



**APPEAL REFS: APP/A1720/W/21/3283643 &  
APP/A1720/W/21/3284532  
Land to the south of Funtley Road, Funtley, Hampshire**

*Outline application to provide up to 125 one, two, three and four-bedroom dwellings including 6 Self or Custom build plots, Community Building or Local Shop (Use Class E & F.2) with associated infrastructure, new community park, landscaping and access, following demolition of existing buildings, and*

*Change of use of land from equestrian/paddock to community park following demolition of existing buildings.*

**Summary Note of Case Management Conference held on Monday  
13 December 2021**

1. The case management conference commenced at 1000 and finished at approximately 1140.

**Attendance**

2. The Appellant was represented by Mr M Henderson of Counsel (MH) and the local planning authority (LPA) by Mr N Helme of Counsel (NH). Mr R Wright (RW), the LPA's Principal Planner, also contributed. Other attendees observed but took no part in the discussion.

**Purpose of the conference**

3. The purpose of the conference was to confirm the management of the case, ensure that the appeal proceeds efficiently, to consider the form of the inquiry, and to make arrangements for the submission of documents.

**Main issues and other matters**

4. The pre-conference note set out the Inspector's initial view of what the main issues in these cases are likely to be. These were revised slightly in light of clarification provided by the LPA's Statement of Case (SoC) and comments of participants.
5. NH confirmed that the LPA's objection in terms of the site's location included both a spatial and an accessibility element. NH confirmed that the LPA had no objections in respect of the change of use application.
6. Both main parties were confident that matters relating to Habitats Sites (now also including New Forrest SPA), recreational facilities, education, affordable housing and travel planning would be addressed by way of planning obligations. On the assumption that they are, it is not anticipated that those would be main issues.
7. The parties were asked whether the LPA's position set out in their SoC on the locational aspects of the site, particularly with regards accessibility, was something that was in dispute, as distinct to the weight which might be

attributed to any effects. Consequently, whether or not the detail of the matter required evidence to be presented and cross examined. Both main parties agreed to consider this and reflect the outcome in the Statement of Common Ground (SoCG). However, as things stand, this has been included as a main issue raised by the appeal.

8. The Inspector's identification of the main issues at this stage is therefore:

- Whether or not the proposed development would be in a suitable location, with particular regard to the spatial strategy for the location of new housing and the accessibility of services and facilities for future occupiers, and;
- The effect the proposed development would have on the character and appearance of the area, with particular regard to whether or not it would enable a detailed scheme to come forward that would reflect the character of the neighbouring settlement and minimise any adverse impact on the countryside.

### **Form of the Inquiry, evidence and participation**

#### *Evidence and participation*

9. The appellant intends to call five witnesses:

- Landscape and design
- Transport and accessibility
- Ecology
- Affordable housing
- Planning

MH explained that his ecology witness would mainly cover any matters relating to protected Habitat Sites. MH also explained that his affordable housing witness would mainly cover particular local circumstances, and the development's effect and any benefits in that respect.

10. The LPA intends to call three witnesses:

- Urban design
- Landscape
- Planning

NH advised that RW would also be likely to participate.

11. It is anticipated that the main issues will be considered through formal presentation of evidence and cross examination. It is not clear at this stage whether or not housing land supply will be an issue that needs to be considered in this fashion.

12. Planning obligations and possible conditions would be expected to be considered in round table sessions led by the Inspector. This will include consideration of effects and proposed mitigation in respect of Habitats Sites.

#### *Running order*

13. Both main parties considered that dealing with the evidence on a topic-based or thematic basis would be acceptable and can be accommodated.

14. Following the Inspector's opening comments on the first day of the Inquiry, they will invite opening statements from the main parties, first the appellant and then the LPA.
15. They will then hear from any interested parties who wish to speak, although there is scope for some flexibility if someone has difficulties that prevent them from attending and speaking on day one. Interested parties may wish to speak following evidence on other days.
16. Evidence will then be heard on the principle and effects of development in this location and then character and appearance. If necessary, formal evidence might be heard on housing land supply which might be followed by a round table session. This will be followed by planning matters which may include affordable housing and deal with the overall planning balance.
17. A topic-based approach will be followed, hearing from opposing witnesses consecutively on each topic. It is noted that the LPA are likely to call two witnesses to cover discrete aspects of character and appearance issues but the appellant may call one witness to cover both aspects. Similarly, it is noted that the appellant is likely to call two witnesses to cover discrete aspects of the location of development.
18. Finally, the Inspector will lead round table sessions on conditions and planning obligations. That will be followed by closing submissions. They should set out the respective cases of each party as they stand at the end of the Inquiry, cross-referencing the evidence as appropriate. A written copy of closings should also be made available.

