

APPEAL REF: APP/H1033/W/24/3339815

Land to south of Dinting Vale, Glossop, SK13 6NY

Appeal against a refusal by High Peak Borough Council of an application for full planning permission for residential development comprising 92 dwellings including areas of public open space, landscaping and associated works.

Case Management Conference Summary Note

1. This note summarises the discussion from the Case Management Conference (CMC) held on 10 May 2024 at 10:00.
2. The Inspector appointed to conduct the Inquiry is myself, Gareth Wildgoose BSc (Hons) MSc MRTPI.
3. The advocates were confirmed as Mr John Barrett for the Appellant (represented by Mr Anthony Gill for the purposes of the CMC), and Mr Hugh Richards for the Local Planning Authority (Council).
4. The Inquiry is scheduled to open at 10am on Tuesday 18 June 2024 for up to seven sitting days, with the first four sitting days from 18 June through to 21 June and up to three days the following week between 25 June and 27 June. During the CMC, it was confirmed that the Council's advocate is now unavailable on 27 June and therefore, an alternative reserve in the programme for a virtual sitting day should be arranged ideally during w/c 1 July (or alternatively between 8 July to 11 July) which could be used for planning obligations/conditions and/or closings should the time be necessary. The parties are requested to identify a suitable date(s) for the reserve sitting day to the case officer (Mr K Brown) by not later than **5pm on Friday 17 May 2024**.
5. The Council is encouraged to draw the attention of interested parties to this Note, including posting a copy on the Council's website.

Main Issues and other matters

6. As discussed with the parties during the CMC, the Council made its decision with four reasons for refusal that related to the effect on air quality; the effect on highway and pedestrian safety; the effect on biodiversity; the effect on trees; and whether the proposed development satisfies policy requirements for provision of, or contributions towards, affordable housing, having regard to financial viability.

7. Notwithstanding that initial position of dispute between the parties, the Council indicated on 22 April 2024 that they do not intend to offer evidence in relation to and seek to withdraw the three reasons for refusal that relate to air quality, and highway and pedestrian safety. A further Council e-mail dated 7 May 2024 confirmed that the aspect of the remaining reason for refusal relating to biodiversity is no longer in dispute as the Council is satisfied that the appellant is proposing full mitigation. It follows that the main issues in dispute between the parties are currently:
 - the effect of the proposed development on trees, and;
 - whether the proposed development satisfies policy requirements for provision of, or contributions towards, affordable housing, having regard to financial viability.
8. Whilst the matters in dispute between the parties have significantly narrowed, I still require sufficient information and evidence to make my decision in due course. In that respect and in addition to the identified main issues between the parties, a number of matters relating to other topic areas will also need to be addressed in evidence. This includes matters that, although either not comprising a reason for refusal or no longer in dispute between the appellant and the Council, have been raised by interested parties. In those respects, the appellant has expressed an intention to call witnesses in relation to air quality, civil engineering/access, ecology and highways, alongside the planning witness to address any wider issues raised or questions I may have. It would be helpful to me if the submission of proofs and/or an updated Statement of Common Ground (SoCG) could address those issues and any other comments raised by consultees to assist discussions during the Inquiry. Whether or not any of these additional matters are dealt with as main issues in the eventual decision will depend on the evidence as it emerges in the Inquiry.
9. The parties agreed to notify me regarding any significant changes in position as soon as possible. Any changes should also be reflected within an updated SoCG and/or topic based SoCG as necessary which should be provided in draft by not later than **Tuesday 21 May 2024** and a final version by **Tuesday 4 June 2024**. Proofs of evidence from each party should be submitted by witnesses participating in the Inquiry by not later than **Tuesday 21 May 2024**.
10. Guidance has been provided separately in the pre-conference note, including its Annex that sets out the preferred format and content of proofs and other material, which should be observed.

Dealing with the evidence

11. It was agreed that the main issues and other matters identified in this case, including those relating to planning policy, would be most appropriately dealt with through the formal presentation of evidence in chief by respective planning witnesses, which would be subject to cross-examination as necessary. Any

other matters, including those raised by interested parties, any benefits and the overall planning balance as necessary, would be dealt with in the same way.

12. Discussions of suggested conditions and potential planning obligations will take the form of round table sessions that I will lead.
13. During the CMC, it was confirmed that the Council currently intends to call one witness: Mr B O'Brien (planning). The appellant intends to call seven witnesses: Mr I Tavendale (arboricultural), Mr R Heathcote (viability) and Mr M Hourigan (planning) to address the matters of dispute between the parties, together with Ms E Whittle (air quality), Mr R Nicholas (civil engineering/access), Ms R Kerr (ecology) and Mr D Roberts (highways) to present evidence in response to representations made by interested parties, statutory consultees and to respond to any questions I may have.
14. With regard to the above, the limited availability during the Inquiry of Mr D Roberts (1st day only) and Mr R Heathcote (Week 2 only) was noted. I confirmed that I will endeavour to accommodate those circumstances in the Inquiry programme if possible.
15. The final confirmation of witnesses participating in the Inquiry, or any change thereto is to be provided by the parties by not later than **Tuesday 21 May 2024**. I will also require confirmation of final timings by not later than **Tuesday 4 June 2024**. A draft programme will be issued following receipt of draft timings and in advance of the Inquiry. Other than in exceptional circumstances, the parties would be expected to take no longer than the timings indicated, which would require the cooperation of both advocates and witnesses.

