



Appeal Decision

Inquiry held on 10-11 October 2022

Site visits made on 11 January and 11 October 2022

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th November 2022

Appeal Ref: APP/J1915/W/20/3264831

Land Off Chapel Lane, Little Hadham SG11 2AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by conditions of a planning permission.
 - The appeal is made by Timothy Mahoney & Traveller Group against the decision of East Hertfordshire District Council.
 - The application Ref X/20/0177/CND, dated 1 May 2020, sought approval of details pursuant to conditions Nos 5 and 6 of a planning permission Ref 3/19/0893/FUL, granted on 4 February 2020.
 - The application was refused by notice dated 24 June 2020.
 - The development proposed is the change of use of land to 10 pitches accommodating the siting of 10 mobiles homes and stationing of 10 touring caravans and 10 utility buildings. Formation of access road and hardstandings.
 - The details for which approval is sought are:
Condition 5: Site development scheme (comprising: means of foul and surface water drainage, external lighting, visibility splays, internal layout, tree, hedge and shrub planting).
Condition 6: Schedule of maintenance for the proposed planting.
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Decision

1. The appeal is dismissed and consent is refused insofar as it relates to the details for the means of foul and surface water drainage pursuant to condition No 5 of planning permission Ref 3/19/0893/FUL, granted on 4 February 2020.
2. The appeal is allowed and consent granted insofar as it relates to the details for the means of external lighting, visibility splays, internal layout, tree, hedge and shrub planting [Condition 5], and a schedule of maintenance for the proposed planting [Condition 6] pursuant to condition Nos 5 and 6 of planning permission Ref 3/19/0893/FUL, granted on 4 February 2020; in accordance with the details submitted:
 - Landscape Proposals Drawing – 811-L-01
 - Planting Plan Drawing – 811-L-02
 - Landscape Maintenance Plan – Petrow Harley, ref. 811
 - Proposed Site Plan – J003258/CD02 Rev F
 - Revised lighting product details for post lights and wall lights.
 - S278 drawing – A20042/0102/P1

Preliminary Matters

Rule 6 Party

3. The residents of Wellpond/Westland Green received Rule 6 (R6) status on 16 February 2021. Their representatives presented evidence at the inquiry.

Amended submissions and postponements

4. The inquiry was due to open on 18 January 2022. However, due to unforeseen circumstances on 2 occasions, the inquiry was postponed until 2 March 2022, and then again until 10 October 2022.
5. Prior to this, updated details, including a revised drainage strategy and s278 access plans, had been submitted with the appellant's Proofs of Evidence. I originally rejected these with Directions dated 13 January 2022, as to accept them would have prejudiced the Council's and R6 Party's cases at that time given the original date of the inquiry.
6. However, given the first postponement, the appellants formally requested I reconsider the updated details and carried out their own public consultation. The Council and R6 party objected to their submission, but I considered the revised details were not fundamentally different. There was also sufficient time to consult all interested parties, and provide updated evidence or comments, before the inquiry opened. I also gave interested parties the opportunity to speak at the inquiry itself, although none chose to do so. Acceptance of the details no longer caused any prejudice, complying with the Wheatcroft principles and Annexe M of the Procedural Guide: Planning appeals – England (October 2021).
7. Through Directions issued on 27 January 2022, the Council and R6 party prepared Rebuttal Proofs of Evidence to address the updated submissions.
8. The Council and R6 party also argued that the appellant could not submit a revised scheme because condition No 5 precluded this. I disagreed with the Council and Rule 6 at that time and the Directions issued on 27 January 2022 were clear in this regard.
9. However, both their submissions presented at the inquiry detail that there is no jurisdiction for the appeal to be considered or determined by the Planning Inspectorate because it is different to that which was considered by the Council and the submission is out of time, on the basis of the wording of condition 5.
10. I disagree with the Council and R6 and do not consider that the appellant is/was out of time, or otherwise prevented by the wording of condition 5, from submitting a revised scheme. I also consider that I have jurisdiction to consider and determine the appeals based upon the details before me that I have accepted. This is because:
 - i) Condition 5 i) only requires submission of a (my emphasis) scheme within 3 months of the decision date, not the scheme's approval; and,
 - ii) The appellant submitted a (my emphasis) scheme within the required period and so has complied with Condition 5 i).
11. Immediately prior to opening the inquiry on 10 October 2022, I was made aware that the appellant's advocate was unable to attend due to illness. Given

