



INSPECTOR'S PRE-CONFERENCE NOTE

Appeal Ref: APP/D0121/W/22/3313624

**Land at Lynchmead Farm, Ebdon Road, Wick St Lawrence,
Weston-super-Mare BS22 9NY**

Outline planning application (with all matters reserved except access) for a residential development of up to 75 dwellings and associated infrastructure.

Case management conference: 10.00am on Thursday, 23 March 2023.

Introduction

1. The case management conference will be led by Guy Davies BSc (Hons) Dip TP MRTPI as the Inspector appointed by the Secretary of State to determine the appeal.

Purpose

2. The purpose of the conference is to consider the management of the case so that the appeal is dealt with in an efficient and effective manner. There will be no discussion of the merits of the case at the conference.
3. The headings of this note will be used as the agenda for the conference.

Participation in the Appeal

4. The main parties will be requested to provide details of their advocates and expert witnesses at the start of the case conference.
5. Other interested parties will be given the opportunity to speak either on the first morning of the Inquiry or during discussion on the main issues. Anyone wishing to speak should therefore attend the first day of the Inquiry or advise the PINS case officer if unable to do so.

Main Issues

6. Based on the statements of case, the main issues in this appeal are likely to be the effect of the development on:
 - 1) Flood risk including application of the sequential test and, if necessary, the exception test
 - 2) Ecology, in respect of lighting on bats.
7. The main parties are continuing to discuss a possible resolution of the second main issue. An update on progress will be sought at the CMC.

8. There is a range of other planning issues (affordable housing, employment, sustainable travel, fire hydrants and open space provision) which the parties expect to be able to resolve through submission of a legal agreement.
9. The Inquiry will also need to look at material considerations, including the benefits of the scheme and the consequences of a lack of housing land supply, and how those matters should be weighed in the planning balance.
10. For all other matters, reliance will be placed on the written evidence submitted as part of the application documents, statements of case and statement of common ground. Main parties should be prepared to answer questions raised by interested parties on these other matters where appropriate, but no further evidence or witnesses are expected to be necessary.

Procedural Matters

Procedure

11. The appeal will be considered at an Inquiry. Under the procedural guidance for appeals¹, the local planning authority is expected to host the event. Given the technical nature of the issues and the level of local interest, it would be appropriate to conduct the Inquiry as a face-to-face event. The Council will be asked to confirm that it is able to do so in this case.

Venue

12. Assuming a face-to-face event is the agreed procedure, the Council will be requested to provide details of the location of the venue, the size of the Inquiry room, confirmation that there is robust wi-fi, and the availability of a retiring room for the Inspector.

Format

13. At the conference the most appropriate format for the main issues and related matters will be determined, these being either by cross-examination, round-table sessions, or by written representations.
14. Provisionally, it would appear that both main issues would be best heard through cross-examination, as would any assessment of the planning benefits and the consequence of a lack of housing land supply.
15. A round-table discussion would be the most appropriate format for considering the legal agreement and any proposed conditions.
16. Views will be sought from the main parties on whether these are appropriate formats for the main issues and other matters, or whether there are good reasons for alternative formats.

¹ Procedural Guide: Planning appeals – England, updated 21 December 2022

Running Order

17. The options for hearing the issues are either using a topic-based approach, or by main party. In this case, a topic-based approach would seem the most appropriate. Main parties will be asked for their preferred running order in which the topics are heard. In the absence of any agreed preference, the running order will follow that set out above under main issues, with other material considerations following as a separate topic.

Timetable

18. The Inquiry is scheduled to sit for 7 days between 16-19 and 23-25 May 2023. The Inspector is aware of potential difficulties with attendance. The opportunity to shorten the Inquiry and adjust its timing will depend on the extent to which the main parties are able to narrow the issues in dispute. This matter will be discussed further at the CMC.
19. Other than for the first day when the Inquiry will start at 10:00am, sitting days will run between 9:30am and approximately 5:00pm with a break for lunch and short mid-morning and mid-afternoon breaks as necessary. To avoid breaking cross or re-examination of witnesses, sessions will be lengthened or shortened wherever possible.
20. Advocates are requested to provide estimated timings for opening and closing statements, evidence in chief and cross examination once proofs of evidence have been exchanged. It would be helpful to have those estimates no later than 10 working days before the start of the Inquiry (**currently 2 May 2023**). Following the receipt of time estimates, a programme will be prepared for the Inquiry by the Inspector. Advocates will be expected to keep to their time estimates unless circumstances beyond their control dictate otherwise.

