

CASE MANAGEMENT CONFERENCE NOTE

Appeal Ref: APP/A1530/W/25/3363144

ABRO Development Site, Flagstaff Road, Colchester, CO2 7SR.

Redevelopment of the site to provide 203 residential units and approximately 160sqm of commercial floor space with associated access, public open space, landscaping, car and cycle parking, and associated infrastructure.

Notes from Case Management Conference (CMC) held at 10:00am on 19 May 2025.

Introduction

1. The CMC was led by John Longmuir BA(Hons) DipUD MRTPI as the Inspector appointed by the Secretary of State for the appeal.
2. The CMC considered the management of the case so that the appeal is dealt with in an efficient and effective manner. There was no discussion of the merits of the case.
3. At the CMC the Council was represented by Mr Matthew Henderson, Counsel. The Appellant was represented by Ms Melissa Murphy, Kings Counsel. Others were in observation.

Participation in the Inquiry

4. I will give an opportunity for interested parties (including local residents) to speak during the opening morning. It would be helpful if those intending to speak could inform the Inspectorate's case officer.
5. At this stage no Rule 6 Party is apparent.

The issues and evidence

6. The Council determined the application and the reasons for refusal are summarised as the effect of the proposal on the conservation area and the absence of a signed legal agreement to provide the necessary planning obligations.

7. Both parties indicate that discussions will be ongoing to draft the legal agreement. Assuming that there is close agreement, this will cease to be a main issue and can be considered in a round table session.

8. Therefore, I consider that the main issues in this appeal at this stage are likely to be:

- the effect of the proposal on the Garrison Conservation Area; and
- the provision of a legal agreement to secure affordable housing and measures to mitigate various pressures including social infrastructure, health, heritage, ecology, and transport.

9. The planning merits of the proposal, the Development Plan and planning overview will also need to be discussed at the Inquiry but not as main issues.

10. The suggested conditions are being progressed and they should be discussed in a round table format towards the end of the Inquiry.

11. Both parties appear to be reaching agreement that the Housing Land Supply is between 4.5 and 4.9 years. It will not need to be tested at the Inquiry, if both parties confirm their agreement.

Procedure and Timetable

12. The Council advised that they have difficulties attending the scheduled days of Friday 11 and Tuesday 15 July. Accordingly, the Inquiry will sit on Tuesday 8, Wednesday 9, Thursday 10 and thereafter Wednesday 16, Thursday 17 and Friday 18 July.

13. At the CMC it was agreed that the effect of the proposal on the Garrison Conservation Area will be the subject of formal examination/cross examination. It is apparent that several witnesses are likely to be giving evidence on this particular issue. As such it would be best for the Council to present all its evidence (and witnesses) on this issue, then the Appellant. The planning merits of the proposal, the Development Plan and planning overview should then follow in formal examination/cross examination, firstly presented by the Council, then the Appellant.

14. The Inquiry will commence at 10:00 on the opening day (Tuesday 8 July). Thereafter the sitting days will commence at 09:30 as agreed at the CMC.

15. I envisage 1 hour for lunch and short mid-morning and mid-afternoon breaks. I will avoid breaking in mid examination if at all possible and will therefore shorten or lengthen sittings to accommodate that.

16. I am not adverse to the timetable being drafted by the parties collaboratively.

17. I am open minded when to undertake the site visit but will seek to prioritise Inquiry sitting time. It may be opportune to undertake it between the two blocks of sittings.

Venue

18. I note the Council's e-mail advising that the appeal will be held in The Town Hall Old Library, 65 West Stockwell Street, Colchester, CO1 1PJ.

Documentation

19. Statement(s) of Common Ground should narrow down the areas of dispute, highlight what is agreed and what is in contention. Details of the relevant policies in the Emerging Plan should also be provided. Specific topic based Statements would be welcome. It would be helpful if the Statement(s) could be submitted by Tuesday 3 June 2025 to inform the finalising of proofs of evidence. The Statement(s) could be updated thereafter if circumstances change.

20. All documents should be available digitally, hosted on the Local Planning Authority's website, via hyperlinks on a dedicated core document web page.

21. Proofs of Evidence should be submitted no later than 17:00 Tuesday 10 June 2025. Appendices, particularly where they contain large documents, should be broken down into manageable file sizes.

22. Please can a paper copy of each submission be kindly forwarded to the Inspectorate's case officer.

23. Any rebuttal evidence should be succinct and timely, submitted by 17:00 Friday 27 June 2025.

24. Any evidence/documentation submitted during the Inquiry, including opening and closing submissions, will have to be copied to the Inspectorate and uploaded on to the core document file. A 'running list' of the documents and their reference number will need to be maintained and all parties are requested to assist in this process.

25. Please can copies of the notification letter/publicity be forwarded to the Inspectorate.

Conditions and legal agreement

26. Both parties are asked to keep working on the suggested conditions to save Inquiry time. It would be helpful if the suggested conditions are finalised and submitted well before the Inquiry, so that I can raise any questions in writing before the round table. If there are any aspects disputed by the parties, they can be recorded as such.

27. If there are any pre-commencement conditions agreed, the Appellant should confirm in writing that they are accepted. Consideration will need to be given to the tests set out in paragraph 57 of the Framework.

28. The draft legal agreement should be submitted by 27 June 2025. As discussed at the CMC, a briefing note on the obligations would be helpful, particularly as blue pencil clauses are envisaged. The viability calculations should also be summarised. The Council are also asked to compile a CIL Compliance Statement, and it would be helpful if this could be submitted by 1 July 2025.

Site visit

29. This should be accompanied, with representatives of the Council and Appellant. I will not be expecting any discussion of the case during the site visit, but physical features can be indicated.

30. I am happy to look at the site from any viewpoints or any features that the parties recommend as well as any neighbouring sites. I am open to a viewing schedule being suggested by the parties collectively.

31. The timing can be considered during the drafting of the Inquiry timetable.

Costs

32. All costs applications must be made before the Inquiry is closed. All parties are advised to read the Planning Practice Guidance: Advice on planning appeals and the award [of] costs on the Gov.uk website.

Timescales

Statement(s) of Common Ground 3 June 2025

Proofs of Evidence 10 June 2025

Any rebuttal proofs 27 June 2025

Draft section 106 Agreement 27 June 2025

Suggested conditions 1 July 2025

CIL Compliance Statement 1 July 2025

John Longmuir

INSPECTOR