



Ref: APP/B1930/W/21/3279463
Burston Garden Centre, North Orbital Road, Chiswell Green,
St Albans AL2 2DS

Proposal: Demolition of all existing buildings, structures and hardstanding and redevelopment of the site to provide a new retirement community comprising 80 assisted living apartments with community facilities and 44 bungalows together with associated access, bridleway extension, landscaping, amenity space, car parking and other associated and ancillary works.

Case Management Conference Summary Note

1. The case management conference (CMC) between the Inspector and representatives of the appellant and St Albans City & District Council (the Council) took place on Thursday 14 October 2021. The CMC discussed procedural matters only, to ensure that the forthcoming Inquiry is conducted in an efficient and effective manner. The agreed description of the proposed development is shown above.
2. The Inspector appointed to conduct the Inquiry is Tom Gilbert-Wooldridge. The Inquiry will open at 10:00 on Tuesday 7 December 2021. It is anticipated the event will operate in-person based on current guidance, with the option of virtual participation where necessary.
3. The Council should ensure that interested parties are made aware of this note. It is recommended that a copy be posted on the Council's website.

Main Issues

4. The Inspector's pre-conference note (6 October 2021) set out 5 potential main issues based on the material currently before him:
 - 1) the effect of the proposed development on the openness and purposes of the Green Belt;
 - 2) the effect of the proposed development on the character and appearance of the area;
 - 3) the effect of the proposed development on the significance of the Grade II* listed Burston Manor and the Grade II listed outbuildings;
 - 4) whether the proposed development would make adequate provision for community and infrastructure needs; and
 - 5) whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.
5. At the CMC, the parties agreed that the development would constitute inappropriate development in the Green Belt. It was also agreed that the fourth main issue relating to community and infrastructure needs may fall away subject to progress with any legal agreement.

6. Both parties intend to present evidence relating to the extent of the need for the development. Both parties indicated that need could form a separate main issue. However, the Inspector is satisfied for now that it can be addressed under the final main issue as part of the overall planning balance. As to whether need or any other topic forms a separate main issue will depend on the evidence received in due course, including any statements of common ground (SOCG).

Dealing with the Evidence

7. The pre-conference note stated that the first and fifth main issues would be dealt with through the formal presentation evidence in chief and cross-examination, while the remaining issues would be addressed via round table discussions.
8. The parties noted overlap between the first and second main issues in terms of visual effects. However, it should be possible to separate the two issues. Thus, it remains appropriate at this stage to discuss effects on character and appearance via round table and on Green Belt via cross-examination.
9. The appellant felt the third main issue would be best dealt with via focussed cross-examination to cover the significance of the listed buildings, the contribution of the site to that significance, and the impact of the proposal on significance, all set within the context of the previous appeal decision (3235642). However, it will depend on the nature and extent of differences between the parties which is not clear at the stage in the absence of any SOCG. Thus, a round table discussion for this main issue remains appropriate at this stage.
10. Even if the fourth main issue falls away, it would still be necessary to hold a round table discussion on any legal agreement (as well as conditions). There was agreement that the fifth main issue would be best dealt with via cross-examination. Evidence relating to need could be heard via round table if appropriate. The Council intends to call one principal witness, while the appellant intends to call 5 witnesses (one each for planning, heritage, and character and appearance, and two for need).
11. The Inspector requested that the parties finalise an agreed overarching SOCG as soon as possible and no later than 22 October as this will help to provide clarification on the parties' respective positions. The parties also agreed that topic-specific SOCG would be helpful, particularly on heritage matters and need, but potentially also character and appearance, Green Belt and planning. The target for producing such SOCG is 16 November.
12. The Inspector will keep under review how the evidence will be heard and will confirm any changes to the above once proofs and SOCG have been received. Any other matters that have been raised by interested parties should be addressed by the appellant in particular, before and during the Inquiry as necessary.

Inquiry Arrangements

13. The Council confirmed the availability of the Council Chamber for the duration of the Inquiry and the ability to allow people to join the Inquiry virtually if needed. The room will have a limit on numbers due to Covid

restrictions but it was anticipated that there will be enough capacity particularly given the availability of a virtual attendance option. The Council also confirmed that it would be able to host the entire Inquiry virtually if necessary¹.

14. It was thought that the Inquiry should be completed within the 6 sitting days allocated (7-10 and 14-15 December). The final day/s could be heard virtually if matters such as conditions/obligations and closing submissions are the only items left to cover.
15. The Council agreed that it would issue notification letters, press notices and site notices containing details of the inquiry arrangements. These should be issued no later than 3 weeks before the Inquiry opens. Site notices should be displayed in prominent locations around the site and it would be helpful to see evidence of where these have been displayed. Template wording will be provided to the Council from the Planning Inspectorate.
16. The site visit would need to be accompanied. The Inspector could view the wider area unaccompanied and could followed a prepared itinerary.

