



APP/R3705/W/24/3336295

Land north-east of Junction 10 of the M42 Motorway, Dordon, North Warwickshire

Outline planning permission for development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g (iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved

The Council is encouraged to draw this Summary Note to the attention of interested parties, especially anyone intending to speak at the Inquiry, including by posting a copy on its website.

CASE MANAGEMENT CONFERENCE (CMC) SUMMARY NOTE

1. The CMC was held on 27 March 2024 at 10:00am and was led by myself, David Wildsmith, the Inspector appointed to hold the forthcoming Inquiry. Spokesperson for North Warwickshire Borough Council (the Council) was Mr Christopher Young KC; spokesperson for Hodgetts Estates (the appellant) was Mr Paul Tucker KC; spokesperson for National Highways (NH) who will appear at the Inquiry as a Rule 6 Party was Ms Constanze Bell (Counsel); and spokesperson for the Dordon Parish Council, Polesworth Parish Council and Birchmoor Community Action Team who will appear at the Inquiry as a joint Rule 6 Party (the Local Rule 6 Party), was Mr Howard Leithead (Counsel).
2. No discussion as to the merits of the parties' respective cases took place at the CMC. Its purpose was simply to discuss the management of the appeal and the presentation of evidence, so that the forthcoming Inquiry can be conducted in an efficient and effective manner.

Inquiry venue, format and facilities

3. The Inquiry is scheduled to open at 10:00am on Tuesday 18 June 2024 in the Council Chamber, The Council House, South Street, Atherstone, Warwicks, CV9 1DE. The Council confirmed that arrangements could be made for essential participants to appear at the Inquiry 'virtually', if necessary.
4. The Inquiry venue will ideally be able to provide the following facilities:
 - An appropriately sized Inquiry room – lockable, to allow secure overnight storage of documents (if the Council Chamber is needed for other meetings on some evenings, alternative, secure storage for documents etc. will be made available)
 - Microphones/PA system
 - Disabled access and facilities
 - Hearing loop
 - Separate large monitor for the Inspector (see later)
 - Retiring room for the Inspector and other parties
 - Wi-fi/internet access
 - Copying facilities
5. The Council undertook to inform the Inspectorate's Case Officer¹ if any of these facilities are likely to be unavailable, or if any problems are anticipated.

¹ Mr Kerr Brown. Tel: 0303 444 5243; email: kerr.brown@planninginspectorate.gov.uk

Likely participants at the Inquiry

6. Mr Young will be representing the Council at the Inquiry, and currently expects to call 5 witnesses – Sam Oxley (Landscape and Visual Impact), Dorothy Barratt (Development Plan matters), Andrew Collinson (Planning), plus Moises Mugerza and Tony Burrows on behalf of Warwickshire County Council (WCC) as local highway authority.
7. Mr Tucker will be representing the appellant at the Inquiry, and is likely to call 8 witnesses – Doug Hann (Planning), Dr Nick Bunn (Transport/ Highways); Jeremy Smith (Landscape); David Binks (Employment Need); Jonathan Turner (other aspects of Employment Need); William Blincoe (potentially required in respect of further aspects of Employment Need); Dr Jim Coleman (Economics); Mike Hatfield (potentially required in respect of Transport and Logistics matters). Mr Tucker also indicated that if necessary he may call further witnesses to deal with matters such as acoustics, air quality, ecology, soil issues, flooding and drainage, heritage, archaeology and lorry parking. Alternatively these matters may be dealt with by means of written statements appended to the Planning proof of evidence.
8. Ms Bell will be representing NH at the Inquiry, and expects to call up to 3 witnesses – Patrick Thomas (Spatial Planning), possibly David Elliott (Modelling), and possibly a further Highways Engineer to discuss mitigation, if necessary.
9. Mr Leithead will be representing the Local Rule 6 Party at the Inquiry and intends to call a single witness to deal with Planning matters, along with Landscape and the loss of Agricultural Land. The intention is that non-technical statements on other matters of concern to the Local Rule 6 Party will also be appended to the Planning proof of evidence. Mr Leithead undertook to inform the Inspectorate's Case Officer with the name of the Planning witness, once appointed, and also to confirm whether the Agricultural Land issue will relate purely to the loss of such land, or whether other matters will also be covered.
10. Other interested persons may speak at the Inquiry, but no individuals or groups have so far indicated that they wish to speak. The Council will, however, place a copy of this Summary Note on the appropriate page of its website, so that anyone wishing to attend and speak at the Inquiry will know what is expected of them.
11. The Council undertook, as far as practicable, to make someone available at the Inquiry venue to act as a point of contact for interested persons, during the event.

