proofs of evidence submitted by a Rule 6 party may also be subject to cross examination by the appellant's advocate if he chooses to do so.
20. All Proofs of Evidence and supporting documents need to be submitted to the Planning Inspectorate and copied to any Rule 6 Party/the appellant by **27 October 2020**. These will be published on the portal so that they can be seen by IPs.
21. The Inspector does not encourage the submission of Rebuttal evidence but if new issues arise that have not been dealt with in the main Proofs of Evidence it may be useful to deal with this in a short rebuttal proof to save time at the Inquiry. The deadline for submission of any rebuttal proofs will be **10 November 2020**.

Core Documents/Inquiry Documents

22. It was agreed that the appellant would produce a list of Core Documents for use during the Inquiry so that common document references can be used in all Proofs of Evidence. The list of Core Documents is to be submitted by **13 October 2020**. It was agreed that the appellant will liaise with the Case Officer regarding the most appropriate format for submitting the Core Documents in order to maximise ease of use of

these during the Inquiry. A possible template for referencing the Core Documents is attached as Annex A to this Note.

23. I am content to receive only electronic copies of the Core Documents with the following exceptions:

- 1) A full set of the scheme plans including any relation to site access and off-site highway works, at full scale, should be submitted for my use.
- 2) A full set of plans, photographs, photomontages forming part of the appellants landscape and visual appraisal, at a minimum A3 size, should be submitted for my use.

Site Visit

24. I will undertake an inspection of the site and its surroundings as part of my assessment of the appeal proposals. I anticipate that this will be carried out on an unaccompanied basis following the close of the Inquiry.

25. The Council and appellant are requested to produce a suggested route and itinerary for the site visit, suitably annotated to make clear what matters issues I am being asked to consider at the various locations and viewpoints on the suggested routes. IPs who wish to contribute to that suggested itinerary should please liaise with the appellant and/ or the Council to make their suggestions as to locations that you wish me to visit. The suggested itinerary should be submitted by **17 November 2020** and will be discussed during the course of the Inquiry.

Inquiry Running Order

26. In general, it is anticipated the Inquiry will sit for two 90 minute sessions in the morning, with a break in between, and one 90 minute session in the afternoon. These times will be adjusted as appropriate to find a convenient break in the proceedings. Expert witnesses will be expected to observe the 'purdah' protocols when giving their evidence and I will look to the advocate to confirm that these are being observed when necessary.

27. Based on the discussions during the case management conference call I propose that matters be dealt with in the following Order:

- Inspector's opening comments.
- Opening Statements: Appellant, Any Rule 6.
- Opportunity for Interested Persons to speak.
- Rule 6 party case (if any).
- Appellant's Case.
- Round Table Discussion on draft Conditions.
- Closing Statements: Rule 6 (if any), Council (if necessary) and Appellant.
- Costs applications (if required).

28. Opening statements should be brief (around 5 to minutes for each party). Closing statements should also be as brief as they can be please (30 minutes as a guide) and should preferably be in writing.

Costs Applications

29. Any application for costs should preferably be made in writing in advance of the Inquiry so that the other party has a reasonable time to prepare its response. The parties are also reminded that I have the power to initiate an award of costs in accordance with the guidance in the Planning Practice Guidance, irrespective of whether any applications are made. I do not expect to have to initiate such action but the parties should be aware of this possibility.

Duration of Inquiry

30. The Inquiry is currently scheduled to last for 3 days and I am hopeful that we can complete the necessary business within that timescale.

31. The appellant's advocate and any Rule 6 party should submit their estimates of the time required for the presentation of their case and cross examination of witnesses for the opposing party by **10 November 2020**.

Summary of Submission Dates/ Deadlines

7 September	Deadline for receipt of request for Rule 6 Status Deadline for submission of Updated Statement of Case for the District Council
13 October	Deadline for submission of SoCG and Schedule of draft planning conditions. Submission of agreed list of Core Documents
27 October	Deadline for all Proofs of Evidence and appendices. Deadline for submission of Inquiry notification letter and list of those notified (if not already done).
3 November	Test Event, commencing at 10.00 pm
10 November	Deadline for any necessary rebuttal proofs.
17 November	Deadline for requests from IPs to speak at the Inquiry and to ask questions of appellant's witnesses. Time estimates for evidence and cross examination Submission of suggested Route and Itinerary for Inspector's Site Visit
24 November	Inquiry opens 10.00 am

Paul Singleton
INSPECTOR

21 August 2020.

ANNEX A
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.