

INSPECTOR'S NOTE OF PRE-INQUIRY MEETING

Held at the Fielder Centre, Hatfield Business Park, AL10 9TP

On Thursday 6 June 2013

1. The Pre-Inquiry Meeting (PIM) was for an Inquiry that is to open on 10 September 2013 into an application by Veolia Environmental Services Ltd for the demolition of existing library and training buildings and construction and operation of a recycling and energy recovery facility (RERF) for the treatment of municipal, commercial and industrial waste together with ancillary infrastructure, including bulking/transfer facilities, administration/visitor centre, landscaping, habitat creation, drainage and highway improvement works at the Fielder Centre... The application has been called in for determination by the Secretary of State (SoS).
2. The Inspector, David Richards, has been appointed to hold the Inquiry and report with a recommendation to the SoS.
3. The PIM was held to save time at the Inquiry and to make it more effective by avoiding surprises at the opening of the Inquiry and clarifying the issues. The meeting was concerned solely with procedural matters. There was no discussion of the merits of the proposal.
4. The case officer for the Inquiry is Leanne Palmer, who is in the PINS major casework team, phone number 0303 444 5471, E mail leanne.palmer@pins.gsi.gov.uk.
5. The **appearances** for the main parties are:

Rhodri Price Lewis QC for the Applicants - Veolia (VES)
Stephen Morgan of Counsel

Mark Lowe QC for Hertfordshire County Council (HCC)

Wayne Beglan of Counsel for Welwyn Hatfield BC (WHBC)

Guy Williams of Counsel for English Heritage (EH)

Adrienne Copithorne for New Barnfield Action Fund (NBAF)

Adrienne Copithorne for Gascoyne Cecil Estates (GCE)

Individuals and other groups:

Margaret Eames

Valerie Dorantt (Welwyn Hatfield Friends of the Earth)

Mick Bee (Herts without Waste)

John Webb (Herts without Waste – possible standby)

Ray Stevens

Clive Bennett

Marian Goodwin

Adrienne Nix

Cllr Peter Heyman (Hatfield Town Council – possible)

Cllr Mark Mills-Bishop (Herts CC Hatfield Rural)

6. The inability of anyone to attend or be represented at the PIM does not prejudice their right to make representations at the Inquiry. Anyone who wishes to speak should let the Case Officer know (details at paragraph 4 above, or contact the programme officer when appointed.
7. Inquiry venues and accommodation requirements
 - Accessibility by public transport
 - Inquiry room of sufficient size
 - Accessibility for the disabled
 - PA system
 - Retiring room for Inspector
 - Consultation rooms for main parties
 - Telephone and photocopying facilities
 - Secure storage for papers overnight and/or the weekend.
8. The Fielder Centre will not be available for the whole of the Inquiry, but is available for the first week. The second and third weeks will be held at the Comet Hotel (Ramada Hatfield) St Alban's Road West, Hatfield, AL10 LRH. (www.ramadahatfieldhotel.co.uk).
9. As discussed below it is likely that the Inquiry will run for longer than originally estimated. Herts CC will arrange and publicise accommodation for other sessions.

10. Administrative Arrangements

Herts CC is making arrangements to employ an independent programme officer for the Inquiry and will publicise contact details when the appointment has been made. The programme officer will be a neutral point of contact for the parties, members of the public and myself. His/her role will be to ensure documents submitted during the Inquiry are copied and indexed, to manage the Inquiry library, to assist me in compiling and reviewing the Inquiry timetable, to keep members of public up-to-date with the progress of the Inquiry and to contact those who have requested to speak at a particular time.

Mr Peter Griffiths of Hertfordshire County Council Planning Department was volunteered to act as a temporary point of contact pending the appointment of the programme officer. Alternatively people could contact the case officer (see paragraph 4 above) if they preferred.

11. Main Issues

Starting with the matters on which the SoS wishes to be informed, these are:

Consistency with the development plan for the area;

Its conformity with the policies contained in Planning Policy Statement 10: Planning for Sustainable Waste Management and the National Planning Policy framework

The impact of the proposed development on the significance of a designated heritage asset.