Update on the positions of the main parties

12. Mr Tucker confirmed that the appellant has recently submitted an Environmental Statement (ES) Addendum to the Planning Inspectorate for assessment, with further updated information on air quality to be submitted no later than 29 March 2024. This ES Addendum will then be publicised with a 30 day consultation period. Mr Tucker also raised concerns that the updated position of NH on matters such as modelling, design and mitigation was not currently known, and pressed for an early resolution to this matter. Ms Bell stated that NH is well aware that this work needs to be given a priority, and gave an assurance that NH will work to achieve good engagement with the appellant on these matters. Mr Young made it clear that the position of WCC cannot be finalised until discussions and agreements have been concluded between the appellant and NH, as WCC will need time to consider the model outputs and implications.
13. As a result of these points agreement was reached (see later), that these parties would all work to the date of 26 April 2024 to clarify their positions on all relevant highways matters.

Main issues

14. It was agreed that the Inquiry will need to consider the following main issues:
 - (i) the effect of the proposed development on the Strategic Gap between Tamworth and Polesworth with Dordon;
 - (ii) the effect of the proposed development on the character and appearance of the surrounding area;
 - (iii) its effect on the best and most versatile agricultural land;
 - (iv) its effect on the nearby strategic and local highway network, and on the safety and convenience of users of these highways;
 - (v) Whether the proposed development would address an immediate need for employment land, or a certain type of employment land and, if so, whether the appeal site is an appropriate location to meet such a need;
 - (vi) Whether the appeal site represents an appropriate location for the provision of an overnight lorry parking area and associated facilities;
 - (vii) How the proposed development would perform against the objectives for achieving sustainable development set out in the National Planning Policy Framework;
 - (viii) whether any submitted planning obligations and/or planning conditions would adequately address the impacts of the proposed development;
 - (ix) How any benefits and disbenefits of the proposed development should be considered in the overall planning balance.
15. The appellant's evidence will additionally need to address any other relevant matters raised by consultees and interested parties, including noise pollution, air pollution, light pollution, the effects on wildlife, the effect on footpaths, the loss of agricultural land, the impact on heritage assets, the effect of increased traffic on Birchmoor village, lost lorries causing difficulties on narrow roads, and the fact that parts of the appeal site are often waterlogged.
16. The main issues will be dealt with by the formal presentation of evidence, which will then be open to cross-examination and questioning. It was agreed that some of the other matters referred to in the previous paragraph may lend themselves to being dealt with by means of round table sessions (RTS), but that will not be known until the range and scope of such issues is known – likely to be once the proofs of evidence are submitted. If RTS are considered appropriate for the consideration of these other matters, I will look to the relevant parties to draw up draft round table agenda(s) which I would hope to finalise before the start of the Inquiry.
17. In the main the evidence will be considered on a topic by topic basis to assist with witness availability. A likely order was agreed to be landscape, visual impact and strategic gap; economic/employment need; lorry parking; highways and transport; other relevant matters; and finally planning matters. The actual running order for the Inquiry will be determined once the extent of the evidence is more clearly known. Mr Tucker undertook to submit a suggested draft Inquiry Timetable following discussion with the other advocates (see later).

