



APP/Z3635/W/23/3325635 – Bugle Nurseries, 171 Upper Halliford Road, Shepperton

Outline application with approval sought for scale, access and siting, with details of appearance and landscaping reserved, for the demolition of existing buildings and structures, removal of waste transfer facility and the redevelopment of the site for up to 80 residential units and the provision of open space and a play area, plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.

CASE MANAGEMENT CONFERENCE SUMMARY NOTE

Introduction

1. This note summarises the Case Management Conference (CMC) held on Wednesday 20 September 2023.
2. The CMC was led by Graham Chamberlain BA(Hons) MSc MRTPI, the appointed Inspector.
3. The purpose of the CMC was to set out matters relating to the ongoing management of the appeal and the presentation of evidence, so that the Inquiry is conducted in an efficient and effective manner.
4. There was no discussion on the merits of the case.
5. It is requested that this note is placed on the Council's website, so it is available for interested parties to see.

Sitting Dates and Location

6. The Inquiry is scheduled to open at 10:00 on 28 November 2023. It will resume on subsequent days at 09:30.
7. It will be an in-person event held in the Council Chamber.
8. It is currently programmed to sit until mid-afternoon on Friday the 1 December and resume on Tuesday 5 December 2023.
9. It was agreed that the duration of the programme is likely to be sufficient.
10. That said, the 7 December 2023 is to be a reserve day. Whether this is required will become apparent during the event.
11. It may be that the 5 and/or 7 December are run virtually if the matters left to cover are conditions, planning obligations and closings.
12. The Council will need to host any reserve day and any virtual aspect of the event.

Scope of the Application and Main Issues

13. The application form confirms that the proposal has been submitted in outline with only appearance and landscaping as reserved matters.

14. The application was validated by the Council, who did not direct for further details under Article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
15. Nevertheless, there is some confusion over the scope of the application, which was discussed at the CMC.
16. The appellant confirmed that the parameter plans are before me and advanced for approval, but the indicative plans are not.
17. The parameter plans show the following details:
 - Drawing D2001 Rev P1 Proposed Land Use Parameter Plan – identifies and fixes the layout in so far as it relates to land uses;
 - D2002 Rev Proposed Development Zone Height Parameter Plan – identifies and fixes aspects of the layout, access and scale (maximum height) of the proposed buildings.
 - D2005 Proposed Parameter Siting Plan – Identifies and fixes the position of buildings and their two-dimensional scale (length and depth).
 - D2003 Rev P1 Proposed Site Access/Egress Parameter Plan – Identifies and fixes the access into the site and internal circulation routes.
18. I am therefore minded to assess the proposal on the basis that 'scale' and 'layout' are before me, as this is what the application forms states and the parameter plans detail. The drawings show enough information to ascertain the positions and maximum dimensions of the buildings.
19. The parties will explore whether, in the event the appeal is allowed, further conditions would be required to address matters of scale and layout e.g. limiting the height of garages, the number of habitable floors, the heights of eaves, or the ridge height of buildings in certain positions within the site.

Likely Main Issues

20. After discussions at the CMC, and based on the submissions currently before me, the main issues (MI) are considered to be as follows:
 - A. *Whether the proposal would be inappropriate development in the Green Belt, including the effect of the proposal on openness;*
 - B. *The effect of the proposal on the purposes of the Green Belt;*
 - C. *The effect of the proposed development on the living conditions of the occupants of Halisford Close, with reference to privacy and outlook;*
 - D. *Whether the proposal would deliver an adequate mix of homes;*
 - E. *Whether the appeal scheme would make an adequate contribution towards affordable housing; and*
 - F. *If the proposal would be inappropriate development, 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 it.*
21. Regarding main issue D, the parties agreed that the housing mix was a matter before me. However, the housing mix is not detailed on the parameter plans and is instead shown on an indicative plan. The parties may therefore wish to reflect on whether the housing mix is before me or whether it is something better considered at the reserved matters stage. This can be clarified in the Statement of Common Ground.