#### *Timings*

19. Both main parties were requested to provide their initial time estimates after proofs were exchanged. The Inspector would then prepare a draft programme.
20. As the event will be online, in order to avoid fatigue from prolonged screen time, it is anticipated the day to be divided into three sessions of around an hour and a half each with generous breaks between, and a final, shorter catch up/over-run session to be used as necessary but finishing no later than 1700. An outline of how this might be arranged is in Annex A to this note. The main parties' views are welcome on this approach.
21. A final programme will be issued before the Inquiry following receipt of detailed final timings from the main parties. 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.
22. Although there was a degree of confidence that the Inquiry might not need to sit for the six days allocated, parties were asked to keep 16 and 17 February in the second week available, particularly in light of shorter sitting days necessary due to the online nature of the event.

#### *Format and arrangements*

23. The LPA confirmed that the event would be conducted using Microsoft Teams and also live streamed on YouTube. No recordings would be taken. The LPA would encourage those who just wish to observe the Inquiry to do so via the live stream. The importance of making sure that all who wanted to participate

could do and had clear information in the LPA's notification letters of how to do so, was emphasized.

24. The LPA confirmed that they will have a dedicated contact who will be responsible for the smooth operation of the online technology throughout the Inquiry.
25. The LPA will arrange a **test event**, which the Inspector will attend, to enable all participants to familiarise themselves with taking part in the online event. Please can the LPA provide some suggested dates, times and arrangements to be sent to the case officer by **11 January 2022**?

### **Housing Land Supply**

26. The lack of a five year housing land supply is not currently a matter of dispute between the parties. NH mentioned that in some previous appeals even where the extent of shortfall had not been agreed between main parties, they had been able to reach a mutual position on the scale or implication of shortfall and/or weight it may carry, and that might be possible in this case.
27. However, it was pointed out that a report on the LPA's latest position on housing supply/delivery would be available on 11 January. As a consequence, neither main party could confirm their position on either the existence of a five year supply or if there is not, the extent of any shortfall.
28. It was agreed that a separate **Housing Supply SoCG** would be prepared by the main parties once the position was understood, but also relying on ongoing dialogue in advance. Given the timescales involved it was accepted that the housing SoCG could be received by **1 February 2022** at the latest.
29. The Inspector would also find it useful if the appellant could provide an initial reaction the week after the LPA's report to give an indication of whether there are likely to be matters in dispute and if so what they might be.
30. If either the existence of a five year supply or any shortfall are in dispute once the LPA's position is understood, the Inspector may then provide some guidance about how they would prefer written evidence to be presented on this matter in the Housing SoCG.
31. If the matter is in dispute the Inspector will keep under review the most appropriate way to consider and examine the evidence at the Inquiry.

### **Documents**

32. All documents are to be available digitally with additional hard copies of those documents specified below provide to the Inspector.

### *Accessibility*

33. The LPA confirmed that documents could be hosted on a dedicated part of its website, not just as part of 'day to day' planning application documents. They confirmed that this can be swiftly updated should it be necessary to add additional documents during the Inquiry.

### *Format*

34. The Inspector will require both hard and electronic copies of all proofs. All other documents can be provided electronically. The Inspector requires a full set of all documents as well as those documents being provided on the LPA's website.
35. The Appellant will provide full-size hard copies of any relevant drawings for the Inspector. Hard copy documents to be sent to the case officer.

### *Statement of Common Ground*

36. To date only the appellant's draft **SoCG** had been received by the deadline of 8 December. A revised deadline of **7 January 2022** was agreed by the Inspector in the expectation that this would ensure a comprehensive document which helps to clarify matters, narrow down issues in dispute, assist those giving evidence and assist the Inspector in conducting the Inquiry and reaching their decision. The inspector was keen to emphasise the importance of ongoing, constructive collaboration between the main parties on this.

### *Core documents*

37. A comprehensive and indexed set of **Core Documents** is required. This will be agreed between the appellant and the LPA in advance of finalising proofs so that all proofs can be effectively referenced. The documents and index will be provided a week before the deadline for submission of proofs; **4 January 2022**.
38. Core Documents should comprise only those documents to which parties will be referring. A copy of the National Planning Policy Framework does not need to be included as a specific core document. Any Appeal Decisions and/or legal authorities on which parties 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 they are seeking to rely, with the relevant paragraphs flagged up.
39. 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.

### *Proofs*

40. A note on the format for witness **proofs of evidence** was attached as an Annex to the pre-conference note, the deadline for submission of which is **11 January 2022**.
41. 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 should be provided no later than **1 February 2022**. It is important that any rebuttal proofs do not introduce new issues. As an alternative to a rebuttal, it may be that the matter could more succinctly be addressed through an addendum SoCG.

