

APPEAL REF: APP/Q4245/W/19/3178530**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 m² (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 m² total (with no single unit of more than 200 m²); and family restaurant/pub of up to 800 m² (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.

SECOND CASE MANAGEMENT TELEPHONE CONFERENCE (CMC) HELD AT 0900 ON WEDNESDAY, 3 JUNE 2020**INSPECTOR'S CONFERENCE NOTE**

1. Miss Christina Downes was the Inspector who undertook the second CMC. As before, the Appellant's spokesperson was Mr Christopher Lockhart-Mummery of Queen's Counsel; the Council's spokesperson was Mr David Manley of Queen's Counsel; and Save Peel Hall Campaign Group, the Rule 6 Party's spokesperson was 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 purpose of the second CMC was to consider how the inquiry, which was postponed from 9 June due to the Covid-19 pandemic, could be moved forward in these unprecedented times. The Inspector referred to the Written Ministerial Statement (WMS) of 13 May, which indicated that everyone in the planning process is expected to engage proactively. The Government places great importance on the work of the Planning Inspectorate to assist in the country's economic recovery. At the present time, and for the foreseeable future, a face-to-face inquiry cannot be undertaken and holding it virtually is the only way that it can progress with certainty. The Inspector indicated that she considers that in the case of this appeal, the inquiry could be conducted virtually whilst maintaining the core principles of fairness, openness and transparency.
3. There was no discussion on the merits of the appeal at the CMC and the Inspector did not hear any evidence.

What a virtual event could look like

4. The Planning Inspectorate is using Microsoft Teams as the platform that will enable people to participate remotely. It can be accessed by a link in an email invitation through a laptop, tablet, computer or smartphone or by dialling in via a given phone number. This process will enable the widest possible participation whilst the rules on social distancing, travel restrictions and limitations on gatherings are in force. The inquiry will be subject to the same Rules and Regulations as conventional face-to-face inquiries.
5. To further assist the Inspector will be arranging a Test Event for the main parties (including witnesses) in the week before the inquiry. This will allow them to try out the access arrangements using the technology and hopefully iron out any issues that might arise. To give further assurance she indicated that by the time this inquiry takes place a number of other virtual inquiries will have been held¹, including one that she will have done herself.

Main parties' response to a virtual inquiry

6. Mr Lockhart-Mummery commented that the inquiry venue should be reserved because by September it may be possible to hold a face-to-face event of some kind. Mr Manley supported keeping the matter under review and the Inspector agreed that she would do so.
7. Mr Sullivan objected to holding the inquiry virtually. He considered there were exceptional circumstances and that in such cases the WMS accepted that a virtual inquiry may not be suitable. He pointed to the 30-year history of the site indicating that this was not a case that had to be resolved urgently. He also pointed to the large amount of public interest and opposition, much of which comprised elderly people who did not have digital access or knowledge and so would be unable to participate. A public inquiry should be held in public he said.
8. Mr Sullivan also indicated that it was necessary for the Rule 6 Party to do further fieldwork in order to complete its evidence. The public archive office required to access historic documents was closed and the hydrologist being used was shielding. The Inspector suggested that information may be available online and that it was not unreasonable to expect flexibility with regards to using expert advisors.
9. Mr Sullivan pointed out that this was a deadly virus which had to be taken very seriously and that running the inquiry at this time would be unacceptable. He further complained that there had been no engagement by the Appellant with the local community and that this had been a matter about which the previous Inspector had specifically been critical.

¹ At the present time 3 virtual inquiries have been held at more are scheduled during July and August.

10. Mr Manley indicated that there would always be some people who would be digitally disadvantaged. However, a proportionate approach was necessary. The country is sliding into a huge recession and significant delay would not be in the public interest. Mr Manley said that the Council "*did not violently object*" to a virtual inquiry.
11. Mr Lockhart-Mummery endorsed the comments of Mr Manley. He pointed out that the points raised by the Rule 6 Party were common to those relevant to countless other appeals. The WMS considers that virtual events can provide a fair process overall and can also generate increased participation by allowing people to contribute from their own homes. Mr Lockhart-Mummery pointed out that the Environmental Statement Addendum had been subject to full publicity by various means, including hard copies being provided to the Council and Rule 6 Party. He did not accept that there had been no local engagement.

Engagement of participants

12. The Rule 6 Party is representing the local community and so will be speaking on their behalf. However, there will also be local people who are likely to want to speak as individuals. The benefit of a virtual inquiry is that they will be able to do so without leaving their own homes. The Inspector would find it helpful if the Rule 6 Party was able to canvas the community to give an approximate idea of likely numbers of individual speakers.
13. At a virtual inquiry, people can join and just observe, they can join in order to make a statement about their concerns or they can join in order to make a statement about their concerns and also ask questions on the evidence of the witnesses. In the latter case people will be asked to confirm the particular topics on which they wish to ask questions.
14. Local residents and other interested parties wishing to take part will be asked to register with the PINS case officer in advance of the opening of the inquiry. The letter of notification, the site and press notices will give more details on this, confirming that access will be through Microsoft Teams. The individual joining instructions provided will also include a dedicated link to the event and the etiquette to be observed.
15. The different locations of the members of each party's team is likely to place new demands in terms of the ability to communicate with one another during the event, for example taking instructions. That is something that each party should consider and trial before the event.

