

APPEAL REF: APP/Y1110/W/22/3292721

Inquiry Case Management Call (CMC) Agenda

Appeal Site: Land Off Spruce Close, Exeter

Appellant: Salter Property Investments Ltd

Local Planning Authority (LPA): Exeter City Council

LPA Application Ref: 20/0538/OUT

Description of development: Outline application for up to 93 residential dwellings (approval sought for details of access only, with scale, layout, appearance and landscaping all reserved for future consideration) (revised scheme).

CMC to be held at 10:00 on Wednesday 4 May 2022 (Microsoft Teams)

(Details for logging in to the CMC will be/are set out in a separate note)

AGENDA

1. Introduction by Inspector
2. Purpose of the CMC
3. The Inquiry
4. Provisional Main Issues
5. Matters to clarify
6. Statements of Common Ground
7. Dealing with the evidence/Inquiry programme
8. Timescales for submissions
9. Other procedural points
10. Any other business



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Pre-Inquiry Case Management Call (CMC) Note

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The CMC

1. The CMC will be led by the inquiry Inspector, Hannah Porter (BA(Hons), PGDip, IHBC). Attached are instructions for joining the CMC, a conference etiquette¹ to be observed, and the conference agenda.
2. All Inquiry documents and correspondence will be sent via Alison Bell, Major Casework Team Case Officer.
3. There will no discussion during the CMC as to the merits of the parties' respective cases and the Inspector will not hear any evidence. Rather, its purpose is to set out a clear indication as to the ongoing management of this case and presentation of evidence so that the forthcoming Inquiry is conducted in an efficient and effective manner.
4. The Inspector asks that the main parties provide details of those who will be attending the CMC, including their respective advocates. Please provide this information to the Case Officer by **Friday 29 April 2022**, and updates of any subsequent changes.
5. On 27 April 2022, the Exeter Green Spaces Group (EGG) submitted a request to be granted Rule 6 status. Once Rule 6 status has been confirmed, the EGG will be invited to join the CMC and submit a statement (see timescales for submissions below).

The Inquiry

¹ Annex A

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6. The Inquiry is currently scheduled to be an in-person event that will open at **10:00 on Tuesday 5 July 2022**. A suitable venue is to be secured by the LPA and details provided to the Case Officer ASAP.
 7. The Inquiry is currently scheduled to sit for 4 days (5 – 9 July), with the exact number of days, number of witnesses etc to be discussed as part of the CMC.
 8. The Inquiry will start at 10:00 on the first day and it is proposed will start at 9:30 on subsequent days. However, this is subject to the agreement of main parties and availability of witnesses. The CMC will be the opportunity to discuss any potential time constraints that may need to be accommodate, if yet known.

Provisional Main Issues and Other Matters

9. The Council's decision notice gave one reason for refusing to grant outline planning permission. Based on what she has read to date, the Inspector considers that the main issue will likely relate to:
 - Whether the appeal site offers an appropriate location for the proposed development having regard to the Council's 'spatial approach'.
 - The effect of the proposed development on the character and distinctiveness of the area, including the landscape setting of Exeter
10. In addition, it will be necessary to discuss the planning policy context, the LPA's 5-year housing land supply position, and the weight of planning benefits associated with the scheme, including in relation to affordable housing and boosting the supply of housing.
11. A number of representations have been made by interested parties and, where outside the scope of the above, may need to be addressed during the Inquiry. (So far, the Inspector is aware of representations having been made in relation to financial contributions relating to the delivery of health care services; the effect on highway safety, parking, cycle and bus routes; living conditions (noise, privacy and pollution); and flood risk). How these issues are resolved or dealt with in the Inspector's decision will depend on the evidence received and heard.

Statement(s) of Common Ground

12. The Inspector has seen a draft Statement of Common Ground (SoCG), (Rocke Associates, February 2022) but is not aware of a completed agreed Statement of Common Ground (SoCG) having been submitted.
13. As a minimum the agreed SoCG should cover matters such as the site and surroundings, description of development, relevant policies (including identification of those most important to the determination of the appeal/consistency with the Framework/weight to be attributed), relevant appeal decisions, agreed plans, agreed conditions and planning obligations. Descriptions of the site, proposal, planning history etc (where agreed) do not

need repeating within individual proofs and can be cross-referred back to the relevant part of the SoCG.

14. To be of most value to the Inspector, a SoCG submitted as part of the evidence base for the Inquiry is one that not only records areas where there is consensus, but identifies areas where there is disagreement, summarising the actual reasons for those differences, rather than simply stating there is disagreement. The SoCG presents a good opportunity for the parties narrow the issues for discussion on each of the main issues and to clarify and refine the fundamental matters in dispute.
15. Notwithstanding section 8 of the draft SoCG, the Council should in the first instance comprehensive list of suggested conditions that shall then be worked on collaboratively and submitted as part of the final SoCG. Any pre-commencement conditions will need to be fully justified as such and the written agreement of the appellant to the final wording also required. The final SoCG shall identify if there are any disputes to the specific wording of any conditions. This will greatly expediate Inquiry time.
16. Although on p. 8 of the Appellant's Statement of Case indicates it does not turn on the Council's 5-yr supply position, the draft SoCG cites the relevance of the HLS position as a matter in dispute. Given this, the parties should seek to agree what the level of supply there is, or at the least confirm the respective positions are in the final version of the SoCG.
17. For the SoCG to be purposeful and collaborative, it should be submitted before the preparation and submission of proofs. Any other matters that may come to light or raised by the EGG as Rule 6 or other interest parties may need to be addressed at the Inquiry.

