

## **APPEAL REF: APP/Q4245/W/19/3243720**

### **PEEL HALL, WARRINGTON**

*Mixed use neighbourhood comprising residential care home (Use Class C2); up to 1,200 dwelling houses and apartments (Use Class C3); local centre including food store up to 2,000 m<sup>2</sup> (Use class A1); financial and professional services; restaurants and cafes; drinking establishments; hot food takeaways (Use Classes A2-A5 inclusive); units within Use Class D1 (non-residential institution) of up to 600 m<sup>2</sup> total (with no single unit of more than 200 m<sup>2</sup>); and family restaurant/pub of up to 800 m<sup>2</sup> (Use Classes A3/A4; primary school; open space including sports pitches with ancillary facilities; means of access and supporting infrastructure).*

*Outline application with access to be considered at this stage.*

### **Welcome/Introduction**

1. Miss Christina Downes was the Inspector who undertook the telephone case conference on 25 March 2020 and will be holding the inquiry. The Appellant was represented at the conference by Mr Christopher Lockhart-Mummery of Queen's Counsel. The Council was represented by Mr David Manley of Queen's Counsel. Save Peel Hall Campaign Group, who is a Rule 6 Party, was represented by Mr Jim Sullivan. The three main parties confirmed that they had seen and considered the Inspector's previously circulated pre-conference note and agenda.

### **Purpose of the conference**

2. The Inspector explained that the early engagement conference was an opportunity for the Planning Inspectorate (PINS) to give a clear indication as to the ongoing management of the case and the presentation of evidence so that the forthcoming Inquiry is conducted in an efficient and effective manner.
3. There was no discussion about the merits of the appeal and the Inspector did not hear any evidence.
4. The Rule 6 Party has asked PINS to postpone the inquiry in view of the Coronavirus situation and the difficulties it anticipated in terms of preparation. The Inspector explained that the inquiry was scheduled to go ahead as programmed on 9 June 2020. Difficulties with meeting timetables would be considered if or when they arose. The situation is a fast moving one and all parties should rest assured that PINS is undertaking its event planning very seriously in full accordance with Government advice. Whilst arrangements may change going forward, the conference was undertaken on the basis that the inquiry will be taking place as programmed.

### **Amendments to the appeal proposal**

5. The inquiry follows the decision by the Secretary of State, which was quashed by the High Court on 8 October 2019. That decision effectively means that the appeal is to be considered du novo and that the inquiry is to be re-heard. The Inspector pointed out that this means that the decision no longer exists, although the conclusions of the previous Inspector where

they relate to matters that were unsuccessfully challenged or unchallenged remain a material consideration.

6. The Appellant wished to amend the proposal by removing the employment element. This responded to the previous Inspector's concern about the potential for heavy lorry movements on residential streets to the south. Other changes included an acoustic fence rather than a bund adjoining the M62 motorway and an area for allotments. A revised Parameters Plan has been submitted accordingly (drawing no: 1820\_35A). The quantum of housing (up to 1,200 dwellings) was confirmed not to change. The Council and Rule 6 Party had no objections to these revisions.

### **Environmental Impact Assessment**

7. The proposal has been determined to be Environmental Impact Assessment (EIA) development. It was confirmed that an Environmental Statement and Addendum were submitted with the application and prior to the previous inquiry.
8. In order to reflect the aforementioned changes to the scheme and also updated information and assessment, a further Addendum has been prepared. This covers updated chapters on highways, air quality, noise, ecology, landscape, socio-economic matters and planning policy. The Appellant confirmed:
  - a) The transport model is now based on the Council's 2016 Warrington SATURN model (WMMTM16). This has led to a revised Transport Assessment (TA).
  - b) In terms of air quality, the Appellant confirmed that substantial progress had been made with new monitoring and modelling.
  - c) New noise information has followed from the updated TA.
  - d) New ecological surveys have been undertaken to reflect the passage of time.
  - e) There are minor updates to the landscape and socio-economic chapters.
  - f) The policy update is relatively minor and includes the 2019 Framework.
9. The Council confirmed that:
  - a) The trip generation and trip distribution in the baseline model had been agreed. Six weeks should be sufficient to consider the impact on specific junctions.
  - b) The scope and methodology used in the air quality and noise modelling had been agreed.
  - c) Co-operation between the Council and Appellant should narrow the issues in dispute.
10. The Inspector considers that the provision of the environmental information in a number of documents will be difficult for everyone to negotiate and use both in the preparation for the inquiry and during the event itself. She therefore asked that a single document be produced that incorporates all of the environmental information that is now relevant to the appeal scheme. Mr Lockhart-Mummery agreed with his

team that this would be provided within the next 2 weeks, subject to being able to get the document printed.