### **Conditions and planning obligation**

42. A planning obligation is being prepared although there were differing views between the parties as to whether this would take the form of an unilateral

undertaking or bi-lateral agreement. In either event the comprehensive and complete **final draft planning obligation**, together with a Community Infrastructure Levy Regulations **(CIL) Compliance Statement** prepared by the LPA, must be received by **25 January 2022**.

43. However, the Inspector indicated that they would find it helpful if an **early draft** of any obligation could be provided in advance of this; by **7 January 2022**.
44. The CIL Compliance Statement prepared must contain a fully detailed justification for each obligation sought, setting out 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. Although the restrictions on pooling of contributions has been lifted, the Inspector will still need to know whether any of the schemes are the subject of other pooled financial contributions in order to be able to come to a view on whether any contribution sought in relation to this appeal is justified.
45. The appellant will prepare a 'shadow' Appropriate Assessment in relation to Habitats Sites. The main parties will engage with Natural England with a view to getting their response on likely significant effects on Solent Marine and New Forest Habitats Sites and any proposed mitigation. The main parties felt it very unlikely that Natural England could be involved to such a degree that a three way SoCG on these matters would be possible which is understandable. A clear joint statement from the main parties, either as part of the SoCG or separately, including Natural England's responses, will be necessary.
46. The main parties should submit an agreed schedule of possible conditions set out in full for both applications, in the order recommended by the Planning Practice Guidance (PPG). This could be part of the SoCG. Should any pre-commencement conditions be suggested for the change of use application, please can the appellant make it clear that they give their explicit approval for the wording. Should any conditions be in dispute, either in terms of wording or the principle, the schedule should contain alternatives with a clear indication of why there is a difference of view.

## **Costs**

47. If any applications for costs are to be made, the PPG points out that it is good practice that they should be made in writing to the Inspector before the Inquiry. 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 PPG. Unreasonable behaviour may include not complying with the prescribed timescales.

## **Site visit**

48. It is likely that the Inspector will carry out a site visit after the Inquiry has closed. Its purpose is simply for the Inspector to see the site and its surroundings. The appellant and LPA will liaise to produce a draft map, in advance of the Inquiry, showing locations that they would suggest the Inspector views the site from, if necessary and as appropriate. The Inspector

will keep the format of the site visit under review, including in light of the pandemic situation at the time.

### **Timetable for submission of documents**

49. Based on the above, these are the deadlines for providing documents and other actions.

4 January 2022	Deadline for submission of: <ul style="list-style-type: none"> <li>• core documents and index.</li> <li>• any feedback from main parties on suggested daily structure.</li> </ul>
7 January	Deadline for submission of: <ul style="list-style-type: none"> <li>• final Statement of Common Ground (SoCG).</li> <li>• Schedule of suggested, agreed conditions.</li> <li>• early draft planning obligation.</li> </ul>
11 January	Deadline for submission of: <ul style="list-style-type: none"> <li>• Witness' proofs of evidence.</li> <li>• 'shadow' Appropriate Assessment.</li> <li>• Joint statement on Habitats Sites (if not part of SoCG).</li> <li>• suggested dates and time for a test event (LPA).</li> </ul>
18 January	Appellant to provide initial reaction to LPA's Housing Land Supply position. Main Parties to provide initial time estimates.
25 January	LPA to send copy of Inquiry notification letter and list of those notified. Deadline for submission of: <ul style="list-style-type: none"> <li>• final draft planning obligation and relevant office copy entries.</li> <li>• CIL Compliance Statement (LPA).</li> </ul>
1 February	Deadline for submission of: <ul style="list-style-type: none"> <li>• Housing SoCG.</li> <li>• draft site visit map/itinerary.</li> <li>• final time estimates.</li> <li>• rebuttals (if necessary).</li> </ul>
8 February	Inquiry opens at 1000.

### **Other matters**

50. The Inspector would like to thank the participants of the conference for their constructive contributions and co-operation. It is anticipated that this continues through the main parties working with each other on joint documents and adhering to the timetable and deadlines.

*Geoff Underwood*

INSPECTOR

14 December 2021

## Annex A

### Outline daily structure for online Inquiry

#### Day 1

1000-1115	Session 1: Inspector's opening, parties' openings
<i>1115-1145</i>	<i>break</i>
1145-1300	Session 2
<i>1300-1400</i>	<i>Lunch break</i>
1400-1530	Session 3
<i>1530-1600</i>	<i>break</i>
1600-1700	Carry over session - if required

#### Subsequent days

0930-1100	Session 1
<i>1100-1130</i>	<i>break</i>
1130-1300	Session 2
<i>1300-1400</i>	<i>Lunch break</i>
1400-1530	Session 3
<i>1530-1600</i>	<i>break</i>
1600-1700	Carry over session – if required

Times approximate (apart from opening and daily resumption)