



CASE MANAGEMENT TELEPHONE CONFERENCE

10.00am, Thursday 12 November 2020

INSPECTOR'S SUMMARY NOTE

APPEAL REF: APP/L5810/W/20/3249153

23-27 Arlington Works, Arlington Road, Twickenham TW1 2BB

The appeal is made by Sharpe Refinery Service Ltd. against the decision of the Council of the London Borough of Richmond-upon-Thames dated 19 September 2019 to refuse planning permission for 'redevelopment of the site to provide 610sqm of commercial space (B Class) within existing Buildings of Townscape Merit plus a new build unit, 24 residential units (5 x 1 bedroom, 12 x 2 bedroom and 7 x 3 bedroom) and associated car parking and landscaping' (Application Ref: 18/2714/FUL, dated 10 August 2018).

Purpose of this note

1. This note summarises matters discussed and actions arising from the case management telephone conference (CMC) on Thursday 12 November 2020.
2. The CMC was led by Peter Rose, the Secretary of State's appointed Inspector, and was addressed by Mr Clive Newberry QC on behalf of the appellant, by Mr Matthew Reed QC on behalf of the local planning authority, by Mr Richard Ground QC on behalf of Twickenham Film Studios, and by Mr Colin Hines on behalf of both Twickenham Park Residents Association and The Barons Residents Association.
3. The conference broadly followed the agenda set out in the Inspector's earlier note of 14 October 2020.

Confirmation of advocates and likely witnesses

4. Mr Newberry, Mr Reed and Mr Ground each confirmed their appointments as advocates for the Inquiry. Mr Hines confirmed he will be representing the residents associations.
5. A list of proposed witnesses (names, subject, qualifications etc.) will be required for each main party in advance of the Inquiry, together with confirmation of instructing authorities for Mr Newberry, Mr Reed and Mr Ground.

Inquiry format

6. PINS is proposing to conduct this appeal through a virtual format involving use of Microsoft Teams.
7. A virtual format will involve a second CMC by way of a test event to familiarise everyone with the technical arrangements. That CMC will also discuss any outstanding procedural issues. The CMC will be unlikely to take place until nearer the event, possibly early January. The PINS case officer, Ms Humphrey, will be in contact.
8. Whilst that is now the plan, future events remain subject to government rules and requirements, and to PINS' own operating guidance relating to COVID-19, and to any other relevant exigencies.
9. As requested, PINS will further confirm the dates of the 10 sitting days.¹

Rule 6 and other interested parties

10. The Inquiry is joined by two Rule 6 parties² - Twickenham Film Studios, and by Twickenham Park Residents Association/The Barons Residents Association.
11. The Inspector wishes to see both Rule 6 parties fully engaged in preparations and in subsequent proceedings, and this will include a response to the emerging statement of common ground and contributing to an agreed common list of core documents. Both Rule 6 parties are also to be copied in by the appellant and Council on all significant correspondence/copies of further documents as may be relevant to them.
12. The Council is not aware of other significant third party interests likely to be wishing to participate but, should that happen, any efforts by the authority to facilitate a representative spokesperson at the Inquiry may assist.
13. As non-Rule 6 parties do not participate in the CMC, some further discretion and accommodation may be required at the event in terms of provisional programming and related matters.
14. The Council confirmed there were no Neighbourhood Plan implications.

Statement of common ground

15. The Council and appellant will confirm their programme for completion of an agreed and completed statement of common ground.

Likely main issues

16. On the basis of the initial material so far before the Inspector, it appears that that the main issues in this case still remain (9 so far in total):

¹ See Ms Humphrey's subsequent email of 12 November 2020

² Reference was made to PINS' post-Rosewell guidance for Rule 6 parties available on the gov.uk web site published in September 2019, and updated in January 2020 to include an Inquiry video

- possible implications for a designated waste site
- possible implications for industrial and employment land policy³
- the effect of the development upon the character and appearance of the appeal site and the surrounding area, and including any implications for the significance of non-designated heritage assets
- whether or not the scheme would provide adequate off-street parking, and including any associated implications arising from the scheme for the free and safe movement of vehicles, pedestrians and other road users in the vicinity
- whether or not the proposal would make adequate provision for affordable housing
- whether or not the scheme would provide an appropriate mix of uses
- possible implications of the scheme for Co2 emissions
- whether or not the proposal would make adequate provision for on-site children's play space
- possible implications of the development for the continuing operation of Twickenham Film Studios.