11. Mr Lockhart-Mummery confirmed that 3 hard copies and an electronic copy of the Addendum ES had been sent to the Council. It was agreed that 3 more hard copies would be provided to the Council.
12. Electronic copies of the ES had been sent to the Rule 6 Party, Mrs Steen and Ms Johnson-Taylor. Mr Sullivan asked for 3 hard copies but wanted to wait for the compendium document to be provided so long as it was produced expediently. This was agreed by the Appellant.
13. A hard copy and electronic copy of the Addendum ES has also been provided to the Planning Inspectorate.
14. It was agreed that the EIA was being considered under the *Town and Country Planning (Environmental Impact Assessment) Regulations 2011* Regulations (the 2011 Regulations) because the request for the scoping opinion was prior to 16 May 2017 and the transitional provisions under the 2017 Regulations therefore apply. Publicity arrangements were discussed, and Mr Manley indicated that making hard copies available for the public to inspect would be challenging due to social distancing requirements and also because the Council Offices and the Library were now both closed.
15. Mr Lockhart-Mummery pointed out that Regulation 22(3) requires the Council to publish a notice in the local newspaper. He considered that it would be useful for that to summarise the means of accessing the document electronically. Mr Manley agreed that would be done. The Inspector pointed out that not everyone has the facility or ability to view electronic documents.
16. ***Since the conference, the Inspector has been reflecting on what publicity arrangements the 2011 Regulations actually require. Regulation 22 relates to further information requested by the Council, Inspector or Secretary of State. In this case the Addendum is provided at the volition of the Appellant. It is therefore questioned whether the provisions in Regulation 22 apply. The parties' views on that point are requested.***
17. Whatever the requirement under the 2011 Regulations turns out to be, the Inspector considers that the public are likely to be disadvantaged unless access to the environmental information is available well in advance of the inquiry.
18. The Inspector will need to be satisfied that the Environmental Statement is procedurally and legally correct and that the necessary publicity has been undertaken. Also, that it includes all necessary information in order to enable the impacts of the development to be properly considered.

### **Main Issues**

19. It was agreed that 4 main considerations are as follows:
  - a) The effect of the proposed development on the safety and efficiency of the local and strategic highway network.

- b) The effect of the proposed development on the noise environment both within the site and in the surrounding area.
  - c) The effect of the proposed development on local air quality.
  - d) The contribution that the site would make to housing land supply in the short to medium term.
20. The Inspector raised the Rule 6 Party's concern about the effect on climate change and the UK's climate commitments. Mr Manley and Mr Lockhart-Mummery did not consider that this should be a main standalone consideration as it would provide the context for the air quality issue in particular. Mr Sullivan pointed out that the national and international position had now changed and although he agreed it formed part of the context for air quality, it was a much more significant factor now than at the previous inquiry. The Inspector concluded that climate change is an important matter for the inquiry to consider but that she will decide whether it will be a standalone main consideration once the Rule 6 Party's evidence had been submitted.
21. It is also noted that the Rule 6 Party wishes to raise matters relating to ecology, flooding and community infrastructure. The Inspector commented that it will wish to consider the updated ecology work in the ES before determining the extent of objection on these grounds. On the matter of social infrastructure, it is understood that the Council is not likely to be pursuing its second reason for refusal in the light of a renegotiated Planning Obligation by Agreement.
22. The Inspector commented on the proposed local centre and noted that this was of a size that would be likely to serve the existing community as well as new residents living on the development. Mr Lockhart-Mummery referred to the Retail Impact Assessment, which addressed the sequential and impact tests. ***The Inspector said she was not able to access this document and he agreed to forward it to the Case Officer.*** The Inspector will have a look at it and decide whether she has any questions outstanding.
23. It was indicated that the Council and Appellant were likely to reach agreement on housing land supply. Mr Sullivan doubted that the Rule 6 Party would have any issues to raise. The Inspector asked for a table that sets out the agreed requirement, buffer and components of supply.
24. Deliverability was raised by the previous Inspector and was a subject considered in the High Court Challenge. The judge indicated that it was a subject that was a legitimate consideration, but the problem was how it was dealt with in the planning balance. Mr Lockhart-Mummery indicated that there was progress being made in discussions with Homes England and that agreement has been reached with the bus operator. The Inspector will wish to be updated at the inquiry.
25. The Council referred to the appeal proposal being "premature" in its statement of case. Mr Manley confirmed that this related to the available evidence and that no argument was being made on the grounds of prematurity in policy terms.

