

**Public inquiry into the proposed change of use and development of land to form the Stour Valley Visitor Centre, Horkesley Park, Colchester.**

**NOTE OF THE PRE-INQUIRY MEETING**

The pre-inquiry meeting (PIM) was held at 10.00 on Thursday 27 June in the Grand Jury/West Committee Rooms at the Town Hall, High Street, Colchester.

**1. INTRODUCTION**

The inquiry has been arranged to consider the appeal made by Bunting and Sons against the decision of Colchester Borough Council to refuse planning permission for the proposed change of use and development of land to form the Stour Valley Visitor Centre on land north of London Road and west of the A134, Little Horkesley, Colchester.

The case has been recovered by the Secretary of State because the appeal involves proposals which give rise to substantial regional or national controversy.

Colin Ball DArch DCons RIBA IHBC is the Inspector appointed by the Secretary of State for Communities and Local Government to hold the inquiry and to report his recommendations to the Secretary of State, who will make the final decision.

The purpose of the pre-inquiry meeting was to provide an opportunity for procedural and administrative matters relating to the inquiry to be explained and discussed, to identify the nature of the evidence to be submitted to the inquiry and to consider a draft programme. There was no discussion on the merits of the proposals.

**2 APPEARANCES for the PARTIES**

At the inquiry the Council's advocate will be Simon Pickles, of Counsel, who is instructed by Karen Syrett, the Council's Spatial Policy Manager. He intends to call 4 witnesses:

1. Chris Hargreaves – sustainability/accessibility/car parking
2. Sue Dodwell – landscape/visual amenity
3. Jill Britton – visitor numbers/viability
4. Karen Syrett – planning matters.

The appellants' advocate will be Patrick Clarkson QC. He will call up to 9 witnesses, (not yet finalised):

1. Appellant Company representative
2. Planning - Tony Collins
3. Listed buildings/heritage – Dr Jonathan Edis
4. AONB – Prof Robert Tregay
5. Ecology/Landscape – Neil Mattinsson
6. Design – Sir Michael Hopkins
7. Transport/traffic – Richard Stacey
8. Viability – to be confirmed
9. Tourism – to be confirmed

The Stour Valley Action Group (SVAG) will appear as objectors. David Whipps, representing SVAG at the PIM, advised that the group may appoint an advocate for at least part of the inquiry. The group will call at least 2 witnesses:

1. Will Pavry – Chair SVAG
2. To be confirmed – tourism/viability

Other objectors confirmed their wish to speak:

Charles Aldous – Chairman, Colne Stour Countryside Association

Chas Bazeley – representing families covenanting land in the Dedham Vale to the National Trust

Katherine Potts – Manager, Dedham Vale AONB and Stour Valley Project

Will Pavry – representing the Dedham Vale Society

The Inspector has been notified that Sir Bob Russell, MP for Colchester, intends to speak in support of the proposal at the inquiry.

The Inspector has seen the many letters of objection and is aware of the strength of local opinion. He made the point that, when it comes to the inquiry, it will serve little purpose if a lot of people speak and all say much the same thing. Instead of using up valuable inquiry time through repetition, it may be preferable simply to endorse what others have already said. A good point only needs to be made once and to endorse a point already made will carry no less weight than if it were made again at length.

The inability to attend the PIM does not prejudice any right to make representations at the inquiry itself and the Inspector will ask again then if anyone else wishes to speak.

### **3. THE NATURE OF THE PROPOSAL**

The proposal is for the change of use and development of land to form The Stour Valley Visitor Centre at Horkesley Park.

The 47.4 Ha site lies in the countryside, on the edge of the Stour Valley, some 6 kilometres north of the A12 and 8 km north of Colchester town centre

The visitor centre would consist of an area of parkland and farmland to form a country park; a core development of single storey buildings including an entrance building, an animal encounter courtyard, indoor and outdoor display rings; a Suffolk Punch Breeding Centre, a café, a visitor shop, a Field to Fork building, a Farming Through The Ages building, an Active Learning building, a Nature Watch building, a Renewable Energy Centre and a demonstration Nursery and Gardens, incorporating part of an existing glasshouse; and conversion of The Chantry to an Art gallery and its outbuildings to creative design workshops, restoration of its gardens and the creation of a new Chinese garden.

The proposal also includes main and overflow car parking, coach and cycle parking, landscaping, highway improvements and other ancillary works.

Most of the site lies within the Dedham Vale AONB, and is crossed by public footpaths. The core area of development is outside the AONB boundary, and would occupy the site of redundant glasshouses and other buildings which make up the former tomato nursery.

The appellants do not propose any amendments to the scheme considered by the Council at planning application stage.

