

APPEAL REF: APP/H1840/W/24/3347643

Land at Orchard Farm, North of Defford Road, Pershore WR10 3BY

Case Management Conference

10:00 10 September 2024

Appeal by: Formula Land Ltd.

Proposed Development: Demolition of existing farmhouse, agricultural buildings and structures, the erection of a phased development of up to 300 residential dwellings (Use Class C3) and associated public open space, drainage, infrastructure and engineering works will all matters reserved except access.

1. The purpose of the CMC was to enable the Inspector to discuss the management of the case and the procedural arrangements so that the forthcoming Inquiry is conducted in an efficient and effective manner. There was no discussion of evidence at the CMC or consideration of the merits of the appeal.
2. This CMC Note reflects the discussion that took place. It would be helpful if this Note could be added to the Council's website and if the Council can confirm to the Case Officer when this has happened.
3. The Inspector appointed to conduct the Inquiry is K Ford. The Inquiry will open at 13:30 on Tuesday 5 November 2024.

Advocates for the Appellant and Council

4. The advocates for the main parties are:

Appellant: Lord Charles Banner KC
Council: Howard Leith

Format of Event

5. The Council will be hosting a virtual event online only and will open at 13.30 on Tuesday 5 November 2024, resuming at 09:30 on subsequent days. The Inquiry is not expected to sit later than 17:00 on any given day. There will be no ability for people to attend in person and so it is critical that the Inquiry is advertised as such to avoid confusion.
6. Based on the discussions at the conference the Inquiry may run up to 10 days, sitting on 5, 6, 7, 8, 12, 13, 14, 18, 19 and 20 November 2024. If required, closings will be heard online at 10:00 on Wednesday 27 November 2024 to give each party adequate time to prepare.

7. It is noted that due to witness availability the woodland and ecology evidence will not be heard prior to 12 November 2024. Should it become evident that there are any other time constraints for either the advocates or the witnesses that need to be catered for please advise the PINS Case Officer at the earliest opportunity.
8. The Council will provide the technology to support the Inquiry and will share details of the technology and how people can access it. The Council is requested to arrange to have a point of contact available before and during the event and details of this will be added to the Inquiry notification letter.
9. Sessions at the Inquiry will last for about 1.5 hours with breaks in between.
10. When giving evidence witnesses should be on their own in a different room and there should be no communication with their team until after they have concluded giving their evidence.

Main Issues

11. Following discussion at the CMC the main topic areas of the case are likely to relate to:
 - Whether the proposal would be a suitable location for residential development having regard to the spatial strategy of the development plan.
 - The effect of the development on Tiddesley Wood, a designated Site of Special Scientific Interest (SSSI) and an Ancient Semi-Natural Woodland and whether footnote 7 of the National Planning Policy Framework is engaged.
 - The effect on the landscape character of the area.
 - The effect on highways matters with particular regard to sustainable transport options, congestion and highway safety.
 - Whether planning obligations are required to secure financial contributions for public open space, a mitigation package for the SSSI, formal sport and leisure, NHS CCG contributions, transport infrastructure and affordable housing.
12. Matters raised by interested parties will need to be addressed. Any benefits and the overall planning balance will also need to be addressed.
13. Discussions are ongoing between the parties on housing land supply. It is hoped that there will not be a need to spend Inquiry time on the matter.
14. The main parties were encouraged to continue their discussions with a view to narrowing the points of disagreement as much as possible prior to the start of the Inquiry.

How the Evidence will be Heard

15. The Inquiry will be topic based. At this stage the topics will be dealt with through the formal presentation of evidence. There may be a need for a roundtable discussion on housing land supply. The planning obligation and conditions will also be dealt with through round table discussions and will be held on a neutral and non-prejudicial basis.

Inquiry Running Order/ Programme

16. Following the Inspector's opening comments on the first day of the Inquiry, the main parties will be invited to make their opening statements. Interested parties will then be given the opportunity to speak, although there may be scope for some flexibility if someone has difficulties that prevent them from speaking on day one.
17. Matters relating to the likely main topics and any other general planning matters will then be dealt with. On conclusion of that there will be Inspector led discussions on planning obligations and conditions. This will be followed by closing submissions setting out each parties' respective cases as they stand at the end of the Inquiry.
18. Written copies of opening statements and closing submissions in Word format are to be emailed to the PINS Case Officer before they are heard and are to be appropriately cross-referenced where evidence is relied on for the avoidance of any doubt.
19. Advocates are requested to work collaboratively on their time estimates for each stage of their respective cases and these should be sent to the Inspector no later than 25 October 2024.