26. There may also be additional matters raised by local people that would need to be dealt with in the evidence of the Appellant.
27. All 3 main parties are expected to collaborate with each other to seek to narrow the issues for consideration at the Inquiry. This should be an on-going conversation. All agreed that this would be done as far as is possible.

### **How the main issues will be dealt with**

28. This inquiry relates to an appeal submitted before the Rosewell procedures were adopted but it is still incumbent on all participants to ensure that it is carried out with maximum efficiency. It seems unlikely that evidence will need to be heard on housing land supply other than in terms of planning policy and the planning balance. In view of the considerable public interest and the nature of the topics it was agreed that the evidence would be heard by formal presentation and cross-examination.
29. There may be issues raised by a number of individual objectors that are outwith the evidence of the main parties but would benefit from the Appellant putting forward a witness to respond and answer questions. This will be a matter for the Inspector to decide nearer the time.

### **Statements of Common Ground (SCG)**

30. SCG are important and very useful documents that help focus the areas of dispute. Much more use is now to be made of SCG in the inquiry process. They should be produced early on in the process to inform the proofs and not as an afterthought. This will require effort and a prompt response from each of the main parties and a collaborative attitude. It is important that the SCG makes clear the points of dispute as well as the points of agreement.
31. Topic-specific SCG are to be produced on planning, transport, air quality and noise. An agreed table on housing land supply is also to be submitted as referred to above.
32. The Inspector would like the Rule 6 Party to be involved in the SCG. If it is possible for all 3 parties to sign up to common areas of agreement and disagreement that would be beneficial. However, if that is not practicable the Appellant could seek to agree separate documents with the other two main parties. It is best to avoid one document with track changes of where one party dissents as this can be very confusing.

### **Appearances**

33. Mr Lockhart-Mummery QC will be assisted by Ms H Sargent of Counsel and they will represent the Appellant. They will call witnesses on highways, air quality, noise, ecology (2) and planning policy.
34. Mr Manley of Queen's Counsel will represent the Council. He will call witnesses on highways (1 or 2), air quality, noise and planning. He is unlikely to call a witness on ecology.

35. The Save Peel Hall Campaign Group has 7 Committee members and up to 300 local people attend their meetings. They comprise a cross-section of the local community. Mr Sullivan indicated that they will be employing a planning professional to lead the Rule 6 Party's case. A number of individuals will give evidence on the topics and these will cover matters referred to above as well as on flooding and social infrastructure.
36. Mr Sullivan indicated that at the last inquiry there were often 100 people present. As the emerging Local Plan is of great local interest there may be some who come from the southern parts of the town.

### **Planning conditions**

37. A round table session on conditions will be held at a convenient time during the inquiry. The Inspector stressed for the benefit of the Rule 6 Party in particular, that this was not to be seen as prejudicial to any party's case.
38. It was necessary to ensure that conditions are not imposed unnecessarily. Any conditions that require discharge before development commences should be kept to a minimum. Such pre-commencement conditions will need to be agreed in writing by the Appellant.
39. Mr Manley indicated that a draft list was being produced. This would be based on the conditions put forward at the last inquiry. The Inspector commented that they would nonetheless need to be scrutinised afresh. The main parties are requested to work collaboratively on a focused list on a without-prejudice basis.

### **Planning Obligation**

40. A Planning Obligation by Agreement (S106) is to be submitted. Mr Manley indicated that the draft document was progressing and that the main dispute related to the healthcare contribution and whether or not it would comply with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.
41. Mr Lockhart-Mummery indicated that the Council had been very slow to respond. For example, healthcare and education were two areas where no response had been forthcoming for several months. Mr Manley was unable to offer much comment although he had been told that the business case for the new surgery would be available in early March and this would be chased.
42. Mr Sullivan asked when the Rule 6 Party would be able to see a draft of the S106. Mr Lockhart-Mummery said that it could not be produced until the Council responded with the outstanding information. It is clearly important for everyone to have a draft of the document well in advance in order to prepare the evidence. ***The Inspector therefore urges all parties to collaborate and produce information in a timely manner so that no-one is disadvantaged.***
43. The final executed document should be submitted by the end of the inquiry.

## **Proofs of evidence**

44. Rebuttal proofs will be accepted if they are necessary to save time at the inquiry.
45. Appendices should be individually tabbed and, if possible, the pages should be numbered consecutively.

## **Core Documents**

46. An agreed list of core documents should be drawn up well in advance of preparing the proofs so they can be properly referenced. The Inspector suggests that the Appellant takes ownership of the list and draws it up in collaboration with the Council and Rule 6 Party.
47. Mr Manley, Mr Lockhart-Mummery and Mr Sullivan confirmed that they would like hard copies rather than electronic core documents. The Inspector wishes to have electronic core documents at the time of exchange of proofs, but a hard copy set should be taken to the first day of the inquiry. The core documents should be in labelled lever arch files with 2 arm ring binders (**not 4 arm, which are difficult to use**).
48. It was agreed that the Core Documents should comprise only those documents that are necessary to support the evidence. Furthermore, that wherever possible only the front page and relevant extracts should be included.