17. This list will be kept under review by the Inspector in light of discussions between the parties and the evidence to be heard.

18. The Inquiry will also look at any benefits to be weighed in the exercise of planning balances, and including any implications arising from 5-year housing land supply (5YHLS) and related matters.

19. Regard will be given to other matters raised by local interested parties.

20. Whilst discussions are proceeding between the appellant and Council, no firm resolution had yet been achieved in respect of any of the main issues. Those discussions will continue and updates to all parties are encouraged.

21. The Rule 6 parties confirmed their interests were specific to 3 of the 9 main issues. Those issues were:

- industrial and employment land policy
- implications for Twickenham Film Studios
- parking/traffic

³ Amended wording suggested on behalf of Twickenham Film Studios and agreed by the other parties

22. The Rule 6 parties will present evidence accordingly and do not intend to address the other 6 issues.

23. Nevertheless, the mix of uses may also be relevant to Twickenham Film Studios and both parties may be observing the other sessions and asking any questions as appropriate. Both will also contribute openings and closings, and contribute to discussions of conditions and of any planning obligation. Both will also have the opportunity to respond to events at the Inquiry as they feel appropriate.

How the main issues will be handled

Pre-Inquiry

24. As previously advised, the Inspector expects the Council and appellant to be engaged in continuing discussions regarding the local planning authority's objections, both to identify common ground around which particular areas of dispute may be resolved, and to define the specifics of those areas of disagreement remaining.

25. The Inspector asks for statements of disagreement to be prepared jointly in relation to all outstanding areas of dispute between the appellant and the local planning authority, and for those positions to be agreed prior to the drafting of any evidence.

26. Proofs should then focus upon those specific matters set out in the statements of disagreement, and aspects of which may still be the subject of discussion up until the Inquiry. Those statements will also, in turn, shape where attention is to be directed at the Inquiry.

27. The outstanding agreed statement of common ground will be the first formal step in that process of case refinement and focus.

28. The Inspector also wishes to encourage the engagement and involvement of both Rule 6 parties as part of those discussions insofar as their concerns may be relevant to specific areas of dispute. The Rule 6 parties will also be invited to respond, as appropriate, to the eventual positions taken by the Council and appellant.

At the Inquiry

29. Rather than completing the overall cases for each of the main parties in turn (as per convention), the intention is to deal with the remaining main issues on a topic basis. Some topics may be addressed through evidence-in-chief and cross-examination, others through round-table discussion.

30. This would mean all the parties in turn presenting their cases as part of one focussed session for each main issue, whether through formal examination or round-table discussion. The Inquiry would then conclude its hearing of that topic, and move on to the next item as identified. This would also be consistent with the round-table format as will be deployed for some topics.

31. The Inspector's assessment to date is that possible implications for a designated waste site, for employment and industrial land policy, for character and appearance, and for the Twickenham Film Studios, would all benefit from cross-examination, whilst other topics appear more appropriate for round-table discussion. That initial screening will be kept under review.
32. Whether examination or round-table, the clear focus of each session should be upon those specific aspects remaining in dispute.
33. For round-table discussions, the Inspector will lead the conversation informed by the proofs and any dedicated topic-specific statements of common ground/statements of disagreement as may be appropriate.
34. The evidence will also need to address any other matters raised by local interests as may be considered relevant to the parties.
35. Annex B attached to the Inspector's previous note sets out the preferred format and content of proofs and other documents, and which should be observed.

5-year housing land supply

36. Discussions are proceeding between the Council and the appellant and either an agreed 5YHLS position will be identified, or a statement of disagreement will be produced explaining differences between the two parties. This must happen as soon as possible as it could have significant implications for the Inquiry and its preparation.

