

APPEAL REF: APP/B1930/W/24/3338501

Bricket Wood Sports and Country Club, Paintball Site and Bricket Lodge, Lye Lane, St Albans

Case Management Conference Summary Note

1. The case management conference was held on 18 April 2024 and was led by the Inquiry Inspector, Clive Coyne. The Inquiry is to be held at the Civic Centre, St Peter's St, St Albans AL1 3JE, opening at 10.00am on Tuesday 11 June 2024.
2. Although currently scheduled to sit for up to five days, if all the matters referred to below are to be dealt with it may be that additional time will be required. Accordingly, in addition to the scheduled sitting days (11-13 and 18-19 June 2024) and with the agreement of the parties, the Inquiry may also sit on Thursday 20 June 2024, with the parties to reserve 24-25 June 2024 as well, just in case, for virtual reserve sessions.
3. Once the parties' positions are finalised in relation to the main issues set out below, and with a better idea of timings for each element of the parties' cases following the submission of proofs of evidence, a more informed timetable can be devised.
4. The advocates were confirmed as Paul Stinchcombe KC for the appellant, and Matthew Dale Harris, of Counsel, for the Local Authority. The Council agreed to provide an officer during the Inquiry to assist with administration and to act as a point of contact at the event for interested parties.
5. The Council is encouraged to draw the attention of interested parties to this Note, including posting a copy on its website.

Missing Policies and status of St Stephen Neighbourhood Development Plan

6. The Council confirmed that copies of saved policies 8, 36a and 104 would be provided to the Inspector as soon as possible. It was also confirmed that the St Stephen Neighbourhood had now been 'made' and that the latest version of the plan would also be sent to the Inspector as soon as possible.

Main Statement of Common Ground

7. No signed statement of common ground was submitted with the Council's statement of case as required by the Rules. The main statement of common ground is due no later than **14 May 2024**. It was agreed that it would be submitted earlier than this perhaps on **7 May 2024** if possible.

Main Issues

8. Both parties agreed that the initially suggested main issues in relation to living conditions and whether the proposal would make suitable provision for infrastructure may potentially fall away pending the submission of the signed Statement of Common Ground (SoCG) and the finalised signed s106 legal agreement. It was also agreed that the issue of the effect of the proposal on the appearance of the area was not necessary as this would be a reserved matter in this case. In addition, it was agreed that the effect on the character of the area could be considered in terms of any impact on the wider landscape.
9. Furthermore, it was agreed that the initially suggested main issues in relation to sustainable modes of travel and the safety of vulnerable users, pedestrians, cyclists, and drivers could potentially be combined and streamlined. There was also a discussion about the main issue relating to the effect of the proposal on the Sites of Special Scientific Interest with the appellant being of the opinion that Natural England (NE) had withdrawn its objection. However, the Council stated that they were awaiting confirmation from NE that this was the case. Consequently, this initial main issue remains pertinent for the time being.
10. On that basis, it was agreed that the main issues in this case are likely to relate to:
 - whether the proposal would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant Development Plan policies;
 - the effect of the proposal on the landscape character of the area.
 - the effect of the proposed development on highway safety and whether it would support active and sustainable modes of travel;
 - the effect of the proposed development on flood risk;
 - the effect of the proposed development on the Bricket Wood Common and Moor Mill Quarry West Sites of Special Scientific Interest; and
 - if the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.
11. 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

