



REF: APP/E1885/W/22/3310099

Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire.

Proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement.

CASE MANAGEMENT CONFERENCE (CMC) SUMMARY NOTE

1. The Parties were represented at the conference held on 19 January 2023 by the following persons:

Appellant:

- Satnam Choongh – Spokesperson
- Ian Pearson
- Liam Toland
- Spencer Warren
- Katrina Hawkins

Council:

- Sarah Clover - Spokesperson
- Steve Aldridge
- Penny James
- Chris Whitehouse

Rule 6 Party (Stop the Quarry Campaign):

- Tim Partridge - Spokesperson
- Mike Lord

The Inquiry

2. The Inquiry is scheduled to open at 10.00 hours on **Tuesday 28 February 2023**, resuming at 09.30 hours on subsequent sitting days unless otherwise agreed during the event. At this stage, it will proceed as a 'blended event'. This will involve all sessions proceeding predominantly in a face-to-face format but with the potential virtual participation, if necessary, for some participants.
3. The Council will take responsibility for organising a suitable and accessible venue for the Inquiry. During the CMC it was indicated that the venue is likely to be 'Hogarths Stone Manor, Stone, Kidderminster, Worcestershire DY10 4PJ'. The Council are requested to formally confirm by **27 January 2023** that this venue will be used to host the Inquiry or otherwise provide the details of an alternative venue. The Council will also take responsibility for ensuring adequate IT connectivity and accessibility for any virtual participants during the Inquiry, preferably using the Microsoft Teams platform.
4. Although the Inquiry is scheduled to sit for 6 days, all parties agreed that this was likely to be insufficient. An additional sitting day on Thursday 9 March was therefore agreed to be necessary (7 sitting

days) with the afternoon of Monday 6 March 2023 being dedicated to an accompanied site visit.

5. In the unlikely event that Government Guidance and PINS Operating Model suggest that a virtual only event may be required then at that time the views of the Appellant, Council and the Rule 6 Party will be canvassed in writing. However, the default position at this stage is that the Inquiry will proceed as a blended event.

Advocates during the Inquiry

6. Confirmed as follows:
 - Appellant: Satnam Choogh of Counsel
 - Worcester County Council: Sarah Clover of Counsel
 - Rule 6 Party: Tim Partridge/Mike Lord

Main Issues

7. Based on the material currently submitted the main issues in this appeal were agreed as likely to be:
 - The need for the proposed development with particular regard to the landbank position for sand and gravel and the need for inert waste disposal in the County.
 - The effect of the proposed development on living conditions of the occupants of existing and future nearby dwellings and the amenity of pupils and staff at Heathfield Knoll School and First Steps Day Nursery with particular regard to outlook, noise and dust.
 - The effect on the openness of the Green Belt and whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies.
 - If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
8. In addition, consideration will be given to any benefits to be weighed in the overall planning balance, including any implications of not proceeding with the scheme.
9. The Rule 6 Party identified that evidence (not expert witness) would likely be submitted in respect of highway capacity and safety, effect on the local economy, restoration/landscape and air quality and noise. These would likely be considered as 'other matters' in the Inspector's decision letter.
10. Numerous other issues are raised by interested parties, some of which which were not the subject of the Council's original reasons for the refusal of planning permission. Whether any of these matters are dealt with as main issues in the eventual decision letter will depend on whether, in light of the evidence submitted to and heard at the Inquiry in due course, they are determinative in relation to the outcome of the appeal.

