

**APPEAL REF: APP/A3655/W/20/3265969 (APPEAL A)**

Land south of Kingfield Road and east of Westfield Avenue, Westfield, Woking, Surrey, GU22 9PF

APPEAL REF: APP/A3655/W/20/3265974 (APPEAL B)

Land south of Hoe Valley School and east of railway tracks, Egley Road, Woking, Surrey, GU22 0NH

The Council is encouraged to draw the attention of interested parties to this Summary Note, including posting a copy on its web site.

CASE MANAGEMENT CONFERENCE SUMMARY NOTE

1. The case management conference (CMC), held at 14:00 hrs on 16 March 2021, was led by the Inquiry Inspector, Mr David Wildsmith. Spokesperson for Woking Borough Council ('the Council') was Ms Vivienne Sedgley (Counsel). Spokespersons for GolDev Woking Ltd ('the appellant') were Mr Kevin Leigh (Counsel) and Mr Charles Collins. Spokesperson for the Rule 6 Party 'South Woking Action Group' (SWAG) was Mr Neil Jarman. Mr Robert Shatwell of the 'Hoe Valley Neighbourhood Forum' (HVRF), a further Rule 6 Party, was invited to the CMC but did not attend.
2. The Inquiry is to be held as a virtual event on the Microsoft Teams platform. It will open at 13:30 hrs on Monday 10 May 2021. Once the Inquiry is open, it will run on the same lines as a face to face event, adopting the same protocols and etiquette as are normal in the Inquiry room. The Inquiry is currently scheduled to sit for up to 8 days, although this may be subject to review once detailed timings are submitted. **A very preliminary Draft Timetable is annexed to this Summary Note, for comment.**
3. At the Inquiry:
 - The Council will be represented by Mr Timothy Straker QC, who will call one witness to deal with planning matters, and possibly a second witness to deal with parking matters. **The Council will confirm whether or not it intends calling this second witness as a matter of urgency.**
 - The appellant will be represented by Mr Kevin Leigh, of Counsel, who will call 4 witnesses dealing with architecture and design; daylight; transport and parking; and planning. Up to 2 further developer witnesses may be called to provide background to the appeal proposals, including relevant discussions and agreements with the Council - subject to discussions with the Council on these matters. **The appellant will confirm whether or not it intends calling one or both of these witnesses as a matter of urgency.**
 - SWAG will be represented by Mr Neil Jarman, who will provide evidence himself, and expects to call 2 local residents to provide further evidence.
 - It is expected that the HVRF will be represented by its chairman, Mr Robert Shatwell, who will provide evidence. **Mr Shatwell will confirm whether or not he will call any further witnesses to assist in presenting the HVRF's case, as a matter of urgency.**
4. Given the likely level of local interest, it was agreed that the Inspectorate would live-stream the Inquiry on its YouTube channel. The appropriate details for viewing this live stream will be sent out with the Notification Letter and Site Notices.

5. The CMC also served as a brief Test Event, to familiarise participants with the workings of Microsoft Teams, and to discuss some of the etiquette to be observed at the Inquiry. Further guidance on the use of Microsoft Teams can be found at <https://support.office.com/en-us/teams>. In addition, a note providing details of hardware requirements for Microsoft Teams; a Privacy Notice Amendment; and Good Practice Points for participating in Virtual Events was annexed to the CMC invitation.

Notifications

6. The Inspectorate will provide detail of the wording to be used in the Notification Letter and the Site Notice, including the necessity for interested parties to register in advance if they wish to 'attend' the Inquiry, along with details on how they can participate, including access by telephone from a land line for those without access to a computer or smart phone (if they wish to make a statement or ask questions of witnesses); and how to view via the live stream if they simply want to observe proceedings). If not attached to this Summary Note, the Inspectorate's Case Officer, Leanne Palmer, will circulate this information shortly.
7. It was agreed that notifications would be sent out on **14 April** – just over 3 weeks before the Inquiry is due to commence - to allow interested parties adequate time to consider whether they wish to participate. The Council must send a copy of the Notification Letter to the Inspectorate's 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 **19 April**.
8. The appellant 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 Notification Letters go out – the parties will need to liaise on this. Once posted, a plan is to be submitted confirming the locations of the Notices, with photographs of each. The Notices must not be removed before the Inquiry takes place.