the timing, I opened the inquiry as planned, but there were no representatives from the appellant's party in attendance. The inquiry was adjourned shortly after to attempt to contact the appellants' representatives as to their whereabouts. In their response, the failure to attend was unexplained, other than they thought the inquiry would be postponed as their advocate could not attend. However, owing to the 2 earlier postponements and retrospective nature of the development, the Council and R6 party were keen to proceed with the event.

12. I agreed, and therefore issued a third set of Directions¹ setting out how I would proceed with the event in light of there being no advocacy for the appellants. This meant reverting to round table sessions, led by myself. The appellant's advocate happened to attend virtually the following day, and owing to this, closing submissions were delivered in writing by all parties on 17 October 2022, to allow for the appellant's advocate to fully recover. All 3 Directions are annexed to this decision for information.

Background

13. An application² for planning permission for 'the change of use of land to 10 pitches accommodating the siting of 10 mobile homes and stationing of 10 touring caravans and 10 utility buildings. Formation of access road and hardstanding' at Land Off Chapel Lane, Little Hadham was refused by the Council on 31 December 2018. The decision was appealed³, the appeal allowed, and planning permission granted on 4 February 2020. The permission was subject to several conditions.
14. Condition 5 of the permission concerned the submission of a site development scheme, which included means of foul and surface water drainage, external lighting, visibility splays, internal layout and tree, hedge and shrub planting. Condition 6 concerned a schedule of maintenance for the proposed planting. Condition 5 set out a period of 3 months for the submission of a scheme from the date of approval. The appellants submitted a scheme⁴ to discharge planning conditions Nos 5 and 6, which was refused by the Council and is now the subject of this appeal.
15. The discharge of condition 6 is not disputed by the Council or R6. Moreover, the internal layout (including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas); tree, hedge and shrub planting are also not disputed by the Council or R6. This was confirmed to me at the inquiry.
16. The Council have, however, requested that the layout of the site should illustrate the location of parking spaces. It would have been helpful to demonstrate the layout and parking spaces illustrated on the site plan. However, I see no reason why this would be necessary and therefore have not considered it any further.
17. Prior to the inquiry opening, the Council advised that the details submitted with the appellant's lighting statement satisfied its requirements and considered that the proposed lighting scheme was acceptable. The R6 party's evidence did

¹ Dated 10 October 2022

² 3/19/0893/FUL

³ APP/J1915/W/19/3234671

⁴ X/20/0177/CND

not cover this matter. The Council did not to pursue this at the inquiry and no oral evidence was heard on this topic.

Consideration of this appeal

18. It is important to note that this is a condition discharge appeal. It is not a 'normal' planning appeal where evidence is presented to consider if planning permission should or should not be granted. Planning permission has been granted, and indeed challenged and upheld in the High Court⁵. The appellants are seeking to discharge the planning conditions associated with a planning permission.
19. The appellants have presented new versions of evidence throughout the process. However, this is because they were seeking a positive resolution on the conditions, and were responding to the Council's (and R6's) recurrent objections. An applicant may often submit various schemes for condition discharge in response to comments from the Council during a process of dealing with conditions discharge. However, in this case the Council refused the original set of details with little attempt to work proactively. Thus the appellant had little choice but to appeal the decision, and attempt to respond to the Council's (and R6's) objections in the process.
20. There are significant differences between the plans and what is actually on site. However, I have only considered the plans before me as this is what is proposed.

Application for costs

21. Partial applications for costs were made by all 3 parties. Timothy Mahoney and Traveller Group made an application against East Hertfordshire District Council. East Hertfordshire District Council and the R6 party made applications against Timothy Mahoney and Traveller Group. These applications are the subject of separate Costs Decisions.