Management of Documents, including Core Documents

17. The Council indicated it would be able to publish appeal documents online (including core documents) and will look into a dedicated webpage. The Inspector asked that this is set up by 1 November and before any inquiry notifications are issued. The parties should ensure that all documents are uploaded as soon as possible once they become available. If any personal data is present in documents, data protection procedures should be followed and that data redacted. Documents submitted during the Inquiry itself will also need to be uploaded.
18. Any Inquiry documents, including openings and closings, should be submitted by email to the Planning Inspectorate's case officer and the other main party once agreed by the Inspector. Opening and closing statements should be submitted just before those stages of the Inquiry.
19. The parties agreed to work together on a list of core documents so they can be properly referenced in the proofs and at the Inquiry. The core documents should comprise only those documents to which the parties will be referring. Any decisions on which parties intend to rely should each be prefaced with a note explaining the relevance of the decision to the issues arising in the Inquiry, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon.
20. Where any documents are lengthy, only relevant extracts need to be supplied rather than the whole document. Such extracts should, however, be prefaced with the front cover of the relevant document and include any accompanying relevant contextual text. The Inspector will only require electronic copies of all documents unless specifically requested.

¹ Please see the following note for assistance:

<https://www.gov.uk/government/publications/guidance-for-local-planning-authorities-hosting-virtual-events-for-the-planning-inspectorate>

Conditions

21. An agreed schedule of suggested planning conditions and the reasons for them, including references to any policy support, should be submitted by the proofs' deadline. 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. Any differences in views on the suggested conditions, including alternative wording, should be highlighted in the schedule with a brief explanation. The appellant will need to provide written agreement for any pre-commencement conditions.

Planning Obligations

22. The appellant and the Council committed to discussing the legal agreement as soon as possible. The Inspector requested an initial draft legal agreement by the proofs' deadline. A final draft should be submitted two weeks before the Inquiry opens and should be accompanied by the relevant office copy entries, along with a Community Infrastructure Levy (CIL) Compliance Statement prepared by the Council. The statement must contain a detailed justification for each obligation sought. Time will be allowed after the Inquiry for the submission of an executed version of the legal agreement if required.

Inquiry Running Order

23. Following his opening comments on the first day of the Inquiry, the Inspector will invite opening statements from the main parties which should take no longer than 10-15 minutes each, with the appellant first, followed by the Council. The Inspector will then hear from any interested parties who wish to speak, although there is some flexibility if someone has difficulties that prevent them from attending and speaking on Day 1.
24. This will be followed by round table discussions on character and appearance, heritage assets, and need (if appropriate). After that, evidence relating to Green Belt and associated matters (planning policy, benefits, and the overall planning balance) would be heard through evidence in chief and cross-examination. The Council's witness would go first, followed by the appellant.
25. The round table discussion on the conditions and obligations would take place after all the witnesses have been heard. Closing submissions would follow after that (the Council first and then the appellant) which should be no longer than 45 minutes each. They should set out the parties' respective cases as they stand at the end of the Inquiry and be appropriately cross-referenced.
26. The Inspector will carry out the site visit at some point during the Inquiry. Its purpose is purely for the Inspector to see the site and its surroundings.

Timetable for Submission of Documents

27. An overarching SOCG between the parties should be submitted by **22 October** and topic-specific SOCG by **16 November**.
28. Proofs are to be submitted by **9 November**. Details of the preferred format and content of proofs and other material were annexed to the pre-conference note. The final list and copy of core documents should also be

submitted by **9 November** along with a list of agreed draft planning conditions. The initial and final draft planning obligations should be submitted by **9 November** and **23 November** respectively.

29. Evidence that notification letters, press notice and site notices have been issued and displayed should be provided by **16 November**.
30. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and the Planning Inspectorate does not encourage the provision of such. As an alternative to a rebuttal, it may be that the matter could more succinctly be addressed through an addendum statement of common ground. It is important that no new issues are introduced. Where an addendum statement of common ground or a rebuttal is necessary, copies should be provided by **23 November**.
31. Final timing estimates and a draft programme should be submitted by **23 November**. The Inspector will confirm the likely programme as soon as possible after this date. Other than in exceptional circumstances, participants are expected to take no longer than the timings indicated.

Costs

32. No application for costs is currently anticipated by any party at this stage. If an application is to be made, the Planning Practice Guidance (PPG) makes it clear that they should be made in writing to the Inspector before the Inquiry. The parties are also reminded that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the power to initiate an award of costs in line with the PPG. Unreasonable behaviour may include not complying with the prescribed timetables.

Summary of Key Dates and Deadlines:

22 October 2021	Deadline for overarching statement of common ground.
1 November 2021	Target date for the setting up of an Inquiry webpage. All documents (including core documents) should be uploaded onto the webpage as soon as possible once available and before notification documents are published.
9 November 2021	Deadline for the submission of: <ul style="list-style-type: none"> • all proofs • agreed draft planning conditions • core documents, including index list • initial draft planning obligations
16 November 2021	Deadline for the submission of: <ul style="list-style-type: none"> • evidence that the notification letters and press/site notices have been issued and displayed • topic-specific statements of common ground

23 November 2021	Deadline for: <ul style="list-style-type: none">• final timing estimates and the draft programme• any addendum statements of common ground (and any necessary rebuttals)• final draft planning obligations and relevant office copy entries, and CIL Compliance Statement (Council)
7 December 2021	Inquiry opens at 10:00

Tom Gilbert-Wooldridge
INSPECTOR

15 October 2021