Main Considerations

9. The Inspector confirmed that these appeals have been recovered by the Secretary of State (SoS) for his own determination, by a letter dated 10 March 2021.
10. It was agreed that the main considerations in the case of **Appeal A** are:
 - a. The effect of the proposed development on the character and appearance of the street-scene and the surrounding area (this will need to include design considerations);
 - b. Whether the proposed development would provide an acceptable and appropriate mix of dwelling types, and whether it would create a sustainable and balanced community;
 - c. The effect of the proposed development on the living conditions of nearby residents, with particular reference to overbearing impact, loss of privacy and loss of daylight;
 - d. Transport matters and the effect of the proposed development on parking provision and the impact of possible overspill parking; and
 - e. Whether the Executive Undertaking would adequately and satisfactorily address the impacts of the proposed development.

For Appeal B the main considerations are:

- a. Whether the proposal would be inappropriate development in the Green Belt and, if so, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal;
 - b. The effect of the proposed development on the character and appearance of the surrounding area, as a result of the loss of protected trees and woodland; and
 - c. Whether the Executive Undertaking would adequately and satisfactorily address the impacts of the proposed development.
11. For both appeals the Inquiry will also need to hear evidence as to how the proposals would perform against relevant development plan policies; the weight to be given to relevant emerging policies; how the proposals would sit alongside the 3 objectives of sustainable development set out in the National Planning Policy Framework; relevant planning conditions if planning permission was to be granted; and the overall planning balance, including any implications of not proceeding with the schemes. The appellant will be expected to address any other relevant matters raised by interested persons, if not covered by the main considerations.

Dealing with the evidence

12. Discussion took place regarding the merits of dealing with some of the main considerations by means of round table discussions, but on balance it was decided that the evidence would best be tested through formal presentation and cross-examination – retaining the option to consider ‘break-out’ round table sessions on particular matters if it was felt likely to be helpful. The considerations will be dealt with on a party by party basis, with evidence relating to Appeal A presented first, followed by evidence relating to Appeal B. The Council will present its evidence first, then the 2 Rule 6 Parties, and finally the appellant. SWAG confirmed that whilst it opposes both Appeals, it will only be presenting evidence in the case of Appeal A. **HVRF should confirm, as a matter of urgency, if they too, will only be speaking against Appeal A, or whether they also wish to present evidence in the case of Appeal B.**

Statements of Common Ground (SoCG)

13. Draft SoCG have been prepared for each appeal. The importance of a good SoCG, to include areas of disagreement or ‘uncommon ground’, is essential in terms of providing a focus for the preparation of proofs of evidence. It was agreed that final, signed versions will be submitted by **1 April**.

Conditions

14. Suggested conditions for each appeal are agreed between the appellant and the Council, and are as set out in the respective Officer’s Reports to Committee (76 conditions in the case of Appeal A and 55 in the case of Appeal B), along with a few updates as set out in the draft SoCG. It was agreed that these conditions would be placed into separate schedules and submitted at the same time as the proofs of evidence – **14 April**. SWAG’s Statement of Case (SoC) sets out some concerns that this Rule 6 Party has with a number of the agreed conditions, and the Inspector indicated that there would be the opportunity for both Rule 6 Parties to comment further on the suggested conditions at a specific session during the Inquiry.

15. Parties are reminded 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. Agreement in writing from the appellant will be needed for any pre-commencement conditions. Any difference in view on any of the suggested conditions, including their wording, should be highlighted in the schedule with a brief explanation given.

Planning Obligations

16. Early drafts of the necessary Executive Undertakings are to be provided by **14 April**, with final agreed drafts to be submitted by **27 April**. These final drafts should be accompanied by the relevant office copy entries and CIL Compliance Statements, prepared by the Council. These statements should set out a fully detailed justification for each obligation sought, detailing 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 proposed development. They 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 pooling restriction on financial contributions has been rescinded, the Statements will still need to set out whether any relevant schemes are the subject of other financial contributions in order for the Inspector to be able to come to a view as to whether any contributions sought in relation to these appeals are justified.

Core Documents/Inquiry Library/hard copies

17. A list of Core Documents is to be discussed and agreed between the parties before proofs of evidence are finalised, so that they can be properly referenced in the proofs. That list is to be co-ordinated by the appellant and must be completed no later than **1 April**.
18. The Core Documents should comprise **only** those documents to which the parties will be referring in their evidence. For lengthy documents, only relevant extracts need to be supplied. Such extracts should, however, be prefaced with the front cover of the document and include any accompanying relevant contextual text. A copy of the National Planning Policy Framework does not need to be included. Neither do documents that relate to matters which are not in dispute. Any Appeal Decisions and/or legal authorities on which parties intend to rely will each need to be prefaced with a note explaining the relevance of the document to the party's case, with the relevant paragraphs flagged up.
19. The pre-appeal application documents should form part of the Core Documents – possibly as early numbers in the Core Document numbering system. These application documents only need to be made available in electronic form.
20. The Council will host an electronic Inquiry library on an appropriate page or pages on its website. The library is to include all the Core Documents, plus the proofs and appendices, together with any rebuttal proofs etc.
21. To assist with the co-ordination of the various electronic documents, the appellant agreed to set up a Dropbox folder, into which the all parties will be able to upload their proofs of evidence and other relevant documents. Jointly, the appellant and the Council will upload the Core Documents to this Dropbox folder. The appropriate link will be provided to the Inspectorate's Case Office, **Leanne Palmer**. If needed, the Council contact for uploading documents to the Council's website is **Mr Ben Bailey**.