Dealing with the evidence/Inquiry programme

18. The Inquiry will focus on areas where there is disagreement, and the CMC will explore how best to hear the evidence in order to ensure that the Inquiry is conducted as efficiently as possible.
19. On the first day, the Inquiry will start with the Inspector's introductions and opening comments. There will then be opening statements in order of: Appellant, Council, Rule 6, followed by any other interested parties.
20. At this stage, the formal presentation of evidence and cross examination seems to be most appropriate for dealing with the main issues (i.e matters relating to the principle of development in respect of planning policy and the landscape/visual effect).
21. The Inspector also anticipates taking on a topic-led format, hearing all the evidence on each main issue before moving to the next. Last in terms of evidence, the Inspector will hear the Council's witness in chief on any matters relating to planning policy, the current housing land supply position, benefits and disadvantages of the proposed development, and the overall planning balance, with cross-examination. This will be followed

by the Appellant's witness on the same basis, additionally addressing any other outstanding matters raised by Rule 6 and interested parties.

22. The usual round-table discussions (without prejudice) on planning obligations and conditions will be towards the end of the Inquiry.
23. The Inquiry will conclude with Closing Submissions in the order of the Rule 6, Council, Appellant.
24. Arrangements for an accompanied Inquiry site visit by the Inspector will then be finalised.

Timescales for submissions

25. Subject to their status being confirmed, Rule 6 parties are usually given 4 weeks for the submission of a statement of case. However, this conflicts with the Inquiry deadline for submission of proofs (currently 7 June 2022). The EGG will be expected to submit their statement of case no later than **26 May 2022** and the Inspector proposes extending the deadline for submission of proofs until **14 June 2022**.
26. The Inspector has had sight of the LPA's Statement of Case but not yet a response to the draft SoCG (which may cross with sending out of this pre-CMC note). In light of the scope and nature of SoCG the Inspector expects, an updated and final agreed **SoCG should be submitted no later than 27 May 2022**.
27. Subject to further discussion at the CMC and the agreement of the main parties, all **proofs of evidence (and summaries if over 1500 words) are to be submitted by 14 June 2022**.
28. The Inspector will expect an update on S106 obligations that may be forthcoming, the likely timescales for submission of final draft(s), and their completion. The Inspector will expect to receive a final draft version of any legal agreement **no later than 10 working days before the Inquiry opens, that is by 21 June 2022**.
29. The Inspector also requests that the parties given consideration to the provision of core documents in advance of the CMC. **An agreed Core Document List is to be sent electronically to the Planning Inspectorate at the same time as the proofs by 14 June 2022**. At the same time a hard-copy of the Core Documents shall be sent to PINS. Documents should only be added to the Core Documents List if they are to be relied upon by the parties in their evidence and the matters in dispute. If they are not, please do not include them as it will only potentially duplicate documents which have already been submitted. Please also group documents on a topic basis if appropriate.
30. The Core Documents List should be made available on a dedicated electronic location either on the Council's own website or a separate Inquiry website, which shall be kept up-to-date and together with all other Inquiry documents clearly labelled.

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31. 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, where they are necessary to save Inquiry time, copies of any rebuttal proofs should be provided **no later than 28 June 2022**. It is important that any rebuttal proofs do not introduce new issues.
32. The Inspector is not aware of any application for an award of costs having yet been made by either party and it is good practice that applications are made in writing prior to the Inquiry opening. The parties are reminded of the risk of an adjournment and/or award of costs that comes with the submission of late evidence.

Other procedural points

33. The Council must provide a Community Infrastructure Levy (CIL) Compliance Statement, comprising a fully detailed justification for each obligation sought, setting out how it complies with the CIL Regulations, including any policy support and, in relation to any financial contribution, how it has been calculated and on precisely what it would be spent.
34. Once known, the respective parties (including Rule 6) should provide full details of the witnesses they expect to call.
35. The parties are requested to give the above careful consideration in advance of the discussion at the CMC. The attached Annex sets out the conference call etiquette and the preferred format and content of proofs and other material, which should be observed.
36. The Council is asked to ensure that a copy of this pre-CMC note is made publicly available along with the other Inquiry documents (as per para 30 of this note).

28 April 2022

Annex A

Information Regarding Conference Call Etiquette

- Each party should have a single spokesperson nominated to speak.
- The case officer will record the names of those present during the call for each party before the Inspector 'arrives'.
- Please make the case officer aware when joining if you intend to record the conference call.
- Background noise on a conference call can be an issue. You may want to consider putting yourself on mute and then un-muting yourself when you speak.
- Make sure that personal phones are kept away from any speaker phones in order to avoid potential issues.
- Know when, and when not to speak – when you're on a conference call, you can't see the body language of someone who is about to speak. No one likes being spoken over, so make sure you take note of your cues to speak and don't speak over (or louder) than the other participants on the call.
- The Inspector will lead the conference and will invite specific contributors to speak at particular times.
- The Inspector will 'arrive' last and leave first.

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;

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- 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.**
So in respect of items such as the reasons for refusal, descriptions of the site and development and planning history, if they are described in a statement of comment ground, decision notice, committee report or application document, they should not be duplicated in a proof, with crossing referencing back to the source inquiry material; and
- **Recite at length 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.
- Proofs are to be spiral bound or bound in such a way as to be easily opened and read.
- Appendices are to be bound separately.
- Appendices are to be indexed using **projecting tabs**, labelled and **fully paginated**.