Evidence: preparation and documentation

18. Details of the format of proofs of evidence and appendices were attached as an Annex to my Pre-Conference Note. The points set out in that Annex should be followed by all parties. In particular, parties should note that Appendices should be bound separately from the proofs, and should be appropriately tabbed and paginated. Proofs of evidence and related appendices should be supplied in hard copy as well as in electronic form.
19. Only summaries of evidence will normally need to be read at the Inquiry – elaborated on as necessary – but cross-examination will be permitted on the evidence contained in

the full proof. Summaries should not exceed 1500 words or 10% of the proof whichever is the greater.

20. If a party wishes to include material drawn from the internet as part of their evidence, a reference to a website address is not sufficient as website material may change or be removed. Any such material should therefore be printed and submitted in hard copy, normally as an Appendix to the proof of evidence.
21. Individuals/local residents can speak at the Inquiry but I will not want to hear repetitive evidence. If several people want to speak on similar topics they should seek to co-ordinate their statements, or perhaps elect a spokesperson or persons. Anyone wishing to speak at the Inquiry should submit a copy of any statement they intend to make to the Inspectorate's Case Officer ideally no later than 1 week before the opening of the Inquiry – ie, by close of play on 11 June 2024. It would be acceptable, although not encouraged, for interested persons to provide a copy of their written statement on the day they wish to speak. Ideally I will expect to hear from interested persons on Day 1 of the Inquiry.

Core Documents (CDs)

22. A draft CD list is at Appendix A of the Statement of Common Ground (SoCG) agreed between the appellant and the Council. All main parties will work together to agree a final CD list by close of play on 26 April 2024, so that CDs can be properly referenced in the proofs of evidence. The CDs should comprise **only** those documents which will be referred to in evidence. Where documents are lengthy, only relevant extracts need be supplied. Such extracts should, however, be prefaced with the front cover of the document concerned, and should include any accompanying relevant contextual text.
23. Any Appeal Decisions and/or legal authorities upon 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 this case, together with the propositions on which you are seeking to rely, with the relevant paragraphs flagged up.
24. Mr Young confirmed that electronic versions of the CDs would be placed on a bespoke Inquiry page on the Council's website, along with all other Inquiry documents. Mr Tucker indicated that if necessary, the appellant could also set up a backup web page where the CDs could also be accessed. This matter should be discussed between the Council and the appellant to avoid unnecessary duplication.
25. In addition, as I hope to be able to work mainly with electronic CDs at the Inquiry, I requested that a large monitor be provided for me to connect to my laptop (USB-C connection). The Council agreed to provide this. I also requested that an electronic copy of the finalised CDs be sent to the Inspectorate's Case Officer by Wettransfer or a similar file transfer method.
26. The Council also agreed to investigate how to make the CDs available to interested persons attending the Inquiry. This is likely to be by means of a dedicated laptop through which the electronic core documents could be accessed.

Statements of Common Ground

27. A signed, main SoCG between the appellant and the Council has been submitted, as noted above (although Appendices A and C, dealing respectively with CDs and suggested conditions, are still in draft form).
28. A draft SoCG between the appellant and the Council on Landscape, Visual and Strategic Gap matters has also been submitted. To assist with the preparation of a finalised SoCG and Landscape proofs of evidence Mr Young asked that the appellant provides drawings showing buildings with flat roofs to reflect the actual appeal proposal; drawings which clarify the levels of the platforms that would be created; and clarity

regarding the species of trees proposed for the landscaping. Mr Tucker indicated that clarity on these matters would be provided, and both the Council and appellant agreed that meaningful and early discussions on these and other relevant matters should take place between their respective Landscape witnesses.