22. Regarding main issue E, this is likely to be resolved through a planning obligation and therefore may fall away as a main issue.
23. The concerns addressed by Network Rail are to be addressed through proofs and I may have some questions at the event.
24. I requested further information on flooding. In particular, and not withstanding that the site is in Flood Zone 1, whether the medium risk from surface water, as a source of flood risk, necessitates a sequential test. This is to be provided with the proofs. I will give an indication before the Inquiry opens whether I wish to hear further evidence on this point.
25. The Council confirmed that the appeal scheme is not considered to be at odds with the spatial strategy in the development other than, in their view, being inappropriate development in the Green Belt without very special circumstances to justify it.
26. The Council also confirmed that the appeal site is not within Heathrow Airport noise contours and therefore noise is not an issue for this appeal.
27. The parties will seek to agree a five-year housing land supply range. It is likely to be something in the region of 2.6 – 3.52yrs. I will need to receive detailed evidence on five-year housing land supply if a party considers it is of significance to the case whether the housing supply is around either 2.6yrs or 3.52yrs.
28. The Inquiry will also look at other matters raised by consultees and interested parties. It would be advantageous if these were addressed through the Statement of Common Ground (SOCG) and/or Proofs. In particular, the concerns relating to travel and transport.
29. It is essential that both the Council and appellant continue to effectively communicate with one another to seek to narrow the issues for consideration at the Inquiry.

Dealing with the Evidence

30. The following matters will be addressed through the formal presentation of cases with opportunities for cross and re-examination.
 - *Whether the proposal would be inappropriate development in the Green Belt, including the effect of the proposal on openness;*
 - *The effect of the proposal on the purposes of the Green Belt;*
 - *If the proposal would be inappropriate development, 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 it.*
31. It would also be open for the parties to address any concerns raised by interested parties when formally presenting their cases.
32. Main Issues C, D (if still relevant) and E will be addressed through a round table discussion. Flood risk and housing land supply may also be addressed in this way if I have outstanding questions following the receipt of proofs.

Running Order

33. The Inquiry will begin with my opening comments.
34. I will then invite opening statements to set the scene (up to 15 minutes), from the appellant followed by the Council.

35. I will then hear from interested parties.
36. After this, we will hold a round table session in a hearing format.
37. The Council will then present the remainder of its case.
38. Each witness will be able to present their evidence in chief. I will have read the Proofs, so this need not be especially detailed.
39. There will then be an opportunity for cross examination by the other party.
40. Following this, there may be questions or submissions from interested parties that take a contrary view to the witness.
41. There will then be an opportunity for re-examination by the witnesses' advocate.
42. The appellant will then present the remainder of their case, which will also be subject to cross and re-examination.
43. Once the cases have been presented, I will lead another round table session on conditions and any planning obligation.
44. There will then be an opportunity for closing submissions. The Council first, then the appellant (copies in writing where possible please).
45. The closing should ideally be no longer than an hour and should simply set out the respective cases as they stand at the end of the Inquiry and should be fully cross referenced. It would be very helpful if closings can be provided in writing.
46. I will endeavour to circulate a draft timetable setting out the running order before the Inquiry opens. I will do this once I have final time estimates from the advocates.
47. The advocates are expected to take no longer than the timings indicated. This will require the cooperation of both advocates and witnesses.

Conditions, Planning Obligation and Costs

48. An agreed schedule of suggested planning conditions, and the reasons for them, must be submitted at the same time as the proofs if not before. Ideally, they will be included in the SOCG and presented in Microsoft Word.
49. The Council should take the lead on preparing the list, in discussion with the appellant.
50. The Council and appellant will need to pay careful attention to the wording, and the conditions will need to be properly justified having regard to the tests for conditions in the National Planning Policy Framework.
51. Any difference of opinion relating to the suggested conditions, including alternative wording, should be highlighted in the schedule with a brief explanation given.
52. The Council will provide a 'Justification Statement' for each of the obligations it is seeking, ideally in the form of a table.
53. This should explain why each of the obligations being sought is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
54. This could be appended to the SOCG if agreed.
55. It would be helpful if I am presented with an early draft of the planning obligation as soon as possible.
56. I will subsequently need to be provided with a certified copy of the final draft.
57. A short time will be allowed after the Inquiry for the submission of a signed and executed version. At this stage, I am anticipating this being one week.

58. Neither the Council nor appellant indicated at this stage that they intend to make an application for an award of costs.
59. The Planning Practice Guide is clear that it is good practice to submit applications in writing before the Inquiry opens.

Content of the Statement of Common Ground

60. A signed Statement of Common ground was not submitted with the Council's Statement of Case as required by the rules. However, a draft is currently being circulated and should be submitted by the 13 December 2022.
61. It was agreed that the SOCG will include the following:
 - A list of the drawings and documents considered by the Council at the application stage;
 - A list of any new drawings and documents submitted with the appeal;
 - A list of suggested planning conditions.
 - A justification statement for any planning obligations, ideally in the format of a table based around the tests in Paragraph 57 of the National Planning Policy Framework;
 - A planning policy update outlining any recent changes and the current position of the emerging local plan;
 - A list of the main matters agreed and not agreed;
 - A summary table setting out the 'other considerations' forming the case for very special circumstances and the respective parties' views on what weight they should be given;
 - A plan and commentary setting out the history and location of any previously developed land within the site (this can be included in proofs if not agreed);
 - The relevant drawings relating to the applications considered in the 2021 appeals;
 - A summary of the respective parties five-year housing land supply positions, including any points that can be agreed.