How the issues will be dealt with

11. It was agreed that the main issues identified would be more appropriately dealt with through the formal presentation of evidence in chief by relevant witnesses for each of the parties, which would be subject to cross-examination.
12. The Appellant suggested that expert witnesses would provide evidence in relation to noise and air quality and dust. Matters relating to the need for the proposed development, including any planning benefits, green belt considerations, planning policy and the overall planning balance, will be collectively dealt with by an appropriate planning witness. The Appellant also indicated that evidence would be submitted in respect of Landscape impact and Highways matters. It was agreed that the majority of this evidence would likely be taken as read. However, witnesses would present appropriate parts of this in evidence in chief to enable the Rule 6 Party to cross examine the relevant witnesses.
13. The Council indicated that Mr Whitehouse would provide evidence in respect of all matters relating to amenity, need, green belt, planning policy and the planning balance.
14. There will be a discussion in a Round Table Session (RTS) regarding planning conditions and any potential planning obligation.

Statement of Common Ground (SoCG)

14. Whilst the Inspector is in receipt of a draft of the SoCG, the main parties indicated that an agreed version was nearing completion. This should be submitted in an agreed form to PINS by **25 January 2023**. A copy should also be provided to the Rule 6 Party.

Planning Obligation

15. The Appellant indicated in the CMC that it was unlikely that a planning obligation would be necessary. In the unlikely event that an obligation be considered necessary then a draft should be submitted by **31 January 2023** and should be accompanied by a CIL Compliance Statement.
16. The CIL Compliance Statement should be prepared by the Council. The statement must contain a fully detailed justification for each obligation sought, including monitoring, setting out 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 precisely on what it would be spent.
17. If possible, the planning obligation should be completed before the close of the Inquiry but as this will be subject to discussion in the Inquiry itself this may not be possible. Therefore, if necessary, a short period of time will be facilitated after the close of the oral aspects of the Inquiry to enable the completed obligation to be submitted to PINS. Thereafter, the Inquiry will be closed in writing.

Conditions

18. An agreed schedule of suggested planning conditions and the reasons for them must also be submitted at the same time as the proofs **(31 January 2023)**. The Council is to submit an agreed/disagreed schedule and the reasons for the conditions, including references to any policy support.
19. Careful attention will need to be paid to the wording of the suggested conditions and they will need to be properly justified having regard to the tests for conditions and in particular the test for necessity.
20. The main parties are reminded, as set out in the National Planning Policy Framework, that 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 clear justification.
21. Any difference in view on any of the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given.
22. Conditions that are required to be discharged before development commences should be avoided unless there is clear justification. Any pre-commencement conditions will need the written agreement of the Appellant. The Council should take the lead on preparing the list of conditions, in discussion with the Appellant.

Core Documents/Inquiry Documents

23. The parties will need to discuss and agree a list of Core Documents in advance of preparing proofs of evidence so they can be properly referenced in the proofs. That list is to be co-ordinated by the Appellant in consultation with the Council and must be submitted with the proofs. A template for that list is attached. 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. Any Appeal Decisions and/or legal authorities on which any of you intend 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.
24. All documents forming part of this appeal must be available to all taking part in the Inquiry electronically, including the agreed Core Documents. The Council has agreed to host dedicated webpages containing the Core Documents and relevant Inquiry information including proofs of evidence. The webpages will also be used for the hosting of any documents submitted during the Inquiry.
25. Notwithstanding the need for dedicated webpages, the Inspector requires a hard copy set of the Core Documents, plus proofs and any rebuttals etc, although 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. The hard set should be submitted to PINS on, or soon after, **6 February 2023**.
26. It is expected that all necessary documents will be submitted in advance of the Inquiry. Any necessary additional documents can only

be handed up to the Inquiry with the Inspector's permission. If accepted, in addition to any hard copies, these should be forward to the PINS case officer for forwarding to the Inspector. The Council will provide administrative support to ensure that such documents are speedily placed on the Inquiry webpages from where they will be available to all parties.