29. In addition, Mr Young asked that the appellant provide clarity on 3 further matters, namely (i) the extent of the "blue land" which would be provided in perpetuity for the benefit of either the Council or the local Parish Council; (ii) the extent of the areas of "blue land" to be given over to off-site landscaping, and their status; and (iii) the proposals for the rest of the "blue land". Mr Tucker indicated that the appellant would respond in writing to these points by no later than 26 April 2024, and the parties undertook to produce a final, signed version of the Landscape, Visual and Strategic Gap SoCG by close of play on 7 May 2024.
30. It is hoped that SoCG between the appellant and NH, and between the appellant and WCC will also be prepared, although there are still a number of outstanding highways and transport matters to be resolved. The Council, appellant and NH all undertook to clarify their respective positions on highways matters by no later than 26 April 2024. The appellant and NH further undertook to produce a SoCG on relevant matters by 7 May 2024. Mr Young repeated that WCC would need time to consider the outputs and implications of whatever is agreed between the appellant and NH, and was therefore unable to say if and when a SoCG between WCC and the appellant would be completed.
31. The appellant will share any SoCG with the Local Rule 6 Party, who will be able to comment upon them. In addition it is hoped that SoCG on various matters will also be agreed between the appellant and the Local Rule 6 Party, but no date was set for the production of any such SoCG as clarity on this point will need to wait until discussions have been held with the Local Rule 6 Party's Planning witness.

Conditions

32. An initial draft schedule of agreed conditions to be imposed if planning permission is to be granted is at Appendix C of the main SoCG. All parties will work together to produce a final draft schedule of suggested conditions, together with the reasons for them and references to any policy support. Where there are differences of opinion – for example where a party disagrees with the need for a condition or would wish to see different wording - these matters should be made clear in the schedule, which should be provided at the same time as the proofs of evidence – 21 May 2024.

Planning Obligation

33. The Council and appellant confirmed that they will be working together on a bi-lateral planning obligation. Heads of Terms are likely to include a financial contribution towards securing improvements to local bus services to support the forecast demand arising from the development; measures to secure on and off-site landscaping and green infrastructure together with its maintenance; potential off-site highway improvements; and measures to promote manufacturing skills and training for the local population to access employment opportunities on the appeal site. The planning obligation will also need to address the 3 matters of concern relating to the "blue land", raised by the Council in paragraph 29 above.
34. An early draft of the planning obligation should be provided at the same time as the proofs – 21 May 2024, with a final agreed draft by 4 June 2024. Any such final draft must be accompanied by a Community Infrastructure Levy (CIL) Compliance Statement, prepared by the Council, setting out a fully detailed justification for each obligation sought, detailing how it complies with the CIL Regulations. 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. If needed, I will allow a short time after the close of the Inquiry for submission of a signed version of the obligation, provided all substantive matters of detail have been agreed.

Key dates for submission of documents

35. The agreed dates for the submission of documents are provided in tabular form as an Annex to this Summary Note.

Costs

36. No party currently anticipates making an application for costs, although the Council and the appellant both reserved their positions. If any application **is** to be made, the Planning Practice Guidance (PPG) makes it clear that as a matter of good practice it should be made in writing before the Inquiry. I reminded the parties that I have the ability to initiate an award of costs in line with the PPG if I consider it necessary and justified. Unreasonable behaviour may include not complying with the agreed timetables.

