

## **CASE MANAGEMENT CONFERENCE SUMMARY**

### **Appeal Ref: APP/N2345/W/21/3276293 Residential development for up to 125 dwellings at land north of Jepps Lane, Barton, Preston PR3 5AQ**

1. The Inquiry relates to an appeal against the refusal of outline planning permission by Preston City Council for an application for residential development for up to 125 no. dwellings, with all detailed matters reserved except access.
2. The case management conference was held as a MS Teams meeting running approximately between 1000-1040 on 16 August 2021. It was led by Jonathan Price, the Inspector for the Inquiry opening at 10am on 19 October 2021 at Town Hall, Lancaster Rd, Preston PR1 2RL and scheduled for four days.

#### **Advocates and witnesses**

3. Acting for the appellants, Story Homes, Vincent Fraser QC would be calling on evidence from:

Daniel Hughes (PWA Planning) – planning witness  
James Stacey (Tetlow King) – affordable housing

4. For Preston City Council, Martin Carter of Counsel would be calling

Chris Blackburn – planning policy/basis for housing supply  
Robert Major – site specific planning matters/planning balance  
Dr Michael Bullock – affordable housing

#### **Format of Inquiry**

5. The Inquiry will be held as a physical event, with the Council investigating both livestreaming and a means to permit virtual attendance where this is required.

#### **Statement of Common Ground (SoCG)**

6. The main parties shall provide an agreed SoCG, at the same time as submission of proofs of evidence, to help identify the areas of dispute between them. Separate topic based SoCGs may be provided to cover the specific issues of (i) the basis for housing land supply calculation and (ii) affordable housing.

#### **Main Considerations**

7. These are most likely to be:

- Whether this is an appropriate amount of housing for the location when considered in the context of the spatial strategy for future growth in the development plan and other material considerations
- Whether the development plan policies most important for determining the appeal are out-of-date and the weight afforded to these and the proposal's benefits towards housing land supply and affordable housing in an overall planning balance.

### **Other Matters**

8. Interested parties have raised a number of further concerns, beyond those cited in the Council's decision. These include matters relating to highway safety/capacity, availability of supporting services locally/within walking distance, biodiversity mitigation, loss of countryside, harm to rural character/landscape, residential living conditions, noise, air and light pollution as a result of vehicle movements, drainage and flooding issues on the site, including inadequate sewer system, and disturbance to ancient Roman Road.

### **Dealing with the evidence**

9. There is a large amount of local opposition to this proposal and many people may wish to speak. The Inspector will hear from these interested parties on day 1, after opening statements from the appellant and the Council. Could main parties prepare their witnesses, or provide additional participants, to help address any detailed matters likely to be raised by interested parties (e.g. highway issues).
10. Regarding main considerations, the evidence in respect of planning policy, the basis for housing land supply and over affordable housing will be dealt with through the formal presentation of evidence in chief and cross examination. There might be a requirement to hold a separate round table session over housing land supply deliverability on a site-by-site basis, should that remain a matter of dispute between the main parties.
11. There will also need to be round table sessions dealing with both conditions and the planning obligation.

### **Planning obligation**

12. A s106 planning obligation would be required to secure the benefit of the proposed 35% affordable housing, provide for the implementation, maintenance and management of on-site public open space and commit financial contributions towards sustainable transport provisions, including slip road improvement works at the M55 Junction 1 and the monitoring of a Travel Plan, and primary and secondary school places.
13. The final draft s106 agreement must be accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council. The statement must contain a fully detailed justification for each obligation sought, setting out how it complies with the CIL Regulations, in particular the test of necessity in order to mitigate a harm arising out of the development

proposed. It should include reference to any policy support and, in relation to all financial contributions, exactly how these have been calculated and on what the funding would be spent.

### **Conditions**

14. An agreed schedule of suggested planning conditions and the reasons for these, including references to any policy support, is to be submitted at the same time as the proofs. The Council should take the lead on preparing the list, in discussion with the appellant. You will need to pay careful attention to the wording and the conditions will need to be properly justified having regard to the National Planning Policy Framework paragraph 56 tests, in particular that of necessity. You are reminded planning conditions should be kept to a minimum and those 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. Any difference in view on any of the conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given. Please format suggested conditions as you see them in other allowed appeal decisions, to facilitate these being cut-and-pasted into a draft decision notice by the Inspector, in the event of the appeal succeeding.