Documentation

21. All documents should be available digitally, ideally on a dedicated core document web page. The expectation is that the web page will be hosted by the Council although if it can be achieved more efficiently by the appellant, then there would be no objection to that approach as an alternative.
22. A recommended format for the core document list is attached at **Annex A**. The core documents should be set up and made publicly available as soon as possible after the case management conference, or as they become available, so that both main parties can reference them consistently when preparing proofs of evidence.
23. A copy of this case management conference note, subsequent post-conference note, and Inquiry programme (when issued) should be included in the core documents list.
24. Proofs of evidence should be submitted no later than **18 April 2022**. The attached **Annex B** sets out the preferred format and content of proofs of evidence/statements and other material. Appendices, particularly where

they contain large documents, should be broken down into manageable file sizes.

25. Only if absolutely necessary should rebuttal evidence be submitted, and then no later than 10 working days before the Inquiry (**2 May 2023**).
26. Main parties should provide one hard copy of each proof of evidence (and rebuttal statement were appropriate) via the PINs case officer for the use of the Inspector. The appellant is also requested to provide one hard copy of the application plans on which the Council reached its decision.

Planning conditions

27. Without prejudice to the outcome of the appeal, a list of conditions should be submitted for consideration no later than ten working days before the Inquiry (**2 May 2023**). Conditions should comply with the tests set out in paragraphs 55-56 of the National Planning Policy Framework (the Framework).
28. If there are any conditions that the appellant and Council cannot agree upon these should be listed in a separate schedule with an explanation of why agreement could not be reached on them.
29. If there are any pre-commencement conditions agreed, the appellant should confirm in writing that they are accepted in accordance with Section 100ZA of the Town and Country Planning Act 1990.

Legal undertaking

30. Submission of a legal undertaking by the appellant should follow the advice in Annexe N of the procedural guide for appeals. A final draft copy of any legal undertaking should be submitted no later than 10 working days before the Inquiry (**2 May 2023**). Alternatively, and preferably, a completed legal undertaking can be submitted prior to the Inquiry which includes a clause allowing the Inspector to modify or void obligations if appropriate.
31. If the undertaking is unilateral in form, there remains a duty on the Council to check the draft undertaking and advise whether the wording and ownership position is agreed.
32. For those planning obligations that are agreed between the appellant and the Council, the Council should submit a statement explaining the need for the matters covered by planning obligations and how they meet the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 57 of the Framework no later than 10 working days before the Inquiry (**2 May 2023**).

Site visit

33. A site visit will take place during the course of or immediately after the Inquiry. If any interested party wishes the Inspector to view the site from a

particular viewpoint, or any other relevant sites, they should say so during the Inquiry.

Costs

34. Costs applications are not being invited, but parties are reminded that any costs application must be made before the Inquiry is closed. As a matter of good practice costs applications should be made in writing before the start of the Inquiry.

Guy Davies

INSPECTOR

17 March 2023

Summary of deadlines

Case Management Conference	THURSDAY, 23 March 2023
Proofs of evidence	18 April 2023
Time estimates	2 May 2023
Draft legal undertaking	2 May 2023
Planning conditions	2 May 2023
Inquiry opening	16 May 2023

Annex A - template for core documents list

(adapt headings to suit)

CD1 Application documents and plans

1.1

1.2 etc

CD2 Additional or amended documents or plans on which the Council reached its decision

2.1

2.2 etc

CD3 Case officer's report and decision notice

3.1 Officer's report and minute of meeting

3.2 Decision notice

CD4 The Development Plan

4.1

4.2 etc

CD5 Appellant's appeal documents

5.1 Statement of case

5.2 Proof of evidence of ...

CD6 Council's appeal documents

6.1 Statement of case

6.2 Proof of evidence of ...

CD7 Inspector's appeal documents

7.1 Pre-case management conference note

7.2 post-conference summary

7.3 Inquiry programme

CD8 Other appeal documents

8.1 Statement of common ground

8.2 etc

Annex B - content and format of proofs/statements and appendices

Content

Proofs of evidence and statements 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 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 core 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
- where data is referred to, include that data, and outline any relevant assessment methodology and the assumptions used to support the arguments (unless this material has been previously agreed and is included as part of the statement of common ground).

Format of proofs/statements and appendices:

- All documents should be submitted digitally.
- Front covers to proofs/ statements and appendices should be clearly titled, with the name and qualifications of the witness on the cover.
- Pages and paragraphs should be numbered.
- All appendices should be compiled separately from proofs/ statements. Digital versions of appendices should be submitted as separate documents
- Appendices should be indexed and paginated.

All proofs/statements, appendices and other documents should be available for members of the public to view on the Local Planning Authority's website.