Main Issues

22. The main issues are whether the details⁶ submitted pursuant to condition 5 of the planning permission provide sufficient detail in relation to:
 - i) the means of surface and foul water drainage of the site; and,
 - ii) the provision of adequate visibility splays at the site access.

Reasons

Surface and foul water drainage

23. The condition requires a scheme for the means of foul and surface water drainage of the site to be submitted and approved in writing. The Drainage Strategy presented is the 4th version, and proposes complete infiltration of both foul and surface water drainage into the site itself. Swales and infiltration/detention basins, perforated pipes, and permeable paving are proposed to deal with the surface water, along with biological digesters and reed beds to treat the foul water prior to discharge into the surface water system.

⁵ Nixon & East Hertfordshire District Council v SSHCLG & Timothy Mahoney [2020] EWHC 3036 (Admin)

⁶ Those set out in Directions dated 27 January 2022

24. Little specific information is presented, and it was expressed repeatedly during the appellant's oral evidence, along with the written evidence, that a more detailed drainage plan would be drawn up following approval of this strategy. The appellants considered there to be sufficient detail to enable the discharge of the planning condition and cited case law⁷ to support this, where it is stated that only a satisfactory solution to the condition discharge need be presented, not an ideal solution.
25. In this instance, a satisfactory solution needs to demonstrate how surface and foul water drainage will be dealt with on site, and that the approved scheme is implementable. Thus, it should be the actual, comprehensive and specific scheme that is going to be constructed on site. It should not be something that requires further investigation, detailed design or copious amendments.
26. As a matter of fact, the wording of condition No 5 requires this: "*iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable*", followed by "*upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained*" (my emphasis). Therefore, the appellant's argument that another detailed scheme would be worked up following the discharge of the planning condition fails.
27. Furthermore, the scheme before me is lacking in detail, such that I cannot conclude if it would adequately drain the site, and therefore it is unsatisfactory. There are several areas where further details or investigation are necessary.
28. Of note are the lack of ground investigations to provide clear and robust information on infiltration capacity. Only 2 trial pits have been tested to ascertain infiltration of water to ground, but the exact whereabouts of the trial pits are unknown, and the results are unverifiable, even if they are claimed as being BRE 365 compliant.
29. The geology is described as having a clay layer between 1.5-2m, yet this is simply the range between the 2 trial pits. I accept that the true extent of ground conditions would be unknown until the sub-surface is broken and some minor amendments could be required during construction. I also accept that the appellants used a design rate of infiltration lower than the achieved rate.
30. However, a greater number of trial pits would have given a greater depth of geological information of the site in which to calculate more accurate infiltration rates. This is particularly important in this case given that all of the surface and foul water drainage are proposed for onsite infiltration and the ground conditions could vary considerably. Even the appellant's witness admitted that a greater number of trial pits should have been explored.
31. The implications of this are that the geology and infiltration rates could be worse, or better, than the estimates, and the calculations for the drainage solutions could be wrong. Moreover, despite the appellants' claims there would be sufficient capacity within the scheme to cope with low flows of treated effluent, the surface water calculations take no account of the treated foul water that would be discharged into them.
32. There are also concerns about whether the correct factor of safety has been used. Whilst the appellant contends it is correct, owing to the trial pit

⁷ R. (on the application of Cathie) v Cheshire West & Chester Borough Council [2022] EWHC 2148 (Admin)

calculations being BRE 365 compliant, and not estimated, the scheme would use swales to attenuate the water prior to soakage. The Council and R6 claim that BRE 365 would be used for traditional ring and pit soakaways, but because this site proposes sustainable drainage systems (SuDS), a factor of safety of 10 should have been applied, as per Table 25.2 of the SuDS Manual⁸.