The appellants carried out an Environmental Impact Assessment and have submitted a very detailed Environmental Statement (ES), updated from an earlier 2009 application to the 2012 application. The ES is site specific, it covers all the matters that a development of this type would be expected to give rise to, and it sets out local mitigation proposals where necessary. Consultation responses have been addressed and it includes a non-technical summary. The Inspector considers that the ES meets the terms of the current EIA Regulations. It provides the data and information required to adequately assess the impact of the proposal on the environment. The Inspector expects to hear more evidence related to environmental matters, and will take all that environmental information into account.

The Council advised that it was re-examining the ES and would make any observations by mid-July

#### **4. ISSUES FOR THE INQUIRY**

From his preliminary reading of the documents, with particular regard to the reasons for refusal, the Inspector considers that the main considerations in this appeal fall within 3 broad headings:

1. whether the site can be considered to be in a sustainable location, with particular regard to means of access;
2. the impact of the proposal on the character and appearance of its rural surroundings, and in particular on the purpose, landscape character and scenic beauty of the Dedham Vale AONB; and
3. whether there are any other material planning considerations which might support or undermine the proposal when assessed against the adopted planning framework for the area.

There may be other points to consider – for example the Inspector is required to consider the impact on the setting of the listed church – but there were no other matters suggested by any party at the PIM as main considerations for the inquiry.

#### **5. THE NATURE OF THE EVIDENCE**

The Inspector has read the statements of case from the Council and the appellants, and the statement of common ground. These statements helped to determine the main considerations outlined above and should form the basis of the main parties' evidence given to the inquiry. The Inspector expects to hear evidence on all the matters identified, preferably structured as set out the main considerations.

As well as the detailed submission from SVAG, the Inspector has seen the large number of letters and emails from objectors and supporters, the majority objecting. Those of them who wish to speak are invited to provide written statements, submitted in accordance with the inquiry programme. Early disclosure of evidence is vital to the appeal procedure. The inspector will hear oral evidence at the inquiry from other third parties who decide to speak. Any documents submitted at the inquiry to support points made will be taken into account but they should not raise new issues or anything that comes as a surprise. That could lead to an adjournment and a waste of time and expense.

The evidence of third parties who do not wish to speak or do not attend the inquiry will be assessed on the basis of their written submissions. These will be taken as read and it will not be necessary for them to be considered further at the inquiry unless points of principle arise.

All proofs of evidence should be concise, with no unnecessary repetition of other inquiry documents or the text of local or national policy guidance. Clear reference should be made to appendices which should include any relevant policy extract and its title page.

A summary is required of any proof of evidence which exceeds 1500 words.

The Inspector notes that a s106 agreement is being considered as part of the proposal. He expects to have at least a draft Heads of Terms of any agreement with the proofs of evidence. A final draft of any agreement or undertaking should be submitted before the inquiry opens as it may further reduce the number or extent of matters at issue. It will be discussed in a discrete inquiry session. A certified copy of the executed document should be provided by the close of the inquiry. An unsigned document cannot take effect and the Inspector will report on that basis, and not on the assumption that a completed document might be forthcoming at a later date.

An agreed list of suggested conditions, considered necessary should the Secretary of State allow the appeal, should be submitted with the proofs of evidence.

## **6. SUBMISSION AND DISTRIBUTION OF DOCUMENTS**

Proofs of evidence, appendices and summaries must be submitted by 4 weeks before the inquiry, that is Tuesday 3 September. Draft planning obligations and suggested conditions should be submitted with the proofs.

It would also be helpful to have a list of core documents. They should include the application documents, policy statements, development plan extracts, supplementary planning guidance, committee reports and the like. A set of these documents should be available at the Council's offices for anyone who does not have ready access to them. There should be no need for individual witnesses to include extracts of these within their own appendices.

A preliminary list was tabled at the PIM. The core documents need to be identified and numbered quickly enough for them to be useful to everyone when preparing evidence for the inquiry. The Council agreed to produce a finalised list, in consultation with the appellants, within the next 7 days and to circulate it through the case officer.

The Inspector will need copies of the core documents, although there is no need to provide another set of application documents or any national policy documents referred to.

The Inspector will need 2 copies of the proofs and other documents. It would help the smooth running of the inquiry if the Appellant, the Council and third parties submitting evidence would provide 1 copy of their evidence for each other and, in addition, 1 copy to be held with the core documents at the Council's offices, and then at the venue, as part of an inquiry library for others to refer to and if necessary copy.

This is so that all the evidence is able to be seen by everyone some time before the inquiry so that what is read out at the inquiry itself can be limited to summaries. The Inspector will have read it all in advance. Everyone else will have had the opportunity to do the same. Thus, all that needs to be read out at the inquiry is the gist of what each witness is saying – even though the whole of the evidence is open to cross-examination.

The proofs of evidence will become inquiry documents sent on to the Secretary of State, as will the closing submissions.