Statements of Common Ground (SoCG)

20. The Statements of Common Ground currently submitted (Ecology, Landscape, Highways, Affordable Housing and Planning) are to be treated as the final versions. However, the Highways statement may be updated following ongoing discussions and a Scott Schedule to supplement the Landscape Statement of Common Ground is being prepared. It was requested that these be finalised as soon as possible to assist in drafting the proofs.
21. It is hoped that an agreement can be reached on the housing land supply position. Discussions need to take place between the parties prior to the preparation of proofs. If agreement cannot be reached a statement will be needed that focuses on the areas of disagreement. Where there is any disagreement regarding supply a Scott Schedule should be prepared identifying the sites where there are differences, the reasons for those differences and the consequences for the housing land supply.

Management of Appeal Documents

22. The main parties should work together to produce an agreed Core Documents list with the appellant taking the lead. The documents should be numerically ordered and organised into topics so that they can be easily found during the Inquiry. The list should only comprise those documents to which the parties will be referring.
23. The core documents should be accessible electronically. The library will be hosted by the appellant with links from the Council's website. It must be easy for everyone to access, including members of the public.
24. Attached to this Note is Good Practice Guidance regarding Core Documents and Proofs. Parties should have regard to this.
25. Documents handed in at the Inquiry should be kept to a minimum and should contain no surprises. They will be accepted at the Inspector's discretion and she will give them a reference number. They should be emailed to the Case Officer with the agreement of the Inspector. All such documents must be added to the document library in their own folder.

Planning Obligation

26. Discussions regarding the Planning Obligation are ongoing.
27. The draft obligation should be provided with the proofs of evidence. However, the positions of the parties should be clear before the submission of proofs of evidence and if the contributions sought cannot be resolved through the submission of an appropriate planning obligation, then proofs of evidence will be required from both parties.
28. It may be that changes will be needed to the obligation following discussion at the round table session. As such, a short period following the close of the Inquiry will be made available for the document to be completed.
29. The Planning obligation should be accompanied by a fully detailed CIL Compliance Statement providing justification for any obligation sought. This should include reference to any policy support, and, in relation to any financial contribution, exactly how it has been calculated and on precisely what it would be spent.
30. With regards to any financial contributions, whilst the pooling restriction has been rescinded, the Inspector will still need to know whether any relevant schemes are the subject of other financial contributions in order to be able to come to a view on whether any contribution sought in relation to this appeal is justified.
31. Regulation 122 of the CIL regulations have been amended to make provision for local planning authorities to charge monitoring fees in

planning obligations. That said, the sum to be paid must fairly and reasonably relate in scale and kind to the development and must not exceed the authority's estimate of the cost of monitoring the development over the lifetime of the planning obligation. The CIL Compliance Statement will therefore need to include detailed information to fully justify any such requested amount, explaining how the figure is derived.

Conditions

32. An agreed schedule of draft conditions should be written out in full within a Word document. 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. The policy basis for the conditions will also be required. Please order the conditions in line with Planning Practice Guidance and combine them where possible so that there are not several conditions requiring very similar things. As is set out in the National Planning Policy Framework, planning conditions should be kept to a minimum.
33. Any difference in views on the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation of the differing views and the reasons for them.

Site Visit

34. The appellant has requested an accompanied site visit for the woodland element of the site visit and has requested that this takes place prior to the start of the Inquiry start date. The Inspector requested that the parties work together to identify potential dates for this visit to be forwarded to the case officer. The Inspector intends to carry other elements of the site visit on an unaccompanied basis. This will be done from publicly accessible places. Another site visit after the Inquiry may be undertaken if considered necessary and is likely to be done on an unaccompanied basis.
35. Parties are invited to work together to produce a walking route identifying anything they wish to draw to the attention of the Inspector ahead of the site visit.

Timetable for Document Submission

36. The following timetable sets out the deadlines for the submission of documents.

Date	Document
8 October 2024	Deadline for submission of: <ul style="list-style-type: none">• All proofs

	<ul style="list-style-type: none"> • Suggested planning conditions • Core documents list • Initial draft planning obligation • Draft timings/timetable • Map and itinerary for site visit
22 October 2024	Deadline for submission of: <ul style="list-style-type: none"> • Final draft planning obligation • CIL Compliance Statement (Council) • Any necessary rebuttal proofs • Updated statements of common ground where necessary
25 October 2024	<ul style="list-style-type: none"> • Final timings/timetable
Tuesday 5 November 2024	Inquiry opens 1.30pm

Costs

37. No applications for costs have been made at this time. Should either party intend to make an application, as a matter of good practice, it should be made in writing before the Inquiry.
38. You are reminded that the Inspector has the power to initiate an award of costs in line with Planning Guidance.

K Ford

INSPECTOR

Annex 1

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 2

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.