



The Planning Inspectorate

APPEAL REF: APP/D3830/W/24/3344121

68 & 70 Keymer Road, Hassocks BN6 8QP

Redevelopment for retirement living accommodation for older people comprising 41no. apartments including communal facilities, access, car parking and landscaping.

CASE MANAGEMENT CONFERENCE SUMMARY

1. The case management conference (CMC) was led by the Inquiry Inspector, John Dowsett. The Inquiry is to be held in the Council Chamber at Mid Sussex District Council's offices at Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS. The Inquiry will open at 10:00am on Tuesday 10 September 2024.
2. The Inquiry is scheduled to sit for four days, 10 to 13 September. It was agreed that this should be adequate time to cover the issues. However, the reserve days of 17 and 18 September are to be retained in case of unforeseen circumstances.
3. The appellant's advocate was confirmed as Sasha White KC and the Council's advocate was confirmed as Jack Parker.
4. The Council is encouraged to draw the attention of interested parties to this note, including posting a copy on its web site.

Main Statement of Common Ground

5. It was advised that the main Statement of Common Ground is well advanced and should be submitted to the Inspectorate this week.

Main Issues

6. The likely main issues were discussed, and it was agreed that these would relate to:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to privacy, noise and disturbance, and light pollution; and
 - Whether the proposed development would make appropriate provision for affordable housing and other infrastructure required in connection with the development.
7. The Inquiry will also look at any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme.

8. It was advised that it appears likely the main parties will be able to agree a position on the matter of appropriate provision for affordable housing and other infrastructure before the inquiry opens. If this is the case, a separate Statement of Common Ground will be produced in respect of these matters.

Dealing with the evidence

9. It was agreed that the most appropriate way to hear the evidence would be on a topic by topic basis. With the agreement of the parties, the evidence relating to character and appearance, and to the living conditions of neighbouring occupiers, will be tested in topic specific round table sessions. The Inspector will lead the round table sessions, but the parties will need to work together in advance to prepare a draft agenda for each session, to ensure that all relevant matters are properly aired and interrogated.
10. Any other planning matters, including matters raised by interested parties, any benefits, and the overall planning balance, will be dealt with through the formal presentation of evidence in chief and cross-examination.

Conditions

11. It was advised that an agreed Schedule of Conditions is incorporated into the Statement of Common Ground that is presently being finalised. Careful attention is to be paid to the wording and the conditions will need to be properly justified having regard to the relevant tests, in particular the test of necessity. You are reminded that as set out in the National Planning Policy Framework, planning conditions should be kept to a minimum and that conditions that are required to be discharged before development commences should be avoided unless there is a clear justification. The reasons for any pre-commencement conditions will need to include that justification. Any difference in view on any of the suggested conditions, including their wording, should be highlighted in the schedule with a brief explanation given.

Planning Obligation

12. As it appears that a planning obligation is to be submitted, an early draft of the obligation is to be provided, with a final agreed draft to be submitted before the Inquiry opens. The final draft must be accompanied by a CIL Compliance Statement prepared by the Council which covers those obligations not included within the CIL Compliance Statement prepared by West Sussex County Council which has already been submitted. The compliance statement is to set out a fully detailed justification for each obligation sought, detailing how it complies with the CIL Regulations, in particular the test of necessity in terms of how it would mitigate a particular harm arising out of the development proposed. It 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. With regard to any financial contributions, whilst the pooling restriction was rescinded some time ago, the Statement will still need to set out whether any relevant schemes are the subject of other financial contributions in order for the

Inspector to be able to come to a view as to whether any contribution sought in relation to this appeal is properly justified.

13. If the planning obligation cannot be signed and sealed whilst the inquiry is sitting, a short time will be allowed after the Inquiry for submission of a signed version of the obligation.

Core Documents/Inquiry Documents

14. You will need to discuss and agree a list of core documents in advance of preparing your proofs so they can be properly referenced in the proofs. That list is to be co-ordinated by the appellant and must be submitted with the proofs. A template/example format for the list is attached.
15. The core documents should comprise only those documents to which you will be referring and do not need to include a copy of the National Planning Policy Framework or deal with areas where there is no dispute. Any appeal decisions and/or legal authorities on which any party intends to rely will need to be prefaced with a note explaining the relevance of the document to the issues arising in the Inquiry case, together with the propositions on which you are seeking to rely, with the relevant paragraphs flagged up.
16. Where any documents on which it is intended to rely are lengthy, only relevant extracts need to be supplied, as opposed to the whole document. Such extracts should, however, be prefaced with the front cover of the relevant document and include any accompanying relevant contextual text.
17. The Council and the appellant agreed to liaise with regard to making the core documents list and the documents themselves will be made available on the Council's website.
18. The appellant should supply an extra hard copy set of the core documents in time for the Inquiry opening to form an Inquiry library, which can be accessed by interested parties at the event.
19. Any documents submitted once the Inquiry has opened will be recorded as inquiry documents on a separate list, overseen by the Inspector. 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 the Inspector, with extra copies to be made available to assist interested parties if necessary.
20. The Inspector would be grateful for hard copies of the proofs of evidence and plans to be provided to him at the start of the Inquiry. It was also agreed that the appellant would make a set of full size, scalable, drawings available at the Inquiry.