### **Core Documents/Inquiry Library**

15. The parties have already agreed a set of core documents and the Council has placed these on its website. <https://www.preston.gov.uk/jepplaneinquiry>
16. At and in preparation for the Inquiry I will operate either from my screen or print out selectively my own documents, so do not require hard copies to be provided in advance. However, it would be appropriate for a full set of documents to be printed out and made available for the public in the Council room at the start of the inquiry. Please place forthcoming evidence (PoE, SoCG, etc.) and documents submitted and accepted during the Inquiry into the on-line and hard copy libraries.

### **Inquiry duration/programme**

17. The Inquiry is scheduled for 4 sitting days, which the parties expect to be sufficient. Please could the anticipated timings for advocates openings, cross examination and closings be provided.
18. Having opened at 10am, I propose resuming the Inquiry on subsequent days at 9.30am.

### **Running order/early draft programme**

#### **Tuesday (Day 1) 19<sup>th</sup> October 2021 10am**

Inspector's introductory remarks

Opening statements from advocates - i) appellant, ii) Council

Hearing from all interested parties who wish to speak, and addressing questions raised

Possible round table session (RTS) on housing land supply deliverability (site by site)

**Wednesday (Day 2) 20<sup>th</sup> October 2021 9.30am**

Council's evidence in chief (EIC) on housing supply policies/position (Mr Blackburn)

Cross-examination (XX) of Mr Blackburn and questions

Re-examination of Mr Blackburn

Council's EIC on affordable housing (Dr Bullock)

XX of Dr Bullock and questions

Re-examination of Dr Bullock

**Thursday (Day 3) 21<sup>st</sup> October 2021 9.30am**

Council's main planning EIC – site-specific merits and planning balance (Mr Major)

XX of Mr Major and questions

Re-examination of Mr Major

Appellant's EIC on affordable housing (Mr Stacey)

XX of Mr Stacey and questions

Re-examination of Mr Stacey

Appellant's main planning EIC (planning case and balance) (Mr Hughes)

XX of Mr Hughes and questions

Re-examination of Mr Hughes

**Friday (Day 4) 22<sup>nd</sup> October 2021 9.30am**

RTS on conditions then RTS on S106

Council's closing statement followed by appellant's closing statement

Any applications for costs

Arrangements for site visit/close of Inquiry

19. Could the parties confer and submit any suggested changes to this early draft programme, with the advocates adding their time estimates for the adversarial stages when available. I will issue a further revised draft programme with timings in due course, when I will have a better feel for things. Other than in exceptional circumstances, you are expected to take no longer than the timings I finally set, which will require the cooperation of both advocates and witnesses.

### **Notifications**

20. The Inspectorate will provide the wording for the site notice, setting out what is required in the notification letter.

21. Inquiry notifications should normally be issued a minimum of 2 weeks in advance of opening. 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, no later than **28 September 2021**.

22. 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 letters of notification go out – the parties will need to liaise on that. 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.

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

23. Proofs of evidence are to be submitted no later than **21 September 2021**. Details of the preferred format and content of proofs and other material were annexed to the pre-conference note and should be observed.

24. The Council is to make sure a copy of the notification letter setting out details of the Inquiry, and a list of those notified is sent in to PINS no later than **28 September 2021**.

25. 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 12 October 2021. It is particularly 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. Final timings for openings and closings, evidence in chief and XX also by **12 October 2021**.

## Table of document submission timescales

21 September 2021	<p>Deadline for submission of:</p> <ul style="list-style-type: none"> <li>• Main SoCG and proofs of evidence</li> <li>• Any topic based SoCG for affordable housing and housing land supply</li> <li>• Joint planning conditions</li> <li>• initial draft planning obligation</li> </ul>
28 September 2021	<p>Deadline for the Council to submit</p> <ul style="list-style-type: none"> <li>• Copy of Inquiry notification letter and the list of those notified</li> <li>• Appellants' confirmation (+photos) of site notices and where displayed giving details of the Inquiry</li> </ul>
12 October 2021	<p>Deadline for submission of:</p> <ul style="list-style-type: none"> <li>• final draft planning obligation and relevant office copy entries</li> <li>• CIL Compliance Statement (Council)</li> <li>• any necessary rebuttal proofs</li> <li>• final timings for presentation of formal evidence</li> </ul>
19 October 2021	Inquiry opens 10.00 am

### Costs

26.No application for costs has been foreshadowed. If any application is to be made, the planning practice guidance makes it clear that, as a matter of good practice, they should be made in writing before the inquiry.

27.I also need to remind you that, in order to support an effective and timely planning system in which all parties are required to behave reasonably, that the I have the ability to initiate an award of costs in line with the Planning Practice Guidance – although I hope that won't be needed. Unreasonable behaviour may include not complying with the agreed timetables.

Jonathan Price  
Inspector

19 August 2021