

REF: APP/N5090/W/22/3307073

**BROADWAY RETAIL PARK, UNIT 1 TO 3, CRICKLEWOOD LANE,
CRICKLEWOOD, LONDON, NW2 1ES**

Outline planning application (including means of access with all other matters reserved) for the demolition of existing buildings and the comprehensive phased redevelopment of the site for a mix of uses including up to 1049 residential units (Use class C3) and up to 1,200 square metres of flexible commercial and community floorspace (use classes A3/B1/D1 and D2) in buildings ranging from 3 to 18 storeys along with car and cycle parking, landscaping and associated works.

CASE MANAGEMENT CONFERENCE SUMMARY NOTE

1. The case management conference was led by the Inquiry Inspector, Glen Rollings, starting at 10:00 on 30 November 2022.
2. The Inquiry for this Secretary of State called-in application is to be held at Hendon Town Hall, opening at 10:00 on Tuesday 14 February. It was originally scheduled to sit for 12 days. Following the conference, it is now scheduled to sit for seven days: for four consecutive days until Friday 17 February, and then from Wednesday 22 February to Friday 24 February.
3. The advocates were confirmed as: Sasha White KC for the applicant, Morag Ellis KC for the Council of the London Borough of Barnet, and Ben Tansley for local groups including NorthWestTwo Residents' Association and Railway Terraces Residents' Association (hereafter referred to as the Rule 6 party).
4. The Council agreed to provide an officer during the Inquiry to assist with administration and to act as a point of contact at the event for interested parties.
5. The Council is encouraged to draw the attention of interested parties to this Note, including posting a copy on its website.

Confirmation of proposal details

6. The application's description and address (as it appears at the top of this note) were confirmed as being correct.

Probity

7. The Inspector disclosed previous professional relationships with two of the applicant's prospective witnesses, dating from 2007 to 2009. The Inspector led a discussion between the parties and allowed for a period following the

conference during which submissions could be made. No submissions were received, and the Inspector considers that no conflict exists.

Main Considerations

8. The Secretary of State has offered a reason for calling in the application. The Council has offered a putative reason for refusal and there have been submissions from NorthWestTwo and other interested parties including Mike Freer MP. Following discussion at the conference, the main considerations for the Inquiry are confirmed as:
 - The effect of the proposed development on the historic environment and the character and appearance of the area; and
 - The effect of the proposed development on local transport, with particular regard to sustainable travel, effects on the road network and highway safety, and the amount of parking to be provided.
9. The Inquiry will also look at planning matters, to include any benefits to be weighed in the planning balance including the amount of affordable housing proposed, together with any implications of not proceeding with the scheme. Further matters, including the effect of the proposed development on local infrastructure and services, and its compliance with adopted planning policy, will be examined as part of this consideration.

How the main issues will be dealt with

10. The evidence will be presented in a mix of round-table interrogative discussions to be led by the Inspector, and formal presentation and cross-examination by the advocates. The applicant, Council and Rule 6 party will collaborate on producing a draft agenda for both of the former, which will be submitted to and finalised by the Inspector before the Inquiry opens.
11. The first session will deal with historic environment and character and appearance matters. This will commence with a presentation by the scheme architect and will be followed by a round-table discussion. Matters concerning the heritage balance (in terms of the statutory and policy tests) would be covered in the subsequent planning session.
12. The session concerning transport matters will also follow a round-table discussion format.
13. The session concerning planning matters will be dealt with through the formal presentation of evidence in chief and cross-examination. Matters of policy, any benefits and the overall planning balance will best be covered. Uncommon ground between the parties in respect of affordable housing has narrowed and that discussion in this matter will be incorporated. Additionally, any outstanding matters, including those raised by interested parties, should also be incorporated within this session.

14. Separate topic-specific statements of common, but more particularly uncommon ground, are required in relation to each of the main issues, together with a statement covering the other planning issues. The applicant is to take the lead in the preparation of those statements, liaising with the Council and Rule 6 party. These are expected to be finalised and agreed by all parties by exchange of proofs of evidence.
15. As previously advised, proofs of evidence with more than 1,500 words should be accompanied by a summary proof. This can be provided as either a separate document or as a preface to the main proof.