33. Instead the appellants have applied a factor of one. The implications of this are that the road could flood if the swales were breached. Whilst this is unlikely given the roadside ditches, I agree with the Council that it would be safer to err on the side of caution and apply a greater risk factor than that applied because of the use of SuDS. This is particularly relevant given that only 2 trial pits were investigated.
34. Moreover, no detailed information on the swales or infiltration/detention basins, or final levels have been proposed. There are no cross sections as to the swales' form or level, nor detailed ground levels, and the information I do have does not give me any confidence in their success. The southern swale does not follow the contours of the land and could result in a depth of almost 2m when applying the proposed invert levels. Whilst the appellant's witness suggested that this would not happen, the plans before me do not show this. Again, the appellants' witness detailed that with hindsight, they should have produced more details on the levels of the swales, infiltration and detention basins.
35. Additionally, even though the appellants' witness stated these basins would, in practice, only deal with the treated effluent, I have concerns over their performance given such limited information on their form and capacity, and no final detailed levels of the site. This is, again, particularly important given the limited information on infiltration capacity.
36. Lastly, the scheme contains no finalised details of the foul drainage treatment, estimates population numbers to an average of 4 people per plot, and does not seem to appreciate that Gypsy and traveller sites could be vacant for periods of time while families are travelling. For example, the suggestions that a biological treatment plant would be suitable relies on there being a specific number of people using it regularly. If the site occupants leave the site to travel, the use of the plant would cease and the biological element would die because it would have nothing to feed on. Thus it would not work effectively. Additionally, there is very little information on maintenance and management of these foul water treatment systems.
37. The handling of the treated foul water would not comply with the Environment Agency's (EA) General binding rules: small sewage discharge to the ground and thus requires a permit. No permit has been applied for and I remain uncertain if the EA would grant a permit. Furthermore, there has been plenty of time to submit a permit to the EA between the postponed inquiries and I do not understand why this has not been pursued, particularly given the site is occupied. The appellants' witness detailed that the scheme could be re-designed if the EA did not grant a permit, but this would then not comply with the requirements of the condition.
38. There are other areas of concern raised by the Council and R6, but I have highlighted where my primary concerns lie. This is sufficient to conclude that there is a fundamental lack of detail to adequately demonstrate the site's

⁸ Core Document 7.7

drainage proposals are satisfactory. This element of condition No 5 cannot be discharged at this time.

Visibility splays

39. The condition requires a scheme for the provision of adequate visibility splays at the site access. The previous Inspector required this to ensure a safe means of access to the site. Whilst the Council and R6 appear to consider that this also related to details of the site access, this part of the condition relates only to adequate visibility splays. This decision cannot revisit the merits of the planning permissions, and I will not be dealing with any assertions that the splay or speeds should be considered differently.
40. Furthermore, the Council and R6 raised concerns over the possible implications to delivery along with other objections to technical details, such as drainage, gradient and the construction detail with the parallel agricultural access. These matters would be deliberated with the submission of a s278 agreement under the Highways Act 1980, separate to my consideration. A s278 has not been agreed with the Council.
41. Whilst the Council outlines that the discharge of this part of the condition would be premature as the S278 agreement is not in place, I see no reason why a planning condition could not be discharged prior to a s278 agreement, even if this is unusual. If there is sufficient information presented, then the LPA should discharge the condition to which it relates.
42. The Inspector who granted the planning permission considered that *"there is ample flexibility within the 'y' distances that can be achieved over and above that required for an 85th percentile speed of 31 mph. On site, I observed that a visibility splay of 2.4 x 59 m could be comfortably achieved"*.
43. This 'y' distance of 59m shown on plan is longer than required for a 31mph average speed at the 85th percentile, the speed favoured on the data before the Inspector. Based on Table 7.1 in Manual for Streets⁹ (MfS), a 'y' distance of 45m would be necessary for a speed of 31 mph.
44. MfS details that the visibility splay at a junction ensures there is adequate inter-visibility between vehicles on the major and minor arms. Figure 7.18 provides 3 diagrams of visibility splays at junctions on a straight road and bends. Diagram b is relevant to this appeal, and shows lines from the centre point of the access, radiating out on different tangents. One line on each side is the visibility splay. The upper line tangent on the left-hand splay shows an alternative splay if vehicles approaching from the left are unable to cross the centre line. There are no features preventing vehicles crossing the centre line in this instance and therefore this tangent would be unnecessary.
45. MfS advocates that because the main alignment is curved and the minor arm joins on the outside of a bend, another check is necessary to make sure that an approaching vehicle on the main arm is visible over the whole of the 'y' distance. This is done by drawing an additional sight line which meets the kerb line at a tangent and is shown on Diagram b. Manual for Streets 2¹⁰ (MfS2) contains very similar guidance.

