

## **CASE MANAGEMENT CONFERENCE SUMMARY**

**Case management conference held on Thursday 2 May 2024**

**Inquiry scheduled for 10.00am on Tuesday 25 June**

**APPEAL REF: APP/D1265/W/23/3336518**

**Appeal by Dudsbury Homes (Southern) Ltd**

**Land south of Alderholt**

Outline application for a mixed use development of up to 1,700 dwellings including affordable housing and a care home; 10,000 square metres of employment space in the form of a business park; a village centre with retail, commercial, community and health facilities; open space including SANG, biodiversity enhancements; a solar array; roads and other infrastructure. All matters are reserved apart from access off Hillbury Road.

### **Present**

Jonathan Bore	Inspector
Richard Turney KC	for the Appellant
Melissa Murphy KC	for Dorset Council
Simon Bell, of Counsel	for Alderholt Parish Council (r6 party)
Colin English	for Action for Alderholt (r6 party)

### **Purpose of the conference**

1. The conference was held to help manage the inquiry proceedings.

### **Inquiry date and location**

2. The Inquiry will open at 10.00am on Tuesday 25 June and the venue will be the Council Chamber at Westport House, Worgret Road, Wareham, BH20 4PP.
3. The inquiry will be live streamed.
4. The Council will provide parking and a retiring room for the Inspector.

### **Main Issues**

5. The main issues for this appeal are as follows.

**Issue 1. The significance of the proposal in meeting housing need, having regard to the current supply of housing land and the age of the local plan.**

6. A number of points were discussed in relation to Issue 1.
  - i. Dorset Council's position is that there is a 3.9 years supply of housing land. My initial view expressed in the pre-CMC Note is that this figure should be taken in the context of a 5 year supply requirement. The Council will give consideration to this point. The Council will need to

demonstrate that it has taken a reasonable approach to this matter having regard to the changes to its Local Development Scheme in 2024; the cessation of work on the emerging plan following initial consultation; the decision to begin work on a new plan under the new local plan system with an anticipated adoption date of 2027; and the reasons for this, which are in the public domain, having been set out in the Cabinet Report of 2 March 2024.

- ii. A site-by-site exercise to examine available and deliverable housing sites should not be necessary unless the Council pursues the argument that it is only required to demonstrate a 4 year housing land supply. The Council's approach to this matter therefore needs to be resolved very quickly as it has a bearing on the production of evidence for the inquiry. In the event that such an exercise is necessary, it will require input from both parties well in advance of the inquiry.
- iii. The parties agreed at the CMC that there will not be an over-emphasis on whether the so-called "tilted balance" is "engaged", in recognition that a community's need for housing is an important material consideration in any event.
- iv. The parties will reach agreement as far as possible on the relationship between viability and the quantity of affordable housing, to avoid unnecessarily spending inquiry time picking through the inputs and assumptions of the viability appraisal.
- v. An agreed topic paper will be produced setting out agreed facts on Issue 1.

**Issue 2. Whether the development would be appropriate in this location having regard to: its relationship to Alderholt and other settlements and their facilities; its connection to the highways network; its relationship to the AONB; the local plan spatial strategy; and the emerging Neighbourhood Plan.**

7. Issue 2 concerns the relationship of the scheme to the spatial pattern of development and its context: whether the development would be in the right place. It includes the relationship to Alderholt, other settlements, the broader disposition of development and the highways network and the AONB.
8. It was confirmed at the CMC that character and appearance, visual impact and landscape character were not matters of dispute between the Council and the Appellant, except in respect of the tranquility of the AONB.
9. An agreed topic paper on the local planning policy context should be produced. This should refer to the most relevant policies (not the entire galaxy) and it is not necessary to repeat the NPPF.

## Other matters

10. Certain detailed matters have been raised in respect of the proposed scheme's impacts. These are:

- i. *Whether the potential highways impact of the scheme would be suitably mitigated by off-site highways works and sustainable transport measures.* National Highways is currently reviewing detailed designs for junction improvements. The Council has instructed an external highways consultant to take forward matters on behalf of the highways authorities for Dorset and Hampshire. Work is being carried out on sensitivity testing and the effects of education structuring; the two junctions where works are proposed are with the consultants for review. The statutory consultees have not been content to rely on the trip generation assumptions in the transport assessment and further work is being undertaken. The outcomes may affect conclusions in respect of air quality (connected with ii below) and tranquility.
- ii. *Whether the potential ecological impact of the scheme on protected habitats would be adequately mitigated.* Subject to the resolution of outstanding issues, this may be capable of being addressed through the planning obligation and conditions. On the matter of nutrient neutrality, discussions have taken place on the securing of credits and the consultants have met with Natural England. Another matter is nitrogen deposition in the New Forest, which may be related to the outcome of the transport discussion. The issue of recreational impact has been addressed through SANG and the question of the use of the bridleway has been considered. The location of SANG in the masterplan should be treated as fixed. Further comments are awaited from Natural England.
- iii. *Whether the proposed local centre would be suitably located and adequate to serve the development, and whether its impact on other centres would be acceptable.* The masterplan should be regarded as the intended layout of the Appellant and the Appellant believes that the local centre is shown in the right place; but if the local centre were moved northwards it would still be in accordance with the general masterplan framework. There is no dispute between the Council and the Appellant in respect of the sequential test or impact on existing centres. The Council may make a case about the impact on a shop in Alderholt. The Parish Council and Action for Alderholt will wish to speak about the effect of the scheme on local facilities and services and the impact on emerging neighbourhood plan policy.
- iv. *Whether the scheme would make appropriate provision for education.* Following comments from the Education Authority the Appellant's strategy is to expand St James's First School and make contributions towards middle school and upper school provision. Discussions are

taking place between the Appellant and the Council's education expert over whether St James's First School can accommodate the necessary physical expansion. The s106 obligation might be structured to facilitate an alternative, which is a site for a new First School.