Opening date, sitting times and inquiry duration

16. The Council and Appellant confirmed that they would be available for the weeks commencing 14 and 21 September. The Rule 6 Party also confirmed their availability subsequently.
17. A conventional inquiry would normally sit for full days with breaks. However, sitting in front of a screen or being on the telephone for long periods can be stressful in all sorts of ways. So, with health and safety in

mind and in order to ensure that all participants are as comfortable as they can be, the inquiry will be sitting for shorter days broken up into chunks of time with breaks in between. Sessions will last for about 1.5 hours with at least 30 minutes in between. The inquiry will start at 0930 on each day, which is likely to mean two sessions in the morning and one after lunch. This can however be kept under review and an additional afternoon session included if everyone considers this appropriate.

18. Mr Manley hoped that the disputes between the Council and Appellant on the main issues regarding highways, air quality and noise would be narrower than at the previous inquiry and that areas of cross-examination would be more focused. The Council accepted that it did not have a 5-year housing land supply and the difference in position with the Appellant was relatively small.
19. Although the inquiry had originally been scheduled for 8 days, third party interest was likely to be significant. It was agreed that 10 days of sitting time should be reserved.

Notification of the appeal and site notice

20. The Council undertakes notifications by post and email. The Regulations require that these are sent out at least 2 weeks before the inquiry. The notification letter has been worded to explain more about the digital event and to request that those wishing to attend to observe or speak register their interest with the Case Officer. The Council agreed to also place the notification on its website and in a local paper. In order to allow sufficient time for people to register their interest, the Inspector asks that the notifications are undertaken **3 weeks before the inquiry** in this case and that confirmation is sent to the Case Officer.
21. The Appellant will put up a site notice, which has also been worded to reflect the need for people to register their interest. In this case the site is extensive and so site notices should be displayed in several locations around the site to allow for maximum publicity. These should be put up **3 weeks before the inquiry** and checked weekly to ensure they remain in place. Confirmation should be sent to the Case Officer along with a map of the site notice locations.

EIA publicity arrangements

22. Mr Manley confirmed that the press notice publicising the EIA Update would go out on 4 June in accordance with the 2011 EIA Regulations and the 2020 Coronavirus Amendment Regulations.
23. The EIA information will be on the Council's website for the public to inspect.

Management of appeal documents and digital access

24. The Inspector made clear that the Planning Inspectorate does not have a

full set of the documents relating to the previous appeal and inquiry. As effectively the appeal is starting again a full set of all documents, including core documents and any historic material being relied upon, must be submitted afresh.

25. All documents will need to be provided to each main party and the Case Officer electronically, including statements of common ground, core documents and proofs of evidence.
26. It was agreed that the Appellant would initially draw up an electronic list of core documents and circulate it to the Rule 6 Party to make additions. The Council agreed to co-ordinate the core documents, which would be placed on its website.
27. The Inspector made it clear that all of the appeal documents would need to be easily accessible for all parties and the public during the inquiry². The arrangements for this will need to be clarified and the appropriate link to the area on the Council's website provided. Mr Sullivan indicated that the Council's website is difficult for the public to navigate and this should be taken into account.
28. It was agreed that a pared down set of core documents, comprising the most relevant extracts, would be provided by the Appellant in hard copy for the Inspector and anyone else who would find this helpful.
29. It will not be easy to deal with documents submitted at the event and so these should be kept to a minimum. Any that are put in during the inquiry will need to be placed in advance on the relevant webpage and shared.
30. It was agreed that opening submissions would be circulated to the Inspector and all main parties on the Thursday before the inquiry opens. Closing submissions should be uploaded in advance of delivery.

Main issues and other evidence

31. The main issues were set out in the pre-conference Note and were agreed to be correct.
32. The Inspector asked for an update on various matters:
 - a) The Appellant confirmed that discussions on the rights of access over land owned by Homes England were progressing well. A legal agreement would be provided, and Homes England was prepared to appear at the inquiry to answer any questions about deliverability. Mr Lockhart-Mummery indicated that planning issues regarding the status of the land as open space would be dealt with through evidence.

² Experience from the virtual inquiries held thus far is that a workable solution is for appeal documents to be placed on a dedicated webpage on the Council's website. This requires an index of some kind so that documents can be easily and quickly found.

- b) Mr Sullivan was concerned that the comments of the Rule 6 Party had not been incorporated into the statements of common ground. Mr Lockhart-Mummery indicated that it was not intended to exclude the Rule 6 Party and that their comments would be incorporated into the final versions.
- c) The production of an agreed table on housing land supply was in hand.

How the evidence will be dealt with

- 33. It was agreed at the first CMC that the evidence would be heard through formal presentation with cross-examination. It was agreed that this would be the procedure for the virtual inquiry.
- 34. There are a number of other issues raised by the Rule 6 Party (flooding, ecology, social infrastructure and maybe climate change). As the Inspector indicated in her previous CMC Note these matters may either be dealt with by means of round table sessions, written statements or more formally. She will decide when she sees the nature of the evidence.

Inquiry timetable

- 35. It was agreed that the **proofs of evidence, core documents and statements of common ground** will be submitted 5 weeks before the start of the inquiry on **10 August**.
- 36. Any **rebuttal proofs, draft Planning Obligation and the CIL compliance schedule** will be submitted 3 weeks before the inquiry on **24 August**.
- 37. **Final timings** will be submitted by **1 September**.

Inquiry running order and programme

- 38. The inquiry will start on the Monday 14 September. It will open at 0930 each morning, including on the first day. It will sit for 5 days on the first 2 weeks and 2 days on the third week if these days are required.
- 39. The running order was set out in the previous CMC Note. The Inspector will draw up a draft timetable when the time estimates have been submitted.

Site visit

- 40. The Inspector will make an unaccompanied visit to the site and surrounding area in advance of the inquiry and, if necessary, after its close. The main parties are asked to provide an itinerary (with a map) to indicate particular places that they would like her to visit.

Christina Downes
3/7/20