Sitting times, Inquiry duration and likely Inquiry running order

37. The Inquiry is currently scheduled for 6 days, but in view of the number of witnesses likely to be called it was agreed that the Inquiry is very likely to need to sit for 10 days - 18 to 28 June 2024 (excluding Mondays), and may well run over into a third week. Mr Tucker indicated that he will not be available for week commencing 1 July 2024 so the parties agreed to discuss advocate availability and inform the Inspectorate of possible additional dates, if more than 10 days prove to be necessary. I will produce a draft Inquiry timetable, which will be kept under review, once the parties have supplied their time estimates, and Mr Tucker indicated that the advocates will also discuss and submit a suggested draft timetable by 11 June 2024.
38. The normal sitting times of the Inquiry will be 10.00am to 5.00pm or 5.30pm on Tuesday to Thursday; on Fridays I intend to start at 9.30am and would aim to finish at mid-afternoon – around 3.00-3.30pm - as some people may have lengthy distances to travel. Timings will be reviewed as the Inquiry progresses. Depending on progress, it may be necessary or helpful to start at 9.30am on other days. The lunch period will normally be from about 1.00pm to 2.00pm, with short breaks each mid-morning and mid-afternoon. This daily sitting programme may need to be amended if any virtual sessions prove to be necessary.
39. Following my opening comments on the first day of the Inquiry I will invite opening statements from the main parties, which should ideally be no longer than about 10 minutes each – appellant first, then the Council, then NH, and then the Local Rule 6 Party. I will then hear from any interested persons who wish to speak. If any interested persons cannot attend on the opening day of the Inquiry I will aim to hear from them later in the week.
40. The evidence will then be heard on a topic basis, as noted in paragraph 17 above. For each topic, as appropriate, I will hear from the Council first, then NH and/or the Local Rule 6 Party, and finally from the appellant. RTS may be appropriate to deal with some of the other matters noted in paragraph 15 above. After all the evidence has been heard, I will lead the usual round table discussions on conditions and provisions of the planning obligation.
41. Before hearing closing submissions, I will wish to carry out an accompanied site visit to the appeal site and surrounding area, and in this regard all parties are to collaborate on producing a site visit itinerary. Any interested persons participating in the Inquiry should also have an input to this itinerary, to ensure that it covers all locations that the main parties and others wish me to see and visit. The purpose of the site visit is for me

to see the site and its surroundings in the context of the evidence I will have read and heard. I will not listen to any representations or hear any evidence during the visit.

42. A draft site visit itinerary should be submitted 1 week before the opening of the Inquiry – ie by 11th June 2024. It should include a plan or plans and timings to establish its extent and likely duration, so that I can decide when best to fit it in to the Inquiry programme. If the parties want me to visit any locations away from the appeal site itself these should also be listed on the itinerary. I may be able to visit some of these locations on an unaccompanied basis, unless the parties consider it essential that I am accompanied.
43. After undertaking the accompanied site visit I will hear the parties' closing submissions. Ideally these should be a maximum of around 40-50 minutes each. I will first hear from any interested person who wishes to summarise their case for me; then the Local Rule 6 Party, then NH, then the Council; and finally the appellant. Closing submissions should set out your respective cases as they stand at the end of the Inquiry and should be fully cross-referenced. No new evidence is permissible in closing submissions. These closings should be submitted both in writing, and in electronic form to the Inspectorate's Case Officer – ideally in Word format.
44. After hearing closing submissions, and checking if any further applications are to be made, I shall close the Inquiry.

David Wildsmith

INSPECTOR

28 March 2024

Annex

Summary of Key dates for the submission of documents

26 April 2024	Deadline for submission of: <ul style="list-style-type: none">• agreed core documents list• clarification from NH, the appellant and the Council regarding their respective positions on all outstanding highways matters
7 May 2024	Deadline for submission of: <ul style="list-style-type: none">• signed SoCG on Landscape, Visual and Strategic Gap matters• signed SoCG between the appellant and NH
21 May 2024	Deadline for submission of: <ul style="list-style-type: none">• all proofs of evidence• schedule of agreed and other suggested planning conditions• initial draft planning obligation
28 May 2024	Council to send in copy of Inquiry notification letter and list of those notified – if not already submitted
4 Jun 2024	Deadline for submission of: <ul style="list-style-type: none">• final draft planning obligation• CIL Compliance Statement (Council)• any necessary rebuttal proofs• draft agenda for RTS to discuss certain other matters, if necessary
11 Jun 2024	Deadline for submission of: <ul style="list-style-type: none">• statements from interested persons and other bodies wishing to speak• draft site visit itinerary• final timings• advocates' suggested Inquiry timetable
18 Jun 2024	Inquiry opens 10.00 am