

TOWN AND COUNTRY PLANNING ACT 1990

Section 78 appeals against failure to give notice within the prescribed period of decisions on applications for:

Appeal Ref: APP/A1720/W/20/3252180 (Appeal A)

Outline planning permission for the demolition of existing buildings and development of up to 75 dwellings, open space, vehicular access point from Newgate Lane and associated and ancillary infrastructure, with all matters except access reserved

at

Land at Newgate Lane (North)

and

Appeal Ref: APP/A1720/W/20/3252185 (Appeal B)

Outline planning permission for the demolition of existing buildings and development of up to 115 dwellings, open space, vehicular access point from Newgate Lane and associated and ancillary infrastructure, with all matters except access reserved

at

Land at Newgate Lane (South)

PRE-INQUIRY NOTE 2

30 November 2020

1. Introduction

- 1.1. The Inquiry, which was scheduled to open on 1 December 2020 has been postponed, as a key member of the Council's Inquiry team suffered an accident, which left him unable to attend and he could not be replaced at short notice. The Inquiry will now commence at **10:00 hrs on Tuesday 9 February 2021**.
- 1.2. In light of ongoing uncertainties in relation to the impact of the Covid 19 pandemic, it has been decided that in order to best progress the appeals at the present time, the Inquiry will proceed as a virtual event using the Microsoft Teams platform, hosted by the Planning Inspectorate (PINS). There is no technological barrier to taking part in a virtual inquiry and there should be no reason why parties cannot participate fully in the process, albeit that it may look and feel different to what some participants are used to, shorter sittings and days being an example of an adaptation necessary to make the event work in a virtual environment. Support and some online training can be accessed through the following link:

<https://support.office.com/en-us/teams>

- 1.3. To give the main participants in the virtual Inquiry a chance to practice using the proposed technology and ensure they can successfully participate on the day of the Inquiry, we propose to hold a brief technology test event at **10:00 hrs on 26 January 2021**. This will also give you the opportunity to test the compatibility of your devices with Microsoft Teams, which is the platform that we will be using, and ask any questions you may have in relation to the technology. No later than a week before the test event, prospective participants must provide PINS with the name, job title, any professional qualifications and email addresses of the main contact for each party plus those of persons who will be 'attending' the test event **and** the actual Inquiry. **For the test event**, the LPA and appellants' attendees should be restricted to the advocate and witnesses.

2. Notifications

- 2.1. 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. It will also include details on how interested parties can participate (including access by telephone from a land line for those without access to a computer or smart phone)
- 2.2. Inquiry notifications should normally be issued a minimum of 2 weeks in advance of the opening of the Inquiry. However, given the virtual format of the Inquiry and the need to register in advance, **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 PINS, 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 **19 January 2021**.
- 2.3. The appellant, in each case, is also requested to erect site notices containing the same information at locations around the site. To avoid any confusion, the Notices are to be posted on the same day that the letters of notification go out – the parties will need to liaise on that. Once posted, a plan is to be submitted to PINS confirming the locations of the Notices, with photographs of each. The notices must not be removed before the Inquiry takes place.

3. Issues to be addressed at the Inquiry

- 3.1. As there is likely to be a degree of common ground between these cases, they have been scheduled to be heard at a single Inquiry. However, each case will be considered on its own merits. Based on the evidence submitted in writing so far, I consider that the main issues for this Inquiry are:

- The effect of the proposals on the spatial development strategy for the area;
- The effect of the character and appearance of the area, with particular reference to the countryside and the gap between settlements;
- The effect on the safety and convenience of highway users;
- The effect on housing land supply;
- The effect on European Protected Sites and the biodiversity of the appeal sites;
- The effect on best and most versatile agricultural land;
- Whether the proposals make adequate provision for infrastructure; and,
- Whether it would amount to sustainable development under the terms of local and national policy.

3.2. My identification of these issues does not prevent interested parties from raising other matters that they consider to be relevant.

4. Inquiry procedure and site visits

4.1. The procedure at the Inquiry will generally follow *The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure)(England) Rules 2000* (as amended). In general terms, this will involve the formal presentation of evidence by witnesses followed by cross-examination and re-examination. Further guidance is provided in my Pre-Inquiry Note 1, dated 16 October 2020.

4.2. Site visits will generally be made on an unaccompanied basis unless it is necessary to enter land which is not open to the public, in which case I will be accompanied by representatives of the Council, appellants and other parties as appropriate. However, an accompanied visit would not present an opportunity for additional representations or submissions to be made. All that has to be said must be said openly at the Inquiry.

5. Appearances

5.1. All participants who wish to speak at the Inquiry should attend the opening of the event. In addition to the Council and appellants, the persons entitled to appear at the Inquiry are set out in section 11 of the Inquiries Procedure Rules. The appearance of other parties will be at my discretion and permission will not be unreasonably withheld.