11. Inquiry time should not be spent on these subjects unless there are demonstrably irresolvable problems inherent in the scheme that go to the heart of the decision. It should not be spent on subjects which are tangential or are self-evidently capable of resolution. The parties are therefore strongly encouraged to reach agreement on the technical aspects of these subjects before the inquiry and to take a positive approach towards the use of planning conditions and the s106 to address them. Any residual areas of disagreement will be addressed through round table sessions at the inquiry.

12. Agreed topic papers should be produced on these subjects (see below).

### **Inquiry format**

13. This will be an in-person inquiry.

14. The Appellant, then the Council, will make opening submissions. It is not necessary for the Parish Council to make opening submissions unless it particularly wants to do so. It is not necessary for Action for Alderholt to make opening submissions.

15. Both Issue 1 and Issue 2 will be dealt with through a formal inquiry session with a conventional format in which each party will present its entire evidence in one go (except for the final planning balance in the case of the main parties), in the order of: Council, Parish Council, Action for Alderholt, Appellant.

16. The Appellant is proposing to call four witnesses, the Council three, and the Parish Council have two possible witnesses on standby.

17. It is hoped that the Parish Council and Action for Alderholt will be able to represent local concerns to the extent that local people will not feel the need to speak, but if there are local people who do still want to address the inquiry, they will be heard after the Parish Council and Action for Alderholt, and before the Appellant.

18. The Parish Council and Action for Alderholt should liaise with each other and with the Council to avoid duplication of presentation. The PC and Action for Alderholt should consider whether it may be more efficient to present one case between them.

19. In respect of the other matters i to iv referred to above, any significant residual matters will be addressed in round table sessions.

20. After the round table sessions there will be a formal planning balance session with the Council first, then the Appellant.
21. There will then be round table sessions on the planning conditions and the s106 obligation.
22. Closing submissions will be dealt with through a virtual streamed inquiry session and adequate time will be allowed for preparation. The timetable for this will be established at the inquiry.
23. Any costs application may be made in writing after the close of the inquiry. At the CMC both parties mentioned the possibility of making applications for partial awards. This would be an additional time-consuming exercise for all concerned; please bear in mind that parties in planning appeals normally meet their own expenses. The parties are strongly encouraged to discuss this matter between them before the inquiry. To justify an award there needs to have been demonstrably unreasonable behaviour causing the party applying for costs to incur unnecessary or wasted expense in the appeal process. Should there be any costs application, the timetable for submissions, responses and final comments will be established at the inquiry.
24. I will look at the site and the area informally at some point before the inquiry. I will conduct a site visit during or after the inquiry. I prefer this to be unaccompanied, with prior landowner permission where it is necessary to enter the land. All parties are encouraged to collaborate to produce a site visit itinerary and a portable pack of material that I can take on site.

### **Scheduling**

25. Two weeks are scheduled. The inquiry may or may not take two weeks. However, provision will be made for the possibility of overrun into a third week.
26. To allow time for preparation, the virtual closing session will take place two or three days after the last of the main evidence has been heard.
27. Sessions will start at 10 am and will finish at or before 5 pm, with appropriate morning, lunch and afternoon breaks.

### **Evidence**

28. Evidence can be produced in the normal manner through proofs and related appendices.
29. The parties should focus on the merits of this case and not spend time trying to draw parallels with, or conclusions from, other Inspectors' decisions or from court cases.

30. All documents should be given a number and should be included on the core documents list, which needs to have a live index. All submitted documents before and during the inquiry should be appropriately numbered and made accessible. The Appellant has offered to take responsibility for the upkeep of the core documents list, with input from the Council. The Council is looking at the potential for hosting the core documents in an accessible location on its website so that everyone can access them before, during and after the inquiry.

31. I will do most of the preparation electronically. However, please can the parties supply PINS with hard copies of proofs, appendices and a limited number of directly relevant core documents two weeks before the inquiry. I only want the most directly relevant documents.

### **Statement of common ground and topic papers**

32. A final SoCG covering all agreed matters and explaining the reasons why non-agreed matters are still in dispute should be submitted no later than the date for the submission of the proofs, and preferably earlier.

33. I want agreed topic papers please on the following subjects: housing supply, affordable housing/viability; the planning policy context; mitigation of highway impacts/local highway works; mitigation of impacts on protected habitats; the content and location of the local centre and any retail impact; and the intended approach to education. These should be with PINS by 11 June.

### **Conditions and Obligation**

34. Any planning obligation should be available on or before the opening of the inquiry. There should also be a statement of compliance. If there is disagreement over any individual item I will allow a short amount of time to address it towards the end of the inquiry.

35. I will need a set of agreed conditions based on the model conditions set out in the Annex to Circular 11/95, which remains current guidance. These should be clear, concise, avoid all unnecessary prescription and keep within the NPPF policy requirements and PPG guidance for conditions, ie they should pass the test of necessity.

### **Conclusion**

36. This note supersedes my pre-conference note of 1 May 2024.

37. Thank you for your assistance in the CMC. I shall look forward to seeing you again at the inquiry.

Jonathan Bore

INSPECTOR

3 May 2024