It is helpful to the Inspector to have opening and closing submissions in writing, and for the parties to provide closing submissions electronically, preferably by email to the case officer. That would enable the Inspector to quickly summarise the individual cases as part of his report.

The Inspector agreed in principle to accept rebuttal statements as they can clarify the matters at issue. Such statements should only make reference to evidence submitted by an opposing party's witness and should not include new evidence. Any rebuttal statements are to be submitted 2 weeks before the inquiry opens, that is by 17 September.

## **7. NUMBERING OF DOCUMENTS**

All documents should be submitted in A4 size or folded to A4 size, with no unnecessary wire or plastic spiral binders or plastic cover sheets.

Supporting documents, diagrams, photographs or other appendices are to be bound separately from the text of the evidence but should be clearly referenced at the relevant points in that text. Where tables or such-like are produced within the evidence, they should also be reproduced as separate appendix documents. Appendices should be indexed and clearly tabbed.

All the proofs of evidence, appendices and other supporting documents should be numbered to identify the originating party. Documents should be numbered in sequence starting with the proofs.

The simplest way to do this is to use the prefix AP for the appellants' documents, CO for the Council, CD for Core Documents and TP for third parties. These identifying letters should be followed by a number for each witness, with a further identifying number for each document.

For example, the appellants' witnesses would be AP1, AP2, etc. The first witnesses proof would be AP1.1, appendices AP1.2 and so on. The summary of the proof would be AP1.S. The Council's documents would be CO1.1, CO2.1 etc. Third parties should identify themselves as TP1, TP2 etc, numbering documents in the same way. It was agreed at the PIM that adding an acronym for third parties would aid clarity, for example SVAG's first witness' proof would be TP1/SVAG1.1, appendices TP1/SVAG1.2 and so on. Other third parties submitting evidence to follow suit.

It would be useful for each party to keep a list of their documents and submit it to the Inspector at the end of the inquiry.

## **8. INQUIRY PROCEDURE**

After the Inspector's introduction, short opening statements of no more than 15 minutes or so will be invited from the Appellants' and the Council's advocates, simply to set the scene and to indicate the nature of the evidence to be brought to the inquiry. The Appellant will speak first, and then the Council.

After these brief opening statements, the Council's advocate will make any opening submissions and then call his witnesses in turn to present their evidence. Each witness may be cross-examined by the appellants advocate, and by third party supporters of the proposal. Witnesses may be re-examined by their own advocate in order to clarify answers previously given, and the Inspector may have questions.

After the Council's witnesses have been heard, the inquiry will hear from the third parties who wish to speak in objection. The appellants advocate, and third party supporters, will be given an opportunity to ask them questions.

After the third party objectors have been heard, the inquiry will hear evidence from the appellant's witnesses. Each witness will be open to cross examination by the Council's advocate and third party objectors, to re-examination and to questions from the Inspector.

After the appellants' witnesses have been heard, the inquiry will hear from any supporters of the proposal. They will be open to questions from the Council's advocate and third party objectors.

This process will not be a free for all. Cross examination of witnesses by third party objectors or supporters will be restricted to those who have indicated that they wish to speak in evidence at the inquiry.

The Inspector will ask again at that time if there is anyone else who wishes to address the inquiry.

There will then be a discussion on the Section 106 planning obligation. The Inspector expects to see evidence to demonstrate how each provision meets the tests of the CIL Regulations. The inquiry will also consider the suggested conditions which might be appropriate in the event that the appeal is allowed.

On conclusion of that process the Inspector will make arrangements for an accompanied site visit. He considers there to be advantages in making the visit after he has heard all the evidence but before he hears the closing submissions. It would be helpful if the parties could agree a site visit itinerary to make sure the Inspector sees points referred to in evidence.

After the visit has taken place, the inquiry will end with closing submissions in reverse order – first any objectors or supporters who wish to sum up their position in the light of the evidence they have heard; then the Council's final statement; and ending with the appellants' final submissions.

The Inspector will then establish whether there are any other matters to be considered before he closes the inquiry.

In that respect the Inspector notes the indications of a costs application by the appellants. The principle of early disclosure of evidence applies equally to costs. If it is intended to proceed, the appellants are referred to paragraphs A30-35 of the Costs Circular - an advance written skeleton argument with responses and final comments should be submitted before the inquiry opens. Any costs application will be heard after the closing submissions but before the inquiry is closed.

## **9. INQUIRY DATES AND SITTING TIMES**

The inquiry has an agreed bespoke programme.

The inquiry is scheduled to open at 10am on Tuesday 1 October. It will sit for up to 12 days, that is 1-4, 8-11 and 15-18 October.

As an agreed programme, extension or adjournment for additional sitting days is not anticipated.

Normal sitting days will be from 10 am to 5 pm or so, with an hour for lunch from about 1-2, except on Friday – there will not be a lunch break then and the inquiry will adjourn at 2.30 pm. If necessary, time could be made up by 9.30 starts.