Conditions

16. An agreed schedule of suggested planning conditions and the reasons for them, 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 applicant and the Rule 6 party. You will need to pay careful attention to the wording and the conditions will need to be properly justified having regard to the tests for conditions, in particular the test of necessity. You are reminded in this regard that as set out in the National Planning Policy 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.
17. Any difference in view on any of the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given. These will be addressed in a round-table discussion.

Planning Obligation

18. A final agreed draft of the planning obligation is to be submitted shortly before the Inquiry opens. This will be accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council. That statement is to 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 development proposed. It 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. With regard to any financial contributions, whilst the pooling restriction has been rescinded, the Statement 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 contribution sought in relation to this application is properly justified.
19. The Inspector will require a fully signed and dated version of the planning obligation to be submitted to him by the close of the Inquiry, or if any changes are to be made, shortly thereafter.

Core Documents

20. The parties will discuss and agree a list of core documents in advance of preparing their proofs so they can be properly referenced in the proofs. That list is to be co-ordinated by the applicant and must be submitted with the proofs. A template for that list is attached.
21. The Core Documents should comprise only those documents to which you will be referring and do not need to include a copy of the National Planning Policy Framework or deal with areas where there is no dispute. Any appeal decisions and/or legal authorities on which any party intends to rely will 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.
22. Where any documents on which it is intended to rely are lengthy, only relevant extracts need to be supplied, as opposed to the whole document. Such extracts should, however, be prefaced with the front cover of the relevant document and include any accompanying relevant contextual text.
23. The Inspector will require one hard copy of each of the proofs, which should be sent to the Inspectorate at the same time as the electronic version. The applicant agreed to supply a hard copy set of the Core Documents on Inquiry opening to form an Inquiry library, which can be accessed by the Inspector and/or interested parties at the event, together with an A3 copy of any appropriate townscape-related documents. The Council and Rule 6 party will be provided with an electronic set of the documents and it will be for it to print out what elements it needs in hard copy.
24. Any necessary documents submitted once the Inquiry has opened will be recorded as Inquiry Documents on a separate list, overseen by the Inspector.
25. A minimum of three copies of any new documents produced at the Inquiry will be required - one for the other two main parties and one for the Inspector, with extra copies to be made available to assist interested parties if necessary.
26. The Council confirmed that it will provide a website (or easily accessible link on its main planning website) to make core documents publicly available, which will be updated during the course of the Inquiry.

Inquiry Running Order and Programme

27. After the first day of the Inquiry, proceedings will resume at either 09:30 or 10:00 (depending on progress) and will adjourn each day no later than 17:00.
28. In terms of running order, following the Inspector's opening comments on the first day of the Inquiry, he will invite short opening statements from the applicant first, followed by the Council, followed by the Rule 6 party, which

will establish the matters to be discussed during the proceedings. He will then hear from any interested parties who wish to speak, which often suits those who have taken time out from work, or who may have other commitments. Should any interested party wish to address the Inquiry on any other day, the Inspector will seek the co-operation of the advocates to accommodate such requests.

29. The site visit will take place on the morning of Day 2. This will be an accompanied site visit for the Inspector to see the site and its surroundings. He will not hear any representations/discussion/arguments during the visit, but parties can point out physical features. It is important that you give some thought as to where you wish him to see the site from, with a route map to be agreed between the parties, led by the applicant, and provided as an Inquiry document.
30. Main issues will then be dealt with on a topic-by-topic basis, in the order set out as listed above. Lastly in terms of evidence, matters relating to planning policy, any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme, and the overall planning balance will also be dealt with through evidence-in-chief and cross-examination. At this stage it is expected that evidence will be heard in the following order:
 - Council witness examination-in-chief
 - Cross-examination by Applicant
 - Council re-examination (if required)
 - Rule 6 party witness examination-in-chief
 - Cross-examination by Applicant
 - Council re-examination (if required)
 - Applicant witness examination-in-chief
 - Cross examination by Rule 6 Party
 - Cross-examination by Council
 - Applicant re-examination (if required)
31. The applicant's evidence should also address any other matters raised by interested parties during the Council's various consultations and those raised at the Inquiry.
32. On conclusion of that, the Inspector will lead a 'round-table' discussion on conditions and provisions of the planning obligation. That will be followed by closing submissions (Rule 6 Party, then the Council, finishing with the applicant) which should set out your respective cases as they stand at the end of the Inquiry. A written copy should be handed to the Inspector at the time and recorded as an Inquiry Document, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt.
33. The Council confirmed that the Inquiry room is equipped with accessibility features and that retiring rooms would be available for the Inspector and main parties, together with parking arrangements for the Inspector.

