



CASE MANAGEMENT CONFERENCE SUMMARY 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.

Introduction

1. The case management conference was held on 23 March 2023 and led by Guy Davies BSc (Hons) Dip TP MRTPI as the Inspector appointed by the Secretary of State to determine the appeal. The purpose of the conference was to agree procedural aspects of the inquiry; the merits of the scheme were not discussed.

Participation in the Appeal

2. The advocates and witnesses for the main parties were confirmed as:

Appellant:

Charles Banner KC, who will call:

Alban Henderson (flood risk – sequential test/site availability)

Ian Jewson (policy/exception test criterion (i)/balance)

Additional witnesses for the appellant will only be called if outstanding matters have not been resolved by the start of the inquiry:

Nick Bosanto (flood risk – drainage/exception test criterion (ii))

Matt Cowley (ecology)

Council:

Timothy Leader, who will call:

Simon Bunn (flood risk)

Marcus Hewlett (policy/balance)

Neil Underhay will attend the discussion on conditions and legal agreement.

3. Other interested parties will be given the opportunity to speak either on the first morning of the inquiry or if appropriate at a later stage in the inquiry in relation to a specific issue. Anyone wishing to speak should therefore attend the first day of the inquiry or advise the PINS case officer if unable to do so. Anyone is welcome to attend the inquiry at any time to observe proceedings.

Main Issues

4. The main issue in this appeal was agreed to be the relationship of the development to flood risk including application of the sequential test and, if necessary, the exception test¹.
5. Following the submission of a revised assessment on lighting, the main parties are expecting to be able to resolve the ecological concern raised in the Council's third reason for refusal. If that proves to be the case, the parties have been asked to submit a joint note that includes (i) written confirmation that Natural England has no objection to the scheme (subject to a condition if deemed necessary) and (ii) a shadow appropriate assessment. The joint note should be submitted no later than **25 April 2023**. If the ecological concern cannot be fully resolved, then it is likely that this issue will be heard by an additional roundtable session.
6. 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.
7. The inquiry will also need to look at other 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.
8. In relation to the latter point, it was agreed that the Council was unable to demonstrate a five-year housing land supply, and that the extent of the shortfall was of the order of 3.5 years' supply as determined in an earlier appeal in June 2022². It is unlikely that position will change prior to the inquiry.
9. For all other matters, reliance will be placed on the written evidence submitted as part of the application documents, statements of case, statement of common ground, consultation responses and interested parties' representations.

Procedural Matters

Procedure and venue

10. The inquiry will take place as a face-to-face inquiry, hosted by the Council at the **Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ**. It was confirmed that the Council Chamber to be used for the inquiry is large enough to accommodate all those expected to attend. The Council will also arrange for a retiring room and parking space to be made available for the use of the Inspector.

Format and running order

11. Given the narrowing of issues in dispute, and the arguments to be presented on flood risk involving both policy and technical elements, it was

¹ As set out in Chapter 14 of the National Planning Policy Framework

² APP/D0121/W/21/3285624 – Farleigh Farm, Backwell

agreed that all evidence will be tested through cross-examination, with the witnesses for the Council being heard first followed by the witnesses for the appellant.

12. A round-table session led by the Inspector will be held to consider the legal agreement and any proposed conditions.

Timetable

13. Following narrowing of the main issues it was accepted that the inquiry would not take as long as originally anticipated. For that reason, and to avoid potential difficulties with attendance by the main parties, it was agreed to open on **23 May 2023**, with subsequent sitting days **24-26 May 2023**. The deadlines for submission of documents have been changed accordingly.
14. 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.
15. 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 (**9 May 2023**). Following the receipt of time estimates, a programme will be prepared by the Inspector. Advocates will be expected to keep to their time estimates unless circumstances beyond their control dictate otherwise.

Documentation

16. The Council confirmed that it will host the inquiry documents on a dedicated core document web page. The appellant will provide pdf copies of any documents to which it intends to refer to the Council for uploading. A suggested format was appended to the pre-conference note. The core document list should be numbered and made publicly available as soon as possible so that both main parties can reference it consistently when preparing proofs of evidence. link to the core document web page should be provided from the Council's website.
17. A copy of the pre-conference note, this case management summary note, and the inquiry programme (when issued) should be included in the core documents list.
18. It was agreed that the Council would provide a list of reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding relating to the sequential test. A copy of the list should be provided to the appellant no later than **31 March 2023**.
19. Proofs of evidence should be submitted no later than **25 April 2022**. Annex B of the pre-conference note 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.

20. Only if absolutely necessary should rebuttal evidence be submitted, and then no later than 10 working days before the Inquiry (**9 May 2023**).
21. 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 (drawings only, A3 or A4 scale).
22. In relation to the application plans, the main parties were requested to clarify a list of the application drawings on which the Council reached its decision (Council to confirm), and of those drawings which form part of the proposal and which are for illustrative purposes only (appellant to confirm). Confirmation, either jointly or separately, should be made no later than **25 April 2023**.

Planning conditions

23. Without prejudice to the outcome of the appeal, a list of conditions should be submitted jointly by the main parties no later than ten working days before the Inquiry (**9 May 2023**). Conditions should comply with the tests set out in paragraphs 55-56 of the National Planning Policy Framework (the Framework), in particular that relating to necessity. Parties are reminded that the proposal is in outline, and therefore conditions relating to reserved matters are not relevant at this stage.
24. 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.
25. 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

26. A completed or final draft copy of any legal undertaking should be submitted by the appellant no later than 10 working days before the inquiry (**9 May 2023**).
27. A statement explaining the need for the matters covered by the legal undertaking and how they meet the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 should be submitted by the Council no later than 10 working days before the inquiry (**9 May 2023**).

Site visit

28. 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

29. 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

23 March 2023

Summary of deadlines

List of alternative sites (Council)	31 March 2023
Note on ecology (joint)	25 April 2023
Proofs of evidence (both main parties)	25 April 2023
Time estimates (both advocates)	9 May 2023
Draft legal undertaking (appellant)	9 May 2023
Justification for legal obligations (Council)	9 May 2023
Planning conditions (joint)	9 May 2023
Inquiry opening	23 May 2023
Sitting days	23-26 May 2023