Core Documents and Inquiry Documents

62. The Council and appellant will need to discuss and agree a list of core documents in advance of preparing the proofs. This is so they can be properly referenced in the proofs.
63. That list is to be co-ordinated by the appellant and must be submitted with the proofs.
64. Please find attached at Annex 1 a template for the list.
65. The Core Documents should comprise only those documents/extracts to which you will be referring.
66. Only relevant development plan policies should be included.
67. A copy of the National Planning Policy Framework does not need to be included.
68. Any Appeal Decisions and/or legal authorities that are included will each need to be prefaced with a note explaining the relevance of the document to the issues arising in the Inquiry, together with the propositions on which you are seeking to rely, with the relevant paragraphs flagged up.
69. The Core Document list will be uploaded to the Council's website so that interested parties have access to them. I will also access them in this way. There will be no need for hard copies.

70. Any documents submitted once the Inquiry has opened will be recorded as 'Inquiry Documents' on a separate list overseen by me.
71. The Council will keep the online document list on its website up to date with any inquiry documents.
72. 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 me. Extra copies may also be necessary for interested parties.
73. At this stage, neither the Council nor the appellant intend to submit late evidence.

Timetable for submission of documents

74. The need for rebuttal documents was discussed and considered unlikely.
75. The timetable for additional documents is as follows;

31 October 2023	<p>Signed Statement of Common Ground</p> <p>Suggested conditions (Council to lead)</p> <p>Justification statement for any planning obligations (Council to provide)</p> <p>Proofs of Evidence</p> <p>Confirmation of witnesses – name, qualification, how they would like to be addressed at the Inquiry (Ms, Miss, Mrs, Dr, Mr etc...) and job title/organisation.</p> <p>Core Documents List (appellant to lead)</p> <p>Early draft of the Planning Obligation</p>
7 November 2023	<p>Copy of the Inquiry notification letter and list of those notified (to be supplied by the Council)</p>
14 November	<p>Final time estimates (from advocates)</p> <p>Final draft of the Planning Obligation</p> <p>Preliminary suggested route for my site visit (from appellant and Council)</p> <p>Any rebuttals</p>
28 November 2023	Inquiry opens
One week after the Inquiry closes	Certificated copy of the final planning obligation

Housekeeping

76. The Council confirmed the following arrangements
- A. The venue is the Council Chamber.
 - B. Facilities will not be available for interested parties to attend or observe virtually.
 - C. Documents and material can be left over night in the Council Chamber if there is no meeting, otherwise there will be separate rooms provided.
 - D. There will be an audio system.
 - E. There will be hearing loops.
 - F. The Council will provide admin/technical/IT support.
 - G. There will be photocopying facilities.
 - H. There will be WIFI.
 - I. A parking space will be reserved for me for each day. It would be helpful if a plan could be provided detailing where this will be.
 - J. A member of staff will be on hand to meet me at around 9am on the first day of the Inquiry to address any questions I have about arrangements/room layout¹.

Other Matters

77. Please send me as soon as possible a list of the names and job title of the witnesses, how they would like to be addressed during proceedings (e.g. Ms, Mrs, Miss, Dr etc...) and any qualifications they would like recorded.
78. The advocates were confirmed as Mr Guy Williams, for the appellant, and Mr Edward Grant for the Council.
79. There will be no general attendance list circulated at the Inquiry. However, I will ask those appearing/speaking to fill in an attendance form if I do not already have their details.
80. At this stage, I am minded to visit the site on an 'Access Required' basis. This is where I visit the site alone and the appellant arranges access. I will keep this under review and the logistics will be discussed at the Inquiry. I would be grateful if the parties could provide a route/itinerary of what they would like me to view.

Graham Chamberlain
INSPECTOR

21 September 2023

¹ Please refer to these documents for further guidance on the room layout
- <https://www.gov.uk/government/publications/setting-up-a-venue-for-a-public-inquiry-hearing-or-examination/public-inquiries-hearings-and-examinations-venue-and-facilities-requirements>
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/989247/Suggested_layout_of_a_room.JPG

ANNEX A – EXAMPLE 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.