⁹ Core Document 5.1

¹⁰ Core Document 5.2

46. The plan before me only shows 2 lines, being the visibility splay, radiating from the access. There is no additional sight line which meets the kerb line at a tangent drawn on the plan. The Council claim that the appellant has failed to demonstrate a full visibility envelope by not including this additional splay. However, the splays shown are 2.4m x 59m, are unhindered by obstacles, and greatly exceed the necessary 45m 'y' distance for the speed. Additionally, whilst only a snapshot in time, I encountered no issues with visibility when leaving the site by car.
47. Therefore, whilst the additional "check" line has not been demonstrated on plan, I am confident that adequate visibility splays at the site access have been demonstrated to ensure a safe means of access.
48. Lastly, the centre point of the splays is off centre on the access, located where a driver would exit. The Council and R6 argued that this is not best practice, but MfS details that whilst it is normally measured along the centreline of the minor arm for simplicity, in some circumstances, it will be more appropriate to measure it from the actual position of the driver (for example where there is a wide splitter island on the minor arm). Whilst there are no circumstances that require the centre point to be off centre, I doubt it would make a significant difference in this instance.
49. Therefore, Condition No 5 in this regard is satisfied.

Conclusion

50. For the reasons set out above, I conclude that the appeal should be allowed in so far as it relates to the discharge of conditions Nos 5 and 6 relating to the means of external lighting, visibility splays, internal layout, tree, hedge and shrub planting, and a schedule of maintenance for the proposed planting.
51. It should be refused in so far as it relates to discharge of condition 5 for the means of foul and surface water drainage of the site.

Katie McDonald

INSPECTOR

APPEARANCES

For the local planning authority:	
Saira Kabir Sheikh King's Counsel	Instructed by Victoria Wilders for East Herts District Council Legal Services
She called	
Mark Geddes IEng MICE	Director, Richard Jackson Limited
Mark Youngman FIHE	Head of Profession for Transport Development Management, Hertfordshire County Council
For the appellant:	
Michael Rudd of Counsel	Instructed by WS Planning & Architecture
He called	
David Brooke HNC FIHE MCIHT	Partner, Patrick Parsons Group
Christopher Vaughan MIHE MTPS	Associate, Patrick Parsons Group
For the Rule 6 party:	
John Fitzsimons of Counsel	Instructed by the Emily Temple, ET Planning
He called	
Richard Bettridge BSc(Hons) BA CEng CEnv MICE FCIHT MCIWEM	Director, I Consultants Limited
John Russell BEng(Hons) CMILT MIHT	Director, Motion Limited

INQUIRY DOCUMENTS

ID1	Rule 6 opening submissions
ID2	LPA opening submissions
ID3	Appellant opening submissions
ID6	Rule 6 closing submissions
ID7	LPA closing submissions
ID8	Appellant closing submissions