12. It was agreed that the evidence would be heard on a topic-by-topic basis with all topics apart from one being tested via formal presentation and cross examination. It was therefore agreed that the exceptional topic relating to flood risk will be tested in a topic-specific round table session. Additionally, it was agreed that the option of having a round table session for the s106 agreement would be held open depending on the progression of the draft agreement.
13. Separate topic specific statements of common ground, but more particularly uncommon ground are required in relation to each of the identified main issues, although it might be that the landscape character and green belt topics could be combined. Therefore, the evidence on landscape character and openness will potentially overlap. As such the evidence to address these main issues would most likely be taken together by the relevant witnesses.
14. On the matter of weighting of very special circumstances/benefits it would be helpful if an agreed terminology could be put together. This should be used by witnesses in their proofs of evidence. The Council will draft this document and then share it with the appellant.
15. The appellant is to take the lead in the preparation of the topic-specific statements, liaising with the Council. It was agreed that these topic specific SoCGs would be submitted by **4 June 2024**. The agreed terminology for ascribing weight should also be submitted on this date.
16. The advocates are to work collaboratively on their time estimates for each stage of their respective cases. 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. The submission of estimated timings is **28 May 2024**.
17. It would also be helpful if the advocates could please give the order of witnesses consideration, provide broad times if possible with a final version of the timings to be completed following the exchange of proofs and sent to the Inspectorate by not later than **4 June 2024**.

Conditions

18. An agreed schedule of suggested planning conditions and the reasons for them, including references to any policy support, is to be submitted at the same time as the proofs. The Council is to take the lead on preparing that list, in discussion with the appellant. Careful attention is to be paid to the wording and the conditions will need to be properly justified having regard to the relevant tests, in particular the test of necessity.

19. You are reminded that as set out in the NPPF, planning conditions should be kept to a minimum and that conditions that are required to be discharged before development commences should be avoided unless there is a clear justification. The reasons for any pre-commencement conditions will need to include that justification. Any difference in view on any of the suggested conditions, including their wording, should be highlighted in the schedule with a brief explanation given. A suggested template for the schedule is attached for your information. The schedule should be submitted no later than **14 May 2024**.

Planning Obligation

20. Draft proposed head of terms were initially submitted by the appellant, and they now state that an initial draft s106 agreement has recently been submitted to the Council. It was agreed that this would be sent to the Inspector as soon as possible or failing that by **14 May 2024** at the latest. It was also agreed that a final draft s106 agreement would be submitted by **28 May 2024**.
21. A short time will be allowed after the Inquiry for submission of a signed version of the obligation. It was also agreed that the exact amount of time is not known at this stage but that this will be confirmed in due course once the other timings of session etc. have been finalised.

Core Documents/Inquiry Documents

22. You will need to discuss and agree a list of core documents in advance of preparing your proofs so they can be properly referenced in the proofs. That list is to be coordinated by the appellant and it was agreed that it would be submitted one week before the proofs i.e., on **7 May 2024**.
23. A template for that list is attached for your information. The appellant has agreed to assist the Council in compiling this list. It was also agreed that electronic copies of the Core Documents will be hosted online via the Council's website.
24. 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.
25. 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. The Council agreed to supply a hard copy set of the Core Documents on Inquiry opening to form an Inquiry library, which can be accessed by interested parties at the event.

26. Any documents submitted once the Inquiry has opened will be recorded as Inquiry Documents on a separate list, overseen by the Inspector. It was agreed that this list would be monitored by the Council.
27. A minimum of two copies of any new documents produced at the Inquiry will be required - one for the other main party and one for the Inspector - with extra copies to be made available to assist interested parties if necessary.

Inquiry Running Order

28. 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.
29. In terms of running order, following the Inspector's opening comments on the first day of the Inquiry, she will invite opening statements from the main parties (appellant first, followed by the Council) which will set the scene. He will then hear from any interested parties who wish to speak, which often suits those who have taken time out from work, or who may have other commitments.
30. The presentation of evidence in chief and cross-examination, which will be dealt with on a topic-by-topic basis, will deal with: landscape character/openness of the Green Belt; highway safety/sustainable modes of transport; and the effect of the proposed development on the Bricket Wood Common and Moor Mill Quarry West Sites of Special Scientific Interest.
31. A round table session will then deal with the issue of flood risk.
32. 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.
33. In each case, the Council will present its evidence first, which will be cross-examined and re-examined if necessary, followed by the corresponding evidence of the appellant on the same basis. The appellant's evidence should also address any other matters raised by interested parties at application and appeal stage.