5.2. Parties may appear in person and may be represented by Counsel, a solicitor or some other representative. However, it must be stressed that when making a case, prospective participants should bear in mind that if a point is a good one, and is supported by relevant evidence, it needs to be made only

once in order to carry weight. Repeating the point will not add to that weight but will simply waste Inquiry time. With that in mind it may be that arguments for or against the appeal scheme could be made more effectively and succinctly by one person/organisation than by many individuals making the same points in slightly different ways. I therefore urge parties/individuals to get together wherever possible to present joint cases through a single spokesperson. In order to ensure that the Inquiry is completed as expeditiously as possible, I will intervene to prevent any unnecessary repetition.

- 5.3. People who do not need or wish to speak at the Inquiry will, nonetheless, be welcome to attend as observers. In considering the appeal I will take account of all written representations received as well as the evidence heard at the Inquiry.

6. Programming the Inquiry and Inquiry timetable

- 6.1. Based on time estimates provided by the Council and the appellants, it would be likely to take 10 days to complete the proceedings and this may extend if other parties appear. Therefore, **prospective participants are asked to provisionally make themselves available for the Inquiry to sit on the following 11 days: 9-12, 16-19 and 23-25 February 2021.**
- 6.2. A draft programme will be issued shortly before the Inquiry. 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. The Programme will remain in draft and be subject to change throughout the Inquiry. It is important that people appearing are available when required, and the onus will be on them to keep in touch with the progress of the Inquiry. If they are not in attendance when required, the Inquiry may proceed without them.
- 6.3. The normal starting point for Inquiry sitting times is from 10:00 hrs until around 17:00 hrs with a break for lunch around mid-day. However, I may introduce an earlier start time and/or later sittings once the Inquiry is open.

7. Written evidence

7.1. Statements of Common Ground

- 7.1.1. A Statement of Common Ground (SoCG), agreed between the Council and the appellant, has been submitted in each case. In the event that modifications become necessary as a result of changing circumstances before the Inquiry, a revised version should be submitted by **4 January 2021.**

7.2. Proofs of evidence and rebuttal proofs of evidence

7.2.1. Proofs of evidence and rebuttal proofs of evidence have been received in accordance with the previously set timetable.

7.2.2. In the event that it becomes necessary to modify the submitted written evidence as a result of changing circumstances before the Inquiry, a revised version of the affected proof(s) (or addendum) should be submitted by **11 January 2021**. This deadline applies to all participants at the Inquiry.

7.2.3. If the new documentation referred to in paragraph 7.2.2 gives rise to the need provide a rebuttal proof of evidence (or addendum), it should be submitted by **26 January 2021**. It is important that any rebuttal proofs do not introduce new issues.

7.3. Inquiry Library

7.3.1. All documents forming part of these appeals must be available to all taking part in the Inquiry electronically, including the agreed Core Documents. The Council has provided and is administering a separate page on its website to hold the documentation and notifications, the address of which is as follows:

<http://modern.gov.fareham.gov.uk/ieListDocuments.aspx?CId=363&MId=3898&Ver=4>

7.3.2. It is expected that all necessary documents will be submitted in advance of the Inquiry. Additional documents can only be handed up to the Inquiry with my permission. If accepted, they will need to be sent to the case officer (Alison Bell of the Planning Inspectorate) so that they can be forwarded to me and will need to be placed on the website by the Council from where they will need to be available to be shared and viewed by all parties.

7.4. Further guidance regarding written evidence is provided in my Pre-Inquiry Note 1, dated 16 October 2020.

8. Costs

8.1. Everyone has a responsibility to meet the deadlines set for the submission of evidence. The procedure is designed to secure maximum disclosure and exchange of information before the Inquiry takes place, so the proceedings can be conducted efficiently and effectively. I will seek to ensure that no one gains a tactical advantage by deliberately withholding evidence until a late stage. For example, if late evidence is accepted, it may be necessary, if requested, to adjourn the Inquiry in order to give others the opportunity to consider and prepare to deal with it, which may in turn have cost implications.

- 8.2. Whilst I am not inviting any applications for costs, if any are to be made, that should be done in writing before the close of the Inquiry and with reference to the guidance set out in the national Planning Practice Guidance. 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 Planning Practice Guidance. Unreasonable behaviour may include not complying with the prescribed timetables.

9. Summary timetable

4 January 2021	Deadline for the submission of any updated Statements of Common Ground.
11 January 2021	Deadline for submission of any updated proofs of evidence (or addendum).
19 January 2021	Deadline for submission of: <ul style="list-style-type: none"> • a copy of the Council's Inquiry notification letter and list of those notified • a plan showing where the appellant posted the site notices, with photographs of each.
26 January 2021	Deadline for submission of any necessary rebuttal proofs of evidence.
9 February 2021	Inquiry opens 10.00 am.
10-12, 16-19, 23-25 February 2021	Provisional subsequent sitting days.

I Jenkins

INSPECTOR

30 NOVEMBER 2020