## **10. INQUIRY TIMETABLE**

From the necessarily approximate time estimates given at the PIM the Inspector has drawn up a draft inquiry timetable, attached to this note.

The Inspector asks all parties to the inquiry to consider the draft and to comment on it, particularly in regard to witness order, times, etc, with the aim of agreeing a programme that can be adhered to in overall terms, so as to avoid the need to overrun and/or adjourn.

## **11. INQUIRY VENUE AND ACCOMMODATION ARRANGEMENTS**

For the first 2 weeks the inquiry will sit at the Langham Community Centre and for the final week at the Town Hall in Colchester

The Council confirms that both venues are of a size and layout suitable for the

numbers expected to attend.

Room layouts should include a desk and work table on a dais for the Inspector, a witness table nearby, desks and tables for the participating parties, and public seating.

There should be a public address system, with if possible a hearing loop, and it should be possible to lock up and leave papers securely overnight. There should be a separate retiring room for the Inspector's use and it would be helpful to have meeting rooms available for the other parties. The inquiry library should be held at the venue and there should be photocopying facilities available. A display area should be provided, perhaps associated with the inquiry library.

## **12. Any other matters**

The Inspector confirmed that, before the PIM, he had made an informal unaccompanied visit to the site, viewing it from the public highway and public footpaths, and had seen the nature of its surroundings and the character of the wider area of countryside. As part of this he had also visited Langham and had seen the Community Centre, the venue for the first part of the inquiry.

SVAG indicated that it was contemplating application for Rule 6 status. The appellants helpfully offered to provide/cross exchange full copies of their evidence at proof stage, 4 weeks before the inquiry. That would give SVAG most of the benefits of Rule 6 status without the formal responsibilities and costs of becoming a main party to the inquiry. SVAG will consider its position.

Third party objectors raised the issue of viability. While specifically not a reason for refusal, viability concerns informed the Council's judgement on whether the proposal was commercially sustainable and could be delivered. The Inspector confirmed that, while the cost of development and profit levels are not normally planning considerations, viability can in some circumstances be a material consideration. It would be up to the Council to justify its stance in this regard.

In this respect a confidential Business Plan had been provided with the planning application and had been examined by the Council's officers and external consultants. While Council members had not seen it, their decision was based on advice received. The Inspector had already confirmed that he could not take into account evidence which was not available to all the parties. Third party objectors asked how this matter would be dealt with at the inquiry. The appellants confirmed that they were now prepared to put their Business Plan in the public domain, subject to a final check.

Third party objectors were concerned that they would be put at a disadvantage by the production of what could be new evidence at a late stage in the appeal. The appellants confirmed that their submission would be entirely based on the material already submitted. They undertook to provide it within 2 weeks (mid-July) and to meet the Council and third party objectors to discuss it, with the aim of producing a tripartite statement of common ground, isolating the matters in dispute, by the end of July. The Inspector welcomed this undertaking, since it would give all parties ample time to consider this particular aspect of the appeal before the inquiry opens on 1 October.

CB.1/7/13

**Public inquiry into the proposed change of use and development of land to form the Stour Valley Visitor Centre, Horkesley Park, Colchester.**

Draft programme - Inquiry opens at 10.00 on Tuesday 1 October 2013

Day 1	1/10	am	Inspector's introduction Opening statements (Appellant/Council) Council – Hargreaves - sustainability/accessibility
		pm	Council – Hargreaves - sustainability/accessibility
Day 2	2/10	am	Council – Dodwell – landscape/visual amenity
		pm	Council – Britton – visitor numbers/viability
Day 3	3/10	am	Council – Britton – visitor numbers/viability
		pm	Council – Syrett – planning matters
Day 4	4/10	am	Third party objectors - individuals
		pm	Adjourn 1430
Day 5	8/10	am	Third party objectors - SVAG
		pm	Third party objectors - SVAG
Day 6	9/10	am	Appellants – Company representative
		pm	Appellants – Collins - planning
Day 7	10/10	am	Appellants – Edis – listed buildings/heritage
		pm	Appellants – Tregay - AONB
Day 8	11/10	am	Appellants – Mattinson - ecology
		pm	Appellants – Hopkins – design Third party supporter (Sir Bob Russell MP)* Adjourn 1430
Day 9	15/10	am	Appellants – Stacey – transport/traffic
		pm	Appellants – Witness tbc - viability
Day 10	16/10	am	Appellants – Witness tbc – tourism
		am	Any third party supporters
		pm	s106 planning obligations/conditions
Day 11	17/10	am	Accompanied site visit
		pm	Accompanied site visit
Day 12	18/10	am	Closing submissions
		pm	Costs application Inquiry closed

\* Sir Bob Russell is only available to speak on Fridays so this space is reserved.  
Timing to be confirmed