Conditions and planning obligations (without prejudice)

16. A list of suggested conditions by Council officers in the Development Control Committee Report has been drawn to my attention. However, for certainty it would be useful to me if the parties collaborate on the wording of conditions and compile an agreed list of conditions in the final updated version of the Statement of Common Ground for my consideration if the appeal were to be allowed. The list of conditions should include reasons for imposing them and references to any policy support. If there are conditions or wording of conditions that are not agreed between those parties, those should be included in the list but any difference in view including variations in wording, should be highlighted in the updated SoCG with a brief explanation given.
17. Careful attention should be given to the wording of conditions and they will need to be properly justified having regard to the tests for conditions, in particular the test of necessity. The parties were reminded in this regard that as set out in the Framework, 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 a clear justification. The reasons for any pre-commencement conditions will need to include that justification, and

for certainty, it would be helpful to have the appellant's written agreement to any pre-commencement conditions included in the agreed list.

18. In addition to the above, it was confirmed that the parties would provide the revised list of suggested conditions in a MS Word format and that, if possible, I would provide my initial feedback and suggestions on the possible conditions to assist the focus of the round-table discussion during the Inquiry.
19. The draft heads of terms for the planning obligation has already been provided. For certainty, an initial draft of the planning obligation should be submitted as soon as possible (not later than **Tuesday 21 May 2024**), with a final draft of the planning obligation by not later than **Tuesday 4 June 2024** before the Inquiry opens. This will also need to be accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council which should contain a fully detailed justification for each obligation. This includes any policy support and, in relation to any financial contribution, exactly how it has been calculated and on precisely what it would be spent.
20. Approximately a week will be allowed after the Inquiry has closed for submission of a signed version of the planning obligation.

Core Documents

21. The parties will need to discuss and agree a list of core documents in advance of preparing the proofs so that relevant documents can be properly referenced within the proofs and/or the final versions of the SoCGs. That list is to be co-ordinated by the appellant and must be submitted with the proofs and/or not later than **Tuesday 21 May 2024**. The appellant must also provide an electronic copy of the core documents with appropriately referenced file names. I note that the appellant has already started to compile the core documents list and encourage that work to continue. A template for that list is attached in Annex 1 which the appellant can cross refer to, and it was confirmed that given the extensive number of documents already submitted that thematic grouping by topic for application documents may be most suitable.
22. The core documents should comprise only those documents to which you will be referring. Any appeal decisions and/or legal authorities on which the parties intend to rely will each 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. For certainty, any development plan policy that is considered relevant to a material consideration (even if not in dispute) should be included in the core documents.
23. All documents must be available electronically for the benefit of all interested parties. The Council indicated that the Inquiry documents (including the Core Document list) will be hosted on their website; this will likely facilitate the

smooth running of the Inquiry and is encouraged to be made available by not later than **Tuesday 21 May 2024**. For clarity, any documents submitted once the Inquiry has opened will be recorded as Inquiry Documents on a separate list that I will oversee.

24. One hard copy set of the SoCGs, the statements of case, the proofs (if prepared) and any associated appendices for both parties should be sent to the Planning Inspectorate marked for my attention by not later than **Tuesday 4 June 2024**. I also requested that the appellant provide hard copies of a full set of the application plans upon which the Council made its decision with those documents. In addition, for certainty, if not included in those plans I also requested a copy of the Landscape and Ecological Masterplan (Application Ref: Doc 31), the Tree Survey (Doc 45), Tree Plans and Topographical Drawings (Docs 46 to 50), a copy of the Plans within the Appendices of the Flood Risk Assessment (Doc 162), the Drainage Strategy (Doc 220), the Biodiversity Net Gain Strategy and 30yr Management Plan (Doc 231), the Landscape & Visual Impact Appraisal (Doc 239) and the Arboricultural Impact Assessment (Doc 297). An additional set of each of the aforementioned documents in hard copy should also be made available at the Inquiry for interested parties, with additional copies of proofs made available for wider circulation as necessary.