Appeal Ref: APP/J1915/W/20/3264831
Land Off Chapel Lane, Little Hadham SG11 2AB

INSPECTOR'S DIRECTIONS IN ADVANCE OF PUBLIC INQUIRY

1. I write in advance of the Inquiry opening next Tuesday, 18 January 2022.
2. Firstly, the Proofs of Evidence on the topics of Drainage and Site Access introduce new evidence. The Drainage Proof of Evidence is supplemented by a new Drainage Strategy (V4.0). The Site Access Proof of Evidence contains plans associated with the S278 agreement (A20042/0102/P1) that show an access in a different location to that presented to the Council in the discharge of conditions application (A20042/0300/P2). I acknowledge the visibility splays are in the same place.
3. Annexe M of the Procedural Guide: Planning appeals – England (updated 13 October 2021) (the Procedural Guide) clearly sets out that *"If an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought."* Moreover, Annexe F also details what a Proof of Evidence should do, which sets out they should marshal previously provided evidence in a way which is convenient to the presentation of their case at the Inquiry. They should not include new areas of evidence.
4. I have taken account of all 3 parties' comments and it is my judgement that the submission of these details so late prejudices the Council's and Rule 6 Party's cases. The evidence has also been presented outside the timescales allowed by the requirements of the planning condition No 5 of the appeal decision¹¹ that granted planning permission. Therefore, I am not prepared to accept the updated proposals.
5. However, despite the Council's submissions, I am prepared to consider Drainage Strategy V3.0. Whilst this did not form part of the condition discharge application, it was submitted with the appeal and all parties have had sufficient time to address this and comment upon it – as both the Council and Rule 6 Party have done in their respective Proofs of Evidence. Furthermore, this was submitted before the expiry of the given timescales in condition No 5. I am satisfied no party would be prejudiced by my consideration of V3.0 and thus, I will be considering:
 - Drainage Strategy V3.0.
 - Access drawing A20042/0300/P2.
6. The predicament here is that the appellant's Proofs of Evidence essentially rely upon the updated submissions as rebuttals to make the case that the proposals are acceptable. Both Proofs of Evidence do not consider or present a case for the original site access nor V3.0 (or indeed V2.0) of the Drainage Strategy. All

¹¹ APP/J1915/W/19/3234671

- 3 main parties will need to form views on how to proceed when I open the Inquiry next week and this will be discussed during my opening comments.
7. I am not inviting nor will accept any further comments on this before I open the Inquiry.
 8. Secondly, from my pre-Inquiry visit, I also noted significant differences on site contrary to what is presented in the site layout. For clarity, I will be considering only what has been presented to me in evidence. Any works carried out on site that differ from the proposed site layout presented are matters between the Council and the appellant outside this appeal process.
 9. Thirdly, the proposed lighting scheme is now considered acceptable by the Council. The Rule 6 Party did not dispute this matter. Therefore, I do not intend to hear any evidence on this topic.
 10. Lastly, I note that the Proofs of Evidence from both appellant's witnesses, the Council's highways witness and the Rule 6 Party's highways witness do not contain any endorsement as required by Annexe O of the Procedural Guide. The endorsement should be provided to enable myself and others involved in an appeal to know that the material in a proof of evidence is provided as 'expert evidence'.

Katie McDonald

INSPECTOR

13 January 2022



Appeal Ref: APP/J1915/W/20/3264831
Land Off Chapel Lane, Little Hadham SG11 2AB

INSPECTOR'S DIRECTIONS IN ADVANCE OF PUBLIC INQUIRY

1. I write following the written comments from all 3 parties in response to my requests.
2. Firstly, the February dates suggested do not work for all the parties. I note that the Rule 6 will have to appoint a new Counsel for the re-arranged dates in March. However, given all other parties are agreeable to this date, and to enable this Inquiry to take place as soon as possible, I consider proceeding on this week would be appropriate.
3. Yet given the appellant's Counsel is unavailable on Tuesday 1 March, I suggest that the Inquiry opens on **Wednesday 2 March, sitting for 3 days until Friday 4 March**. As government guidance has now reverted to Plan A for COVID-19, I strongly suggest that this is conducted in person/hybrid as we will be able to sit for longer than in a virtual event and may be able to get through the Inquiry in 3 days. However, if a reserve day for virtual closing submissions is necessary, this could be arranged during the event.
4. Secondly, having considered all 3 parties' submissions; it is now my view that the appellant is not out of time, or otherwise prevented by the wording of condition 5, from submitting a revised scheme. This is because:
 - 5 i) only requires submission of a scheme within 3 months of the decision date, not the scheme's approval.
 - The appellant submitted a scheme within the required period and so has complied with 5 i).
5. My directions of 13 January 2022 rejected the submission of the Drainage Strategy (V4.0) and the S278 plans (A20042/0102/P1). This was because their submission prejudiced the Council's and Rule 6 Party's cases as the Inquiry was scheduled to go ahead on 18 January 2022. However, due to unforeseen circumstances, the Inquiry was postponed.
6. Because of this, there is now a delay of nearly 5 weeks. The appellants have requested that the updated documents are now considered, as a formal Wheatcroft amendment, and that the Council and Rule 6 prepare rebuttal proofs. They are aware of the potential Costs implications.
7. Whilst the Council and Rule 6 strongly object to the submission of these documents, I believe there is reasonable opportunity before the Inquiry opens for the Council and Rule 6 to review the evidence and make submissions in relation to the opposing case. Furthermore, there is sufficient time to consult all interested parties (which the appellant has already done), so that all potentially affected parties can comment before I open the Inquiry. I will also hear from any interested parties at the Inquiry itself.

