



APPEAL REF: APP/W1850/W/20/3244410

Land North of Viaduct, Adj Orchard Business Park, Ledbury

Case Management Conference Tuesday 2 June 2020

This note sets out the matters discussed at the Case Management Conference (CMC) held at 14.30 on 2 June. The conference was arranged to consider how this appeal could be progressed as a virtual event. As explained at the conference, the importance of continuing the work of the Planning Inspectorate, which has been identified by the Secretary of State for Housing Communities and Local Government as being of high economic value must be balanced against the core values of the appeal process, namely openness, fairness and transparency, whilst facilitating the submission and examination of evidence to enable the decision-maker to come to an informed and reasoned decision.

Inquiry arrangements

The forthcoming Inquiry will be undertaken as a digital event using the Teams platform. The Inquiry will open on **Monday 13 July** at a time to be confirmed following the receipt of time estimates from the parties. Whilst I am happy to sit on the Monday, a later start is required in order to ensure that all documents are in place and that there are no impediments to the inquiry progressing smoothly. The parties all agree that the inquiry should be completed in a single week due to other commitments and the need to avoid a postponement.

At the present time it is intended to have two sessions of an hour and a half in the morning and one in the afternoon. Whilst I am happy to review this in the light of experience with any inquiries that precede this one, having regard to health and safety issues and other constraints, the inquiry should be timetabled on this basis initially.

There would be a half an hour break between sessions with an hour for lunch. From **14 July** the morning session would begin at 9.30 with the afternoon session starting at 14.00. I would request that any discussions between the parties or need to take instructions take place outside of the scheduled sitting times to avoid unnecessary adjournments.

The virtual event (Inquiry) will be run over the Microsoft Teams platform. Participants are those parties directly interested in the planning merits of the case and/or who have previously made representations at the application or appeal stages who will be required to register with the Planning Inspectorate case officer. Details of how to register will be included both in the individual Inquiry notification letters and on the Site Notice posted at various locations around the appeal site.

There will be a mock session for the main parties on **3 July at 10:00am** to try out accessing the Inquiry and the technology and hopefully iron out any issues. You will be notified of the date and time of that session.

Details of how to enter the Inquiry and an Inquiry etiquette which will be observed will be sent out to participants before the opening of the event. For those who are unable to access the event digitally through the Microsoft Teams platform, details of how to access via telephone will also be provided.

If participants already have a Teams system they will experience the event over their own version of Teams. Microsoft is currently rolling out an update to Teams which includes an increase in the number of screens visible at any one time to 9. It is the understanding of the Planning Inspectorate that such updates may well be available by the time the Inquiry opens, but adjustments would be made to take account of any lesser capability. In any event, I would not anticipate the necessity to have more than four participants on screen at any one time

Ledbury Town Council confirmed that it would be willing to ask questions on behalf of interested parties where the party concerned was unable or uncomfortable to engage with a digital event.

Registered participants will receive individual joining instructions.

Inquiry Running Order/Programme

We will commence by hearing the opening statements from all parties. I shall then hear from those third parties who wish to address the inquiry as individuals.

There are a number of issues which do not form part of any main party's case. These include the impact of the proposal on services/lack of supporting infrastructure, including primary school; concerns regarding flooding, and various concerns in relation to the proposed canal provision. The appellant should provide a witness to give a short summary of its position on these matters. The witness should then be made available to answer third party questions and any the Inspector may have.

Due to issues with witness availability it was agreed that the heritage evidence would be heard next. This would be followed by the traffic/highways evidence, and then the evidence in relation to the effect of the proposal on the AONB.

The Council has submitted its housing land supply position statement. I therefore anticipate that evidence in relation to this issue will be succinct. We will conclude with the overall planning balance. There will then be a session in relation to planning obligations, followed by conditions and finally the closing submissions and any applications for costs.

The closing submissions which will follow should be no longer than 45 minutes maximum. They should set out the main parties' respective cases as they stand at the end of the Inquiry, with a written copy handed

up to the Inspector in advance (email to case officer), appropriately cross-referenced where evidence is relied on.

How the evidence will be heard

The parties agreed that the evidence in relation to heritage and the landscape and visual impacts, including the AONB could be heard by way of a round table session. In terms of the highway evidence, I consider that those matters identified as 'matters not in agreement' at the SoCG at paragraph 2.2, points 1,2,5,6,17,& 18 could be satisfactorily considered by way of a round table session, with the remainder of issues addressed through the presentation of Evidence in Chief.