Conditions

37. An agreed schedule of suggested planning conditions and the reasons for them, including references to any policy justification, is to be submitted at the same time as the proofs. The observations of the Rule 6 parties will also be sought at the Inquiry.

Planning obligation

38. The Inspector requires an early draft of any planning obligation, with a final draft to be submitted shortly before the Inquiry opens. The final draft must be accompanied by the relevant official copy of Land Registry title 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 and should include reference to any policy support. In relation to any financial contribution, it should explain the particular sum of money identified, and on precisely what it would be spent and how.
39. If necessary, a short time will be allowed after the Inquiry for the administration and submission of a completed final document.
40. The observations of the Rule 6 parties will also be sought at the Inquiry.

Core documents

41. The parties will need to discuss and prepare a single agreed list of core documents in advance of preparing proofs so they can be properly referenced in the evidence.
42. The list is also to be reflective of references required by the Rule 6 parties.
43. A hard copy set of the documents must be submitted with the proofs.
44. The Inspector welcomes and encourages the authority's actions in putting in place a web site library of all relevant documents. Further details will be awaited.
45. The core documents should comprise only those matters to which parties will be directly referring.
46. Any appeal decisions and/or legal authorities on which parties intend to rely will each need to be accompanied as part of the evidence by an explanation of the relevance of the document to the specific issues arising in this case, together with the propositions upon which the parties are seeking to rely, and with the relevant paragraphs identified.

Inquiry running order/programme

47. In the interests of health and safety (and everyone maintaining concentration), PINS' experience to date is that sitting sessions for a virtual Inquiry are best kept to no longer than 1.5/2 hours maximum before any break. The sitting day would normally comprise 3 such sessions and with breaks of at least 15 minutes duration (the timing of which will be determined on the day, as will a lunch adjournment).
48. The aim will be to finish each day by around 5.00pm. With the exception of 19 January, a 9.30am start time will be considered for subsequent days.
49. As matters stand at the time of the CMC (no agreed statement of common ground and no resolution of any main issues), a provisional running order could be:
 - openings
 - any other interested third parties wishing to speak
 - waste site designation
 - industrial and employment land policy
 - Twickenham Film Studios
 - mix of uses
 - parking/highways
 - character and appearance
 - affordable housing (if remaining in dispute)
 - Co2 emissions (if remaining in dispute)
 - play space (if remaining in dispute)
 - 5YHLS merits (if remaining in dispute)

- summary planning policy/overall planning balances (main planning witnesses and also to be addressed through cross-examination)
- planning obligation (technical/procedural aspects)
- conditions
- any other matters
- closings.

50. Following the Inspector's opening on the first day of the Inquiry he will invite corresponding statements from each of the four main parties. These should be no longer than 10 minutes each, appellant first, followed by the Council and then the Rule 6 parties (copies electronically and on paper, please).

51. He will then hear from any other interested parties present who wish to speak (which often suits those who have taken time out from work, or who may have other commitments).

52. The presentation order for each topic will generally be Council first, followed by the two Rule 6 parties, and then appellant (but the order of the topic addressing Twickenham Film Studios may require further prior discussion).

53. The order for closing submissions will be Council first, then the Rule 6 parties, and then the appellant (copies electronically and on paper, please), each no longer than 30/45 minutes preferably. They should simply set out parties' respective cases as they stand at the end of the Inquiry and should be fully cross-referenced to the evidence heard. The Inspector will seek to accommodate the time requirements of Mr Newberry, Mr Reed and Mr Ground and Mr Hines for preparation of closings as best as the programme may allow.

54. The Inquiry is currently scheduled to sit for up to 10 days and the parties identified no reason why this should not be sufficient.

55. Mr Newberry, Mr Reed, Mr Ground and Mr Hines are requested to provide time estimates for each stage of their respective cases once proofs are available. A draft programme will be issued by the Inspector following receipt of the final timings in due course, when he will have a better feel for content and duration.

56. Other than in exceptional circumstances, the parties are expected to take no longer than the timings to be indicated, which will require the co-operation of both advocates and witnesses.