## **Inquiry Running Order/Programme**

49. The inquiry is scheduled to start on 9 June 2020 and programmed to sit for 10 days. Mr Manley and Mr Lockhart-Mummery considered that 8 days would be sufficient, but Mr Sullivan was concerned that enough time should be provided to hear third parties. The Inspector indicated that all should aim to complete the inquiry in 8 days but that 2 and 3 July would be kept available in case this proves insufficient.
50. The inquiry will be held at the Orford Jubilee Neighbourhood Hub. It was agreed that this is a good, disability-compliant venue where everyone could be comfortably accommodated, including a large public presence. Retiring rooms would be provided for the Inspector and each main party. There would be secure overnight storage, wi-fi and photocopying facilities. Parking is plentiful.
51. At the last inquiry there was an issue with people being able to hear. This was sorted out eventually, but the Council agreed to liaise with the centre to ensure there are sufficient working microphones available from the start.
52. The Inspector will aim to finish each day between 1700 and 1730. With the exception of the first day it was agreed that the inquiry will start at 0930. On Fridays it will aim to finish at about 1600. The Inspector was not made aware of any problems with witness availability.

53. The Council agreed that someone would be available to act as a point of contact for interested persons during the event.
54. In terms of running order, following the Inspector's opening announcements on the first day of the Inquiry, she will invite opening statements from the main parties. The Appellant will be first, then the Council and finally the Rule 6 Party. These should be no longer than 10-15 minutes and written copies are required.
55. Then the formal evidence will be heard on a case by case basis in the normal way. The Council will present its evidence first, followed by the Rule 6 Party and finally the Appellant.
56. It was agreed that a dedicated session to hear third parties would be beneficial to everyone and that this would take place on the first Friday, commencing at 0930. Mr Lockhart-Mummery asked if those with written statements could hand them into the inquiry in advance. Mr Sullivan agreed that he would encourage people to do so. The Inspector wishes to avoid people speaking at different times during the inquiry but if someone has a particular difficulty, she will do her best to accommodate them.
57. Following the hearing of the evidence there will be round table discussions on conditions and provisions of the planning obligation. The final list of conditions should be emailed to the case officer in WORD format that allows editing.
58. Closing submissions should be made in the order of the Rule 6 Party first, followed by the Council with the Appellant last and having the final say. Copies of closing submissions should also be provided in writing in WORD format that allows editing.
59. The Inspector will issue a draft programme following receipt of the final timings in due course. Other than in exceptional circumstances, the main parties are expected to take no longer than the timings indicated.

### **Timetable for submission of documents**

60. The Appellant is to provide hard copies of the compendium ES by **14 April 2020**.
61. Proofs of evidence and appendices are to be submitted by **12 May 2020**. Details of the preferred format and content of proofs and other material were annexed to the Inspector's pre-conference note.
62. Core documents are to be submitted in hard copy to each main party and electronically to PINS by **12 May 2020**. A hard copy for the Inspector's use is to be brought to the inquiry on the first day.
63. The topic specific SCGs are to be submitted by **12 May 2020**.
64. The CIL compliance schedule is to be submitted by **26 May 2020**.
65. Rebuttal proofs, if they are necessary to save inquiry time, are to be submitted by **26 May 2020**.

66. The draft Planning Obligation is to be submitted by **26 May 2020**.
67. The final timings for openings, closings, evidence-in-chief and cross-examination are to be submitted by **2 June 2020**.

### **Costs**

68. The costs regime was explained by the Inspector for the benefit of Mr Sullivan. If any application is to be made, the Planning Practice Guidance makes it clear that, as a matter of good practice, it should be made in writing to the Inspector before the inquiry. None of the main parties indicated that they anticipated making a costs application.
69. In order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector also has the power to initiate an award of costs in line with the Planning Practice Guidance. Unreasonable behaviour may include not complying with the prescribed timetables.

### **Any other matters**

70. Mr Sullivan asked about the site visit. The Inspector indicated that at this stage she was not sure whether she would wish to make an accompanied visit at an early stage of the inquiry or after the evidence had been heard. She would be visiting the area unaccompanied before the start of the inquiry.
71. The Inspector closed the telephone conference at 1215, having thanked all participants for their assistance and encouraged them to continue to collaborate in order to ensure an efficient and smooth-running event.

*Christina Downes*  
*27/3/20*