8. Whilst the appeal process should not be used to evolve a scheme, the updated proposals are not “*fundamentally different*”, nor have I ever indicated this.
9. Therefore, for the reasons set out above, it is my judgement that acceptance of the updated details as a formal amendment would no longer cause any prejudice, complying with the Wheatcroft principles and Annexe M of the Procedural Guide: Planning appeals – England (updated 13 October 2021).
10. Consequently, I will exceptionally accept the updated details, and when the Inquiry opens, I will be considering:
 - Drainage Strategy (V4.0)
 - S278 plans (A20042/0101/P1 and A20042/0102/P1)
 - Swept Path plans (A20042-0103/P1, A20042-0104/P1, A20042-0105/P1)
 - Stage 2 Road Safety Audit (7 December 2021)
11. To ensure adequate time for myself and the appellants to consider the rebuttal proofs, these are required to be submitted by **17:00 on Thursday 24 February 2022**. This gives the Council and Rule 6 party 4 weeks to prepare their evidence.
12. Finally, any costs applications that are to be made should be made in writing in advance of the Inquiry opening. If the Council or Rule 6 party intend to submit a costs application against the appellant owing to these Directions, please ensure these are submitted with the rebuttal proofs. This will enable the appellant to reply in writing before the Inquiry opens.

Katie McDonald

INSPECTOR

27 January 2022



Appeal Ref: APP/J1915/W/20/3264831
Land Off Chapel Lane, Little Hadham SG11 2AB

INSPECTOR'S DIRECTIONS - 10 OCTOBER 2022

1. I write following the opening of the Public Inquiry this morning at 10:00.
2. Nobody from the appellant's party was in attendance. Whilst I note that their advocate had given very late notice of his illness, and that he could not attend, someone from the appellant's party should have been in attendance as a representative, despite claims that they would not have been in a position to proceed.
3. The Planning Inspectorate, nor I as Inspector, had given any advance warning that the event would not proceed and it was entirely discourteous not to attend, even if it were to resolve how to proceed with the inquiry for the rest of the week. No explanation for the nonattendance has been received, and based on the discussions held during the inquiry opening, it is likely that both the Council and Rule 6 party will be submitting costs applications.
4. Given this is the third attempt at holding the Inquiry, and considering the development is operational on site, a resolution on matters is required and an adjournment to a later date is unfeasible. During discussions, the Council and Rule 6 Party requested that I change the procedure to written representations, with an opportunity for final comments. However, I have several questions, and consider the best method is to proceed with the event as planned, but revert to a Hearing style format of round table sessions.
5. Therefore, in order to proceed, I intend to:
 - Conduct an accompanied site visit as planned tomorrow at 09:30.
 - Resume the Inquiry at 11:30 in the Council Chamber. I will provide my opening comments. The main parties will then provide theirs. I will assume that Mr Rudd can send his opening comments to Mr Woods or Mr Brownjohn in order to deliver these.
 - I will then hear both the drainage and highways evidence in a round table format, led by myself. This will be similar to a Hearing, whereby the inquisitorial burden is upon myself to explore the evidence. Advocates can take part as it is not unusual for one party to have an advocate and the other not in a Hearing. It is my job to ensure that all evidence is heard fairly, openly and impartially, and I will uphold these principles.
 - Hear any costs applications – submissions in writing would be helpful prior to hearing these, if possible.
 - Close the Inquiry, taking closing comments in writing, to be submitted by 12:00 on Friday 14 October. Please note that these are closing comments, and not submissions, as the appellant does not have an advocate in attendance.

Katie McDonald

INSPECTOR