Document Submission Dates

34. As set out in the start letter, all proofs are to be submitted no later than **17 January 2023**. Details of the preferred format and content of proofs and other material were annexed to the pre-conference note. An agreed main statement of common ground should also be submitted at this time, together with the list of core documents, and an agreed schedule of conditions.
35. The Council is to ensure that a copy of the Inquiry notification letter and a list of those notified is sent to the Planning Inspectorate no later than **24 January 2023**. The Inspector will also require the topic-specific statements of common ground to be provided at the same time.
36. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and the Inspectorate does not encourage the provision of such. However, where they are necessary to save Inquiry time, copies should be provided no later than **31 January 2023**. 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 statement of common ground.
37. A draft timetable should be submitted no later than **3 February 2023**. The Inspector will approve the timetable with any necessary suggestions for amendment. Other than in exceptional circumstances, you are expected to keep to the timetable and other timings set out in this note, which will require the cooperation of both advocates and witnesses. A final draft planning obligation and all relevant office copy entries should also be provided by this date, together with draft agendas for the round-table main issue sessions.

(continued overleaf)

<p>No later than 17 January 2023</p>	<p>Deadline for submission of:</p> <ul style="list-style-type: none"> • all proofs of evidence, appendices and summaries; • main statement of common ground; • an agreed list of suggested planning conditions in Word format; and • a core documents list, submitted in Word format.
<p>No later than 24 January 2023</p>	<p>Deadline for submission of:</p> <ul style="list-style-type: none"> • the Council's Inquiry notification letter; and • signed overarching planning and topic-specific statements of common ground.
<p>No later than 31 January 2023</p>	<p>Deadline for submission of:</p> <ul style="list-style-type: none"> • any addendum/revised statements of common ground or necessary rebuttal proofs.
<p>No later than 3 February 2023</p>	<p>Deadline for submission of:</p> <ul style="list-style-type: none"> • a final draft legal agreement or Unilateral Undertaking, including office copy entries and accompanying documents; • a draft timetable of the Inquiry programme; and • draft agendas for the main consideration round-table sessions (character and appearance / heritage, and transport matters).
<p>Tuesday 14 February 2022</p>	<p>Inquiry opens 10.00 am</p>

(continued overleaf)

Costs

38. No application for costs is anticipated by any party at this stage. If any application is to be made, the Planning Practice Guidance makes it clear that it should be made in writing before the Inquiry. Costs can be awarded in relation to unreasonable behaviour which may include not complying with the prescribed timetables. You are also reminded in this regard, that to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the ability to initiate an award of costs.

Close

39. Thank you for your co-operation.

Glen Rollings

7 December 2022

(annex follows)

ANNEX – TEMPLATE FOR CORE DOCUMENTS LIST

(Headings / subheadings may be adapted to suit)

1 Application documents and plans

CD1.1
CD1.2
etc

2 Additional/amended reports and/or plans submitted after validation

CD2.1
CD2.2

3 Committee report and decision notice

CD3.1 Offer's report and minute of committee meeting
CD3.2 Decision notice
CD3.3

4 The Development Plan

CD4.1 Local Plan policies
CD4.2 London Plan policies
CD4.3 Supplementary planning documents
CD4.4

5 Relevant appeal decisions*

CD5.1
CD5.2

6 Relevant judgements*

CD6.1
CD6.2

7 Appeal documents

CD7.1 Statements of common ground
CD7.2 Proofs of evidence

8 Pre-Inquiry documents

CD8.1 Inspector's pre-conference note
CD8.2 Inspector's case management conference agenda
CD8.3 Inspector's case management conference summary

8 Other

CD8.1
CD8.2

*Any appeal decisions or judgements/citations on which a party intends to rely must each be prefaced with a note explaining its relevance to the issues arising in the current case, together with the propositions relied on, with the relevant paragraphs marked up.