Environmental Statement (ES)

27. The submitted ES has been considered by the PINS Environmental Services Team whose role is to undertake an adequacy check of the ES against the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. A Regulation 25 request has been made by PINS for further information.
28. The Regulation 25 request requires the submission of a statement providing commentary on the biodiversity future baseline scenario and confirming that the current baseline data remains representative based on walkover survey data. In addition, a statement providing commentary on the likely future baseline scenario for noise has been requested confirming why the current baseline data remains representative or the provision of updated survey data. A revised non-technical summary is also requested.
29. Although not mentioned in the letter from the PINS Environmental Services Team, the Appellant indicated that a review of the submitted ES will be undertaken to give consideration of the impact of the proposed development on allocated development within the Wyre Forest District Local Plan.
30. The Appellant indicated that notification was shortly to be given to PINS (probably 10 February 2023) of the intended submission date of the Regulation 25 and other information. Public notification of the submission of this information was proposed and it was anticipated that this would be undertaken well in advance of the Inquiry opening.

Inquiry Running Order

31. In general, the Inquiry is expected to finish each day no later than around 17.00 hours and, with the exception of the first day, will resume on subsequent days at 09.30 hours.
32. Following the Inspector's opening comments on the first day of the Inquiry, he will invite opening statements from the parties - the Appellant first, followed by the Council and the Rule 6 Party. This will help everyone to understand the main arguments of respective cases and set the scene. Those opening statements should each be no longer than 30 minutes in length. The Inspector will require written copies of these in advance of the opening submissions.
33. The Inspector will then hear from interested parties after opening submissions, probably in the afternoon. There will be scope for some flexibility if someone has difficulty that may prevent them from attending and speaking on the opening day. Therefore, a designated slot for interested parties to speak will also be allocated later in the programme. The Inspector emphasised the need, if possible, for those persons who wish to speak to notify their intention to do so to PINS in advance of the opening day and confirm whether they intend to speak in person or require participation through virtual means. In addition,

in the opening announcements, the Inspector will ask for the names of interested parties who wish to speak and who have not pre-notified PINS of their intention to do so.

34. It would be helpful for the Rule 6 Party to assist in seeking an opportunity for contributions from the community to be focussed and, where possible, topic specific. Whilst repetition of the same argument is not helpful to the efficient running of the Inquiry, at this stage it is not envisaged that there will be any restriction on the number of persons who may wish to contribute.
35. The Inspector will provide the parties with a draft Inquiry Programme by **11 February 2023**. The draft programme can then be considered by the parties and populated with the names of witnesses, the order that they would be called, the subject to be covered in their evidence, and a time estimate for evidence-in-chief. Time likely to be required for cross-examination should also be indicated if possible. Responses to the draft programme should be provided by **17 February 2023**. The final programme will be provided by the Inspector during the early part of w/c **20 February 2023** and will be set out as part of the Inspector's opening announcements on 28 February 2023. The final programme should also be published on the Inquiry Webpages.
36. At this stage it would not be appropriate to set out the details of the specific days that evidence topics will be heard but the Inquiry will generally proceed on the basis the amenity evidence being heard first, followed by landscape and highways matters and then the need/green belt/planning evidence during week 2. The afternoon of Monday 6 March 2023 would be dedicated to a site visit.
37. Thursday 9 March 2023 would be the usual round table discussion on suggested planning conditions in the morning, followed by closings and any required discussion on costs in the afternoon.
38. The Council will commence closing submissions, followed by the Rule 6 Party and then the Appellant. Closing submissions should set out your respective cases as they stand at the end of the Inquiry and will need to include all relevant references and cross-references where evidence is relied on, for the avoidance of doubt. Preferably, they should be no longer than around 45 minutes in length. A copy will need to be provided electronically to PINS prior to each party's respective presentations.

Site visit

39. As indicated above, the Inspector will undertake an accompanied site visit on Monday 6 March 2023. All parties are to work together in preparing an itinerary for the Inspector in this regard which should be submitted to PINS by **17 February 2023**. The Itinerary should also indicate indicative timings for the site visit. The Appellant is required to take responsibility for the production of the itinerary.
40. In addition to the formal accompanied site visit to be undertaken during the Inquiry, the Inspector is likely to undertake an informal, discrete and unaccompanied site visit at some point prior to the opening of the Inquiry. This will observe aspects of the site from public vantage points only.