57. The Inspector intends to work with Mr Newberry, Mr Reed, Mr Ground and Mr Hines in reviewing timings and scheduling as events unfold, and all are invited to work collaboratively.

58. He will also take the parties' lead on the detailed timings of comfort breaks and other routine adjournments during the event.

Timetable for submission of documents

59. The appellant and Council are to confirm a programme for receipt by all parties of an agreed statement of common ground.

60. Rule 6 parties are then to respond to the statement of common ground as they feel appropriate, and a programme/arrangements for such responses is to be confirmed following any discussion between the parties.
61. Statements of disagreement are to be received by **Tuesday 24 November** (4 weeks before the proofs). Rule 6 parties are also to have a similar opportunity to contribute/respond as appropriate, and a programme/arrangements are to be confirmed following any discussion between the parties.
62. Core documents are to be available on-line by **Tuesday 8 December** (2 weeks before the proofs).
63. Proofs and core documents are to be received by **Tuesday 22 December** (4 weeks before the Inquiry).
64. The parties' final timings for openings and closings, evidence-in-chief and cross-examination are to be received by **Tuesday 29 December** (3 weeks before the Inquiry).
65. Subject to receipt of all timings, the Inspector will produce a draft working programme by **Tuesday 5 January** (2 weeks before the Inquiry).
66. The early draft of the proposed planning obligation is also to be submitted at the same time as the proofs with a final draft (if any different) no later than **Tuesday 5 January** to be accompanied by the CIL compliance statement prepared by the Council and the relevant Land Registry entries. The same timing also applies to conditions.
67. The Council is to ensure a copy of the publicity setting out details of the Inquiry, and a list of those notified, is sent to PINS once issued.
68. 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. Exceptionally, however, where they are necessary to save Inquiry time, copies should be provided no later than **Tuesday 5 January**. It is important that any rebuttal proofs do not introduce new issues. As an alternative to a rebuttal, it may be that any further matters of clarification could be more succinctly addressed through an addendum statement of common ground.
69. The Inspector is content to receive agreed addendums to the statement of common ground and to statements of disagreement as appropriate (but the emphasis is on the agreed).

Costs

70. No application for costs has been foreshadowed and the Inspector is not seeking such. If any application is to be made, however, it should be made, subject to events at the Inquiry, in writing and prior to the start date.
71. As per the Rosewell recommendations and the responsibilities upon everyone to contribute appropriately, the Inspector reminds all parties that he does have

the authority to initiate awards of costs in line with the Planning Practice Guidance. Unreasonable behaviour may include not complying with agreed timetables.

Site Inspection

72. Whenever a visit takes place, the purpose is simply for the Inspector to see the site and its surroundings. He cannot listen to or entertain any further representations/discussion/arguments during the visit, but parties can point out physical features as already discussed/to be discussed.

73. The Inspector also notes Twickenham Film Studio's request for him to visit its existing premises, and possibly in advance of the Inquiry, and will respond in due course. Any visit inside of any premises or site would also need to be accompanied by representatives of all parties unless otherwise agreed.

Specific document and other queries

74. An updated viability assessment may be submitted. If so, a programme is required from the appellant as soon as possible to ensure all parties have adequate time to respond in advance of preparing evidence. The appellant is to clarify matters as soon as possible, and ensure the Rule 6 parties are informed/copied in/involved as appropriate.

75. The Inspector will wish to consider any implications as may be arising in due course from the evolving status of the London Plan.

Summary of actions arising

76. PINS will issue this note summarising the matters discussed at the CMC and as a basis for everyone's future actions.

77. In the interests of transparency, it is expected that this note be made publicly available by the Council (as per all other appeal documents).

78. If there are any further or subsequent issues, the Inspector invites those to be raised and confronted through the case officer as soon as they are known. The Inspector will remain available to engage in further joint discussion and to assist as required.

79. Arrangements will now be made for the second CMC primarily addressing issues relating to the virtual format, but also anything else then still outstanding.

80. The CMC concluded at 11.20am.

Peter Rose

INSPECTOR

13 November 2020