22. The Inspector will need some documents in hard copy, for use during the Inquiry and for forwarding to the SoS. These will include the proofs and appendices, and any rebuttals, relevant plans (at the correct scale), together with one set of the Core Documents (excluding the application documents). These should be sent to the Inspectorate's HQ at Temple Quay House, Bristol, marked for the attention of Leanne Palmer.
23. It is expected that all necessary documents will have been submitted in advance of the Inquiry. Any additional documents can only be handed up to the Inquiry **with the Inspector's permission**. If accepted, they will need to be sent to the Inspectorate's Case Officer who will then forward any such document to the Inspector, with a separate copy to the Council to be placed on the Council's website from where they will be available to be viewed by all parties.

Inquiry Running Order/Programme

24. Following on from his opening comments on the first day of the Inquiry (**opening at 13:30 hrs on 10 May**), the Inspector will invite opening statements from each of the main parties, which should be no longer than 10-15 minutes - appellant first, followed by the Council, then the 2 Rule 6 Parties.
25. The Inquiry will then hear from any interested parties who wish to speak although there is some scope for flexibility if some people have difficulties that prevent them from 'attending' and speaking on day one. Until the number of people who register to speak is known, it will not be possible to tell how long this session will take, but the Inspector is hopeful that it will be possible to hear from all interested persons who wish to speak, later that afternoon.
26. Any interested persons who wish to make a statement should submit it in writing to the Inspectorate before the start of the Inquiry, so that it can be circulated to the main parties before the interested person speaks at the Inquiry. There is no specific deadline for this, but at the very latest any such statements should be submitted by **Friday 7 May**. Anyone wishing to speak at the Inquiry should note that the Inspector will not want to hear repetitive evidence, as that is not a good use of Inquiry time. A good point carries weight, whether it is made by one person or many. The individual joining instructions provided will also include an etiquette to be observed.
27. The running order after hearing from interested persons is likely to be:

Council's case – presented by 1 or 2 witnesses – Appeal A followed by Appeal B;
SWAG's cases – presented by 3 witnesses;
HVRF's case – presented by 1 witness (**Mr Shatwell to confirm or update**);
Appellant's case, presented by 4 to 6 witnesses.

Note – the Inspector will produce a more detailed draft timetable once the number of witnesses, subject areas to be covered by each witness and likely witness running order have been provided. **All parties to provide this information as soon as possible.**
28. On conclusion of the parties' cases, the Inspector will lead the usual round table discussions on the provisions of the Executive Undertakings, and the suggested planning conditions.
29. That will be followed by closing submissions: firstly any interested persons who have already spoken and who wish to summarise their case; then the Rule 6 Parties, then the Council; and finally the appellant. Copies of parties' opening and

closing submissions in Word format, should be sent to the Inspectorate's Case Officer shortly before they are presented at the Inquiry. For the benefit of any interested persons who might wish to make a closing statement, please note that this must not introduce any new evidence, but should simply summarise the case and points that person has already presented. Any closing submissions from interested persons are expected to be relatively brief. From the main parties, closing submissions should ideally be no longer than 45 minutes to one hour in length.

30. The advocates are to work collaboratively on their time estimates for each stage of their respective cases – opening statements/evidence in chief/cross-examination/closing submissions. The Inspector will issue a further draft programme following receipt of the parties' final timings, when he will have a better feel for the likely duration of the individual Inquiry sessions. Other than in exceptional circumstances, all parties are expected to take no longer than the timings indicated, which will require the co-operation of both advocates and witnesses.