I note the concerns of Ledbury Town Council in relation to matters 5 & 6. Unlike the parties, I have not had the benefit of seeing the evidence in relation to these issues, and I am therefore willing to re-consider this once evidence has been exchanged. It may also be that some of the issues listed at 9-16 would also be suited to the round table session, and I would welcome the views of the parties on this matter. In the first instance the parties should review those elements of the highways evidence they consider could be addressed by way of a round table session, and if possible reach agreement on this matter. Any views on this matter should be submitted with the time estimates.

The planning balance will be addressed in the usual manner.

Inquiry Timetable

The parties should submit time estimates for Evidence in Chief and cross examination, as well as opening and closing submissions by **10 June**. The appellant has agreed to prepare a draft timetable based on the submitted timings. Those timings will be expected to be adhered to. Due to the practicalities of setting up and managing a virtual event it is essential that we ensure that enough time is allocated initially.

The timetable should include a list of the names of the witnesses to be called by each party along with details of any qualifications they wish to draw attention to and the topics which they will be dealing with.

The first day is likely to be occupied by Openings with an opportunity to resolve any procedural matters, followed by submissions from any individual registered participants who wish to make a statement to the Inquiry. Then, time permitting, we will hear the evidence in relation to heritage matters. Hopefully by the Friday before the Inquiry opens there will be a clearer indication of the number of interested parties wishing to take an active part in the Inquiry.

Notification of Appeal/Site Notice

It is anticipated that the site notices would be sent out mid/late June. The Council confirmed that it is able to send out written notification of the inquiry. The locations for the erection of the site notice should be agreed

between the Appellant and the Council. The site notice should be made available to the appellants in good time to erect the notices as agreed. They will subsequently confirm the date notices were erected and submit a plan showing the location of the site notices. Accompanying photographic evidence would be helpful.

Site Visit

As discussed at the case conference, I would like an itinerary identifying locations other than the site which the parties wish me to visit, and an approximate indication as to how long might be needed for the visit. Should the visit include any areas of privately-owned land other than the appeal site, it would be helpful if the parties could explore how access could be provided in the light of the need for social distancing. This is a less urgent matter and I am content to receive a draft version one week prior to the commencement of the inquiry. As third parties may wish to promote viewpoints during the Inquiry, this plan does not need to be finalised until towards the close of the event.

Management of Core Documents/Inquiry Docs/Inquiry evidence

All documents will need to be accessed digitally. The Council agreed to administer and publish appeal and Inquiry documents on its web-site to ensure that all documents were readily available to both participants and the parties and this would include any documents submitted during the Inquiry (which the Inspector strongly hopes will be very few if any).

Proofs of evidence /Planning Obligations

Proofs of evidence should be submitted by **Friday 5 June**. The Council confirmed that the s106 should be available at the same date, if not a working draft will be submitted indicating those areas still under discussion. The CIL compliance Statement is due to be submitted at the same time as the S106.

Conditions

The draft conditions submitted by the Council and the Appellant should be copied to Ledbury Town Council. I would remind the parties that the reasons for the conditions, including references to any policy support, should also be included. 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 and enforceability in accordance with the guidance in PPG. Any difference in view on the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given.

Where other parties, such as the Highway Authority and Natural England have suggested conditions, similar justification is required. Where it is not intended to include such conditions a brief explanation should be provided. I also request that parties have regard to additional conditions

suggested by third parties¹ and briefly explain why they are included/not included.

I hope to review conditions in advance of the inquiry and hope that this will reduce the amount of sitting time that needs to be spent discussing conditions.

Costs

At the CMC the appellant indicated that there would be an application for costs.

If an application is to be made, the Planning Practice Guidance makes it clear that they should be made in writing to the Inspector before the Inquiry. You should give the other parties timely notice to enable them to compose a response. You are also reminded that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the power to initiate an award of costs in line with the Planning Guidance.

Additional Matter

As mentioned at the CMC, I would like the parties to submit sufficient information for me to understand any implications of providing a second access under the viaduct in terms of the effect on the Grade II listed viaduct or its setting, and the layout and functioning of the site, including any implications for pedestrians and cyclists. The appellant agreed to provide details of the span of the arches of the viaduct. I appreciate that there may not be sufficient time for this information to be included in the proofs, but it would be helpful to my preparation if it could be submitted prior to the opening of the inquiry.

Lesley Coffey

Planning Inspector

4 June 2020

¹ For example Ms C Tinkler