41. Should the accompanied site visit involve visiting viewpoints that are some distance away from the appeal site, the Council were requested to give consideration to the provision of a mini bus or suitable form of transport so that all parties can travel together without the need for a convoy of private vehicles. In this regard, it was suggested that there should be a maximum of two participants from each of the main parties and the Rule 6 Party to accompany the Inspector on the site visit.

Efficient use of Inquiry time and administration

42. The Council agreed to provide a dedicated administrative support officer to provide assistance during the Inquiry to assist in the following:
- Assisting in co-ordinating the compilation of core documents.
 - Keeping records of attendance at the Inquiry.
 - Co-ordinating the submission of evidence during the Inquiry.
43. The Council indicated that Mr Aldridge would likely be the person providing such support to the Inquiry.

Proofs of evidence and other statements

44. Proofs of evidence should be submitted no later than 4 weeks before the start of the Inquiry and thus by **31 January 2023**.
45. Rebuttal proofs can save Inquiry time but should be provided only where there is a clear justification for them. Rebuttals must be confined to addressing specified evidence submitted by other parties. They must not be used to introduce new matters that could have been covered in main proofs of evidence. If rebuttal proofs are to be submitted, then these should be provided by **17 February 2023**.

Costs

46. Although no party indicated that they had been instructed to seek an award of costs, any such application should be made in writing and, if possible, before the opening of the Inquiry. It is recognised that this is not always possible but the last formal part of the Inquiry will be a discussion on costs and therefore parties should make each other and the Inspector aware of the nature of any such applications in advance of this to give opportunity for any response.
47. Notwithstanding this, the position of parties regarding costs may change during the course of the Inquiry. Therefore, whilst an early draft of the cost's application should be submitted, this matter will be further discussed after closing submissions at which point a formal submission should be made. Appropriate time will be provided after the closure of the oral aspects of the Inquiry for formal responses from the relevant parties.

Notifications

48. PINS will provide the wording for the site notice, setting out what is required in the notification letter, including the necessity for parties to register in advance with PINS if they wish to 'attend' or participate in the Inquiry.

49. Inquiry notifications should normally be issued a minimum of 2 weeks in advance of opening. However, **as much notice as possible should be given to allow interested parties time to consider whether they wish to participate.** The Council must send a copy of the notification letter to the Case Officer, together with a list of all those notified, **at the same time that it is sent out to the parties,** but in any event no later than **14 February 2023.**

Timetable

| | |
|---------------------|--|
| 25 January | Submission of SoCG |
| 27 January | Council to formally confirm to PINS, the Appellant and Rule 6 Party the venue details for the Inquiry |
| 31 January | Deadline for submission of: <ul style="list-style-type: none"> • all proofs • suggested planning conditions (Council to lead) • core documents list (Appellant to lead) |
| 31 January | Deadline for submission of any draft planning obligation and CIL Compliance Statement |
| w/c 6 February | Hard copy set of Core Documents and Proofs to be submitted to PINS |
| w/e 11 February | Draft Inquiry Programme to be provided by Inspector |
| 14 February | Deadline for submission of: <ul style="list-style-type: none"> • a copy of the Council's Inquiry notification letter and list of those notified |
| 14 February | Deadline for the submission of any necessary rebuttal proofs |
| 17 February | Site visit itinerary to be provided to PINS |
| w/e 17 February | Deadline for parties to provide responses to draft Inquiry Programme |
| w/c 20 February | Inspector to provide final Inquiry Programme |
| Tuesday 28 February | Inquiry opens 10.00 am |

Stephen Normington

INSPECTOR

19 January 2023

Appendix

TEMPLATE FOR CORE DOCUMENTS LIST (adapt headings to suit)

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

* Each must 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.