Inquiry venue

25. The venue for the Inquiry has not been finalised, and an update on this is required from the Council by **Friday 17 May 2024**, along with confirmation of:
- The capacity of the venue.
 - That there are no restrictions on the use of the room between 09:00 and 18:00 on each sitting day.
 - Provision of microphones.
 - Provision of a hearing loop.
 - The availability of Wi-Fi (including access for participants).
 - Provision of photocopying facilities.
 - The suitability of public and disabled access, and toilet availability.
 - The availability of secure overnight storage for papers/evidence (if possible).
 - Provision of an Inspector retiring room.
 - Parking arrangements.
 - The availability of drinking water for all participants.
 - A Council point of contact for interested parties during the event.
26. Guidance for setting up a venue for an Inquiry is provided [here](#).
27. In addition to the above, whilst I appreciate the difficulties of finding a suitable venue of sufficient capacity close to the site. When taking account of the extent of public interest, the Council should ensure a suitable venue with sufficient

capacity. If the capacity is less than those who made representations on the application, the arrangements should include an overflow space in a venue close to the appeal site with livestreaming to provide a safeguard for the inability to accommodate those who otherwise may wish to observe within the venue.

28. It was also confirmed during the CMC that the use of different venues may be suitable, prioritising a venue with larger capacity on days 1 and 2 of the Inquiry. This reflects when interested parties are expected to be heard and based on previous experience, when attendance to observe is likely to be highest. The parties should also continue to liaise regarding any necessary security arrangements for the Inquiry.

Inquiry programme

29. In general, the Inquiry is expected to finish on each day by around 17:00 and will resume on the next day at 10:00.
30. In terms of the running order, following my opening comments on the first day of the Inquiry, I will invite opening statements which should be no longer than 15 minutes with the appellant first, followed by the Council.
31. I will then hear from any interested parties present who wish to speak. After which it was confirmed that the appellant would call witnesses to address any matters raised that are not otherwise subject of dispute between the main parties.
32. Thereafter, the running order will then be the Council witness presenting their evidence first, then the appellants witnesses.
33. On conclusion of the presentation/hearing of evidence, the round table sessions on conditions and planning obligations will take place. Those will be followed by closing submissions (Council first, then appellant). The closing submissions should be no longer than 30 minutes. They should set out each parties' respective cases as they stand at the end of the Inquiry, with a copy emailed to the case officer (Mr Kerr Brown) beforehand and should include appropriate cross-referencing where evidence is relied on for the avoidance of doubt. Any case law should also be attached along with references to relevant paragraphs.
34. Should there be any applications for costs made during the Inquiry, I will hear them after closing submissions.
35. As previously mentioned, it was agreed that the Inquiry should now be scheduled to sit for up to seven days. On the basis of the CMC discussions and ongoing conversations between the parties, it seems hopeful that we will be able to get through everything in that time and perhaps even in a shorter time.

36. In terms of the site visit it was confirmed that an accompanied visit will be required to access the site, with the precise timing to be confirmed during the Inquiry.

Timetable for actions and submission of documents

Deadline/Important Date	Action(s)/Event
Friday 17 May 2024	<ul style="list-style-type: none"> • Confirmation of Inquiry venue • Confirmation of suitable date(s) for reserve sitting day (for virtual event)
Ideally updated drafts by Tuesday 21 May 2024 (four weeks before) , with a final version by Tuesday 4 June 2024 (two weeks before)	Statement of Common Ground, and any topic specific statements of common ground
Tuesday 21 May 2024 (four weeks before)	Deadline for submission of: <ul style="list-style-type: none"> • all proofs • core documents list • initial draft planning obligation Deadline for: <ul style="list-style-type: none"> • availability of Inquiry website / webpage • final confirmation of witnesses
Tuesday 28 May 2024 (three weeks before)	Deadline for the Council to submit a copy of the Inquiry notification letter and list of those notified.
Tuesday 4 June 2024 (two weeks before)	Deadline for submission of: <ul style="list-style-type: none"> • final draft planning obligation and relevant office copy entries • CIL Compliance Statement (Council) • any necessary rebuttal proofs • final version of statements of common ground • suggested list of conditions • final timings for witnesses Deadline for receipt of: <ul style="list-style-type: none"> • hard copies of documents requested by the Inspector
Tuesday 18 June 2024	Inquiry opens 10.00 am

Costs

37. The parties confirmed that they currently do not intend to make a costs application. Nonetheless, if any are to be made, Planning Practice Guidance (PPG) makes it clear that they should be made in writing to the Inspector before the Inquiry. The parties were also reminded that to support an effective and timely planning system in which all parties are required to behave reasonably, I have the power to initiate an award of costs in line with the PPG. Unreasonable behaviour may include not complying with the prescribed timetable and deadlines.

Any other matters

38. No additional matters raised.
39. When ending the call, I thanked the parties and reaffirmed the need to ensure close and continuing collaboration between all parties in advance of the Inquiry reflecting the tone and spirit of the CMC. This not only will help to continue to refine any areas of dispute, but it will also help to ensure the efficient overall running of the event procedurally.

Gareth Wildgoose
INSPECTOR

13 May 2024

Annex 1

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

* Any appeal decisions on which a party intends to rely must each 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. A similar approach is to be taken in relation to any legal citations relied upon.