34. 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 (Council, then appellant) which should set out your respective cases as they stand at the end of the Inquiry, with a written copy handed up at the time, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt.
35. The Inspector will carry out an accompanied site visit either after the Inquiry has closed, or before if an appropriate opportunity presents itself in the programme.
36. Whenever it takes place, its purpose is simply for him to see the site and its surroundings. He cannot listen to any representations/ discussion/ arguments 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. It is likely that access will be required to at least some of the buildings on site, which will need to be facilitated.

Document Submission Dates

37. As set out in the start letter, all proofs are also to be submitted no later than **14 May 2024**. Details of the preferred format and content of proofs and other material are attached for your information. The topic specific statements of common ground are to be submitted no later than **4 June 2024**.
38. The early draft of the proposed planning obligation is also to be submitted by **14 May 2024**, with a final agreed draft no later than **28 May 2024**, accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council. The Council is to ensure that a copy of the Inquiry notification letter and a list of those notified is sent to the Planning Inspectorate no later than **21 May 2024**.
39. 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 **28 May 2024**. 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 statement of common ground.
40. 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 **28 May 2024**. A draft programme will be issued following receipt of your final timings in due course, 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.

Date	Submission / Action
7 May 2024	<ul style="list-style-type: none"> • Agreed list of Core Documents • Main SoCG (if possible)
14 May 2024 <i>4 weeks before the Inquiry opens</i>	<ul style="list-style-type: none"> • All proofs of evidence • Main SoCG • Initial Draft s106 agreement. • Core Documents (e-versions for me) • Schedule of suggested conditions (Council to lead).
21 May 2024	<ul style="list-style-type: none"> • Council to submit a copy of the Inquiry notification letter and list of those notified
28 May 2024 <i>2 weeks before the Inquiry opens</i>	<ul style="list-style-type: none"> • Estimated timings from the main parties • Rebuttals / addendum to main SoCG • Final draft S106 agreement • Proof of title (applicant) • CIL Compliance statement (Council)
4 June 2024	<ul style="list-style-type: none"> • Topic Specific SoCGs (appellant to lead) • Agreed terms for ascribing weight • Draft agendas for Round Table Sessions – Flood Risk/s106 • Final timings and any comments on timetable for consideration by the Inspector
11 June 2024	<ul style="list-style-type: none"> • Inquiry opens at 10.00am

Costs

41. 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, I have the ability to initiate an award of costs, although hopefully will not have to use it.

Inquiry Venue

42. Guidance in relation to venue requirements and how the room should be set up for the various sessions can be found on the following link [Public inquiries; Hearings and Examinations - venue and facilities requirements - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/public-inquiries-hearings-and-examinations-venue-and-facilities-requirements).

C Coyne
INSPECTOR
19 April 2024

Annex 1

Content and Format of Proofs and Appendices

Content

Proofs of evidence 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 concise, precise, relevant and contain facts and expert opinion deriving from witnesses' own professional expertise and experience, and/or local knowledge;
- 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 other 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. Proofs should not:
 - duplicate information already included in other Inquiry material, such as site description, planning history and the relevant planning policy;
 - recite the text of policies referred to elsewhere: the proofs need only identify the relevant policy numbers, with extracts being provided as core documents. Only policies which are needed to understand the argument being put forward and are fundamental to an appraisal of the proposals' merits need be referred to.

Format of the proofs and appendices:

- Proofs to be no longer than 3000 words if possible. Where proofs are longer than 1500 words, summaries are to be submitted.
- Simple paragraph numbering should be used and clear pagination for main proofs.
- Proofs are to be spiral bound or bound in such a way as to be easily opened and read.
- Appendices are to be bound separately.
- Appendices are to be indexed using projecting tabs, labelled and paginated.

Annex 2

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.

Annex 3

Schedule of suggested conditions - suggested template (will need to be landscape page layout).

	Condition	Reason	LPA Notes	Appellant Comments	Inspector suggested changes
1					
2					
3					
4					
5					