Inquiry Sitting Times and Running Order

21. It was advised that on several days there will be constraints on the availability of the Inquiry room due to it being required for other business of the Council. The venue will only be available until 4:30pm on 10 and 11 September and until 3.00pm on 12 September. It was agreed that apart from the first day, when the Inquiry will open at 10:00am, it will resume on subsequent days at 9.30am.
22. In terms of running order, following the Inspector's opening comments on the first day of the Inquiry, he will invite opening statements from the main parties (appellant first, followed by the Council) which will set the scene. It was agreed that following opening statements, interested parties would be given the opportunity to speak if they wished. Interested parties may be given the option to participate at other points in the proceedings if they prefer once the relevant evidence from the main parties had been heard.
23. As set out above, the evidence will be dealt with on a topic by topic basis, commencing with the round table session on character and appearance matters. Following this would be a second round table session on matters relating to the living conditions of neighbouring occupiers.
24. Lastly in terms of evidence would be general planning matters, planning policy, any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme, and the overall planning balance. It was agreed that this will be dealt with through evidence in chief and cross examination. The Council will present its evidence first, which will be cross-examined and re-examined, if necessary, followed by the corresponding evidence of the appellant on the same basis. The appellant's evidence should also address any other matters raised by interested parties at application and appeal stage.
25. On the conclusion of this, the Inspector will lead the usual round table discussion on conditions/obligations. That will be followed by closing submissions (Council, then appellant) which should set out your respective cases as they stand at the end of the Inquiry, with a written copy handed up at the time, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt.
26. The Inspector will view the appeal site from public land before the Inquiry opens. However, the Inspector will also carry out an accompanied site visit either after the Inquiry has closed, or before if an appropriate opportunity presents itself in the programme. Whenever it takes place, its purpose is simply for him to see the site and its surroundings. He cannot listen to any representations, discussion, or arguments during the visit, but parties can point out physical features, so it is important that you give some thought as to where you wish him to see the site from.

Timetable for submission of documents

27. The main statement of common ground should ideally be submitted by 26 July or, failing this, early in the week commencing 29 July, and should be used to inform your respective proofs.
28. Although the start letter set out that proofs of evidence are to be submitted by 13 August, it was agreed that, due to the summer holiday period, proofs are to be submitted no later than 20 August. Details of the preferred format and content of proofs and other material were Annexed to the pre-conference note.
29. It was agreed that as matters relating to character and appearance and living conditions are included within the main Statement of Common Ground, topic specific statements of common ground for these matters are unnecessary. If agreement is reached on affordable housing and other infrastructure matters, a Statement of Common Ground in respect of these should be submitted at the same time as the proofs of evidence (20 August).
30. The Council is to make sure a copy of the notification letter setting out details of the Inquiry, and a list of those notified is sent in to PINS no later than 20 August.
31. The early draft of the proposed planning obligation is also to be submitted at the same time as the proofs (20 August) with a final draft no later than which is to be accompanied by the CIL Compliance Statement prepared by the Council and the relevant office copy entries to show proof of title. It would also be helpful to have draft agendas for any round table sessions by 3 September, or earlier if possible.
32. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and PINS does not encourage the provision of such. However, if it would save inquiry time and bearing in mind that these cannot introduce new issues, it was agreed that the parties would indicate by 27 August whether rebuttal proofs are to be produced. If this is the case, then these should be submitted no later than 3 September. As an alternative to a rebuttal proofs, it may be that the matter could more succinctly be addressed through an addendum Statement of Common Ground.
33. The advocates are to work collaboratively on the time estimates for each stage of their respective cases, with final timings for openings and closings, evidence in chief and cross-examination to be submitted no later than 3 September.
34. A draft programme will be issued following receipt of your final timings in due course, when the Inspector will have a better feel for the overall duration. Other than in exceptional circumstances, you are expected to take no longer than the timings indicated, which will require the cooperation of both advocates and witnesses.

35. It is very important that you adhere to this timetable in order that everyone has access to all of the relevant evidence in good time. For reference, this is set out in table form below.

26 July 2024	Agreed Main Statement of Common Ground
20 August 2024	Deadline for submission of: <ul style="list-style-type: none"> • all proofs • suggested planning conditions • core documents list • affordable housing/viability Statement of Common Ground (if agreed) • initial draft planning obligation
20 August 2024	Deadline for the Council to submit a copy of the Inquiry notification letter and list of those notified.
3 September 2024	Deadline for submission of: <ul style="list-style-type: none"> • Final Timings • Final draft planning obligation and relevant office copy entries • CIL Compliance Statement (Council) • Any necessary rebuttal proofs • Draft agendas for each of the round table sessions
10 September 2024	Inquiry Opens 10.00 am.

Costs

36. No application for costs is currently anticipated by any party at this stage. However, if any application is to be made, the Planning Practice Guidance makes it clear that it should be made in writing before the Inquiry. Costs can be awarded in relation to unreasonable behaviour which may include not complying with the prescribed timetables. You are also reminded in this regard, that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the ability to initiate an award of costs, although, hopefully, this won't be necessary.

John Dowsett

INSPECTOR

23 July 2024

ANNEX

TEMPLATE/EXAMPLE FOR CORE DOCUMENTS LIST

(Adapt headings to suit circumstances)

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.