Site Visit

31. The Inspector intends to undertake an unaccompanied pre-Inquiry site visit to familiarise himself with the appeal sites and the surrounding areas. He anticipates doing this in the week prior to the opening of the Inquiry and to assist him in carrying out this site visit, the Council, appellant and Rule 6 Parties should work collaboratively to produce a map and detailed itinerary, setting out what they wish the Inspector to see, and how much time he should allow for this visit. If at all possible, the itinerary should also take account of any comments/requests from interested persons. If the Inspector is required to enter onto either of the appeal sites, the landowner's permission will be needed. **The parties should make the necessary arrangements, as appropriate.** It was agreed that this suggested itinerary would be submitted to the Inspectorate by **Friday 30 April**.
32. Whether there will be the need for a further, post-Inquiry site visit and, if so, whether that should be carried out on an unaccompanied or an appropriately socially-distanced accompanied basis, is a matter for discussion at the Inquiry. If any accompanied site visit does take place, its purpose would simply be for the Inspector to see the sites and their surroundings in the context of the evidence that will have already been presented. It would not be an opportunity for further evidence to be raised, and the Inspector would not listen to any representations/discussion/arguments during the visit.

Timetable for submission of documents - Summary

33. Final, signed versions of the SoCG between the Council and the appellant are to be submitted no later than **1 April**.
34. All proofs of evidence are to be submitted no later than **14 April**. Details of the preferred format and content of proofs and other material were annexed to the pre-conference note and are to be observed.
35. An early draft of the Executive Undertakings are to be submitted no later than **14 April**, with a final agreed draft no later than **27 April**, to be accompanied by the CIL Compliance Statements prepared by the Council and the relevant office copy entries.

36. The Council is to make sure a copy of the Inquiry notification letter, and a list of those notified is sent in to the Inspectorate no later than **19 April**.
37. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and the Inspectorate does not encourage their submission. However, where they are considered helpful and necessary to save Inquiry time, copies should be provided no later than **27 April**. 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/additional SoCG.

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| No later than 1 April | Signed SoCGs for each appeal Completion of Core Document list |
| 14 April | Deadline for submission of: <ul style="list-style-type: none"> • all proofs • final schedules of suggested planning conditions • core documents list • initial draft Executive Undertakings |
| 19 April | Council to send in a copy of the Inquiry notification letter and a list of those notified |
| 27 April | Deadline for submission of: <ul style="list-style-type: none"> • final draft Executive Undertakings and relevant office copy entries • CIL Compliance Statements (Council) • any necessary rebuttal proofs • final timings |
| 30 April | Submission of a detailed itinerary for the Inspector's pre-Inquiry site visit |
| 10 May | Inquiry opens at 13:30 |

Costs

38. No application for costs is currently anticipated by any party, although the appellant reserved its position. If any application is to be made, it should be submitted in writing before the Inquiry. Parties are also reminded that the Inspector has the power to initiate an award of costs in line with the Planning Practice Guidance if he considers it appropriate and necessary. Unreasonable behaviour may include not complying with the prescribed timetables.

Survey

39. Following the CMC, parties will have been sent a link to a short survey asking for views on the conference as a part of the early engagement process. It would be very much appreciated if you could complete it if at all possible. Feedback on this is very important in helping us ensure that the early engagement process is as productive as it can be in supporting effective improvements to the way we conduct Inquiry appeals following the Rosewell Review and in the way they are conducted as virtual events.

David Wildsmith

INSPECTOR
17 March 2021

Annex: Preliminary Draft Inquiry Timetable

(based on initial estimates from the parties - and assuming inquiry sessions of about 1½ to 2 hours each. On Monday afternoons there would be 2 sessions – about 1330-1500 and 1530-1700; with 3 sessions on other days– roughly 0930-1100; 1130-1300; and 1400-1530).

Note – this Timetable may be subject to significant change once time estimates have been received from the parties

Monday 10 May – 1330 – Inquiry opens. Inspector’s opening announcements/ opening statements from the parties/comments or statements from interested persons. Adjourn about 1700 hrs or earlier;

Tuesday 11 May – Council’s 1st witness/Council’s 2nd witness;

Wednesday 12 May – SWAG witnesses/HVRF witnesses;

Thursday 13 May – appellant’s 1st witness/appellant’s 2nd witness;

Friday 14 May – appellant’s 3rd witness/appellant’s 4th witness;

Monday 17 May – 1330 – appellant’s 5th & 6th witnesses;

Tuesday 18 May – Executive Undertakings and planning conditions

Wednesday 19 May – closing submissions from the parties – interested persons (if any) first, then the Rule 6 Parties, then the Council, finally the appellant.

If a post-inquiry site visit is deemed necessary, it could possibly be undertaken on Thursday 20 May – if the above Timetable is adhered to.

If any further sitting days prove to be needed, this will have to be discussed once more detailed timings are available from the parties.