Any other matters that the Inspector considers to be relevant – these are, not in any order of importance:

Effect on Green Belt

Whether very special circumstances exist

Landscape and Visual

Site selection process

Conformity with the waste hierarchy/disincentive to recycling

Need in Hertfordshire

Prematurity

Air Quality and health

Other effects – Transport, Ecology, Noise

Adequacy of Environmental Statement

Conditions

S106 Obligation if any

12. Clarification on main issues

Health can only be considered in the context set by PPS10 paras 26 – 31. Those raising health issues should read these paragraphs carefully.

The adequacy of the Environmental Statement has been queried by the legal representatives of NBAF and GCE, amongst others. In particular it was argued that the omission of an assessment of the environmental impact of temporary accommodation for Southfield School is a serious omission as the entire development is properly considered to consist of both the RERF facility and the relocation of Southfield School.

An EIA review has been carried out by the Planning Inspectorate (PINS) - copy attached to these PIM notes - which has found that the Environmental Statement can be regarded as satisfactory.

Mr Price Lewis QC offered on behalf of his clients to submit further information with respect to Southfield School if I were to make a Regulation 22 direction to that effect. However, in the light of the assessment by PINS, I do not consider it is necessary for me to make such a direction. There is nothing to prevent the Applicants submitting further information on a voluntary basis should they so wish. If they do so, it would need to be advertised together with the ES in accordance with the regulations.

Herts without Waste (WoW) also raised the issue of release of information by Herts CC. However, it was stated that the Council has agreed to release the information in principle, and was in discussion with Herts WoW as to how the data could be meaningfully provided.

The issue of conditions must be considered in all appeals so that the decision maker can be aware of the matters which the parties wish to control. So regardless of my recommendation to the SOS as to whether permission should be granted or refused, I will have to deal with conditions that he may wish to consider if he were to decide to

grant planning permission. A list of draft conditions has been submitted, and there will be a session to consider these at the Inquiry.

If a Section 106 obligation is to be submitted it should be provided in its intended final form by the opening day of the Inquiry and be completed before the close of the Inquiry.

I understand that an Environmental Permit has been issued and this will inform the consideration of a number of issues.

13. Statements of Common Ground (SoCG)

These have been prepared between:

WHBC, HCC and Veolia
Veolia and HCC as Waste Planning Authority
English Heritage and Herts CC.

Others can be prepared between other parties including the Applicant, the planning authorities and the Rule 6 parties. Such Statements are made available for others to see and, if they disagree with any of the agreed matters, no doubt they will say so in their evidence. They are very useful in focusing the attention of the inquiry on matters in dispute and thereby shortening the inquiry and making it more efficient.

Opposing parties should meet before the inquiry to discuss matters and to narrow the issues so that the inquiry can focus on the matters that remain in dispute. Inquiry time is very expensive for us all and it should not be wasted.

The statements should be factual. They should not include opinions and comments. These should be dealt with in your evidence to the inquiry. The parties should identify areas where agreement is not possible, as well as where it is. Some points might simply need a cross reference to other documents such as the Environmental Statement.

As proofs of evidence should be submitted by 30 July 2013, it would help if any SoCGs could be submitted no later than a week before then – by 23 July – and much earlier if possible so that they can be taken on board in the preparation of the evidence.

14. Procedure at the Inquiry

There is merit in simplifying matters by grouping the main parties into those 'for' and those 'against' the proposal. The inquiry will hear those for the proposal followed by those against it. (A request for a topic based session to deal with Heritage matters is dealt with below para 22).

Thus, as a general rule, the 'batting order' will be:

Applicants
Hertfordshire CC

Welwyn Hatfield BC
English Heritage
New Barnfield Action Fund (NBAF)
Gascoyne Cecil Estates

Any others who are legally represented (for or against)

Other interested persons (for or against).

This sequence for the main parties will be used for the presentation of the cases and for the sequence of cross examination (XX) subject to there being XX only of an opposing view.

Brief opening statements (10-15 minutes maximum) should be made in the same sequence by the main parties. Closing statements will be in the reverse order, with the appellants' advocate speaking last.

For each witness, there will be the normal sequence of evidence in chief, XX and re-X. Normally, only summaries of proofs will be read out at the inquiry, subject to any matters requiring clarification. But XX can take place on any of the witness' evidence.

Closing statements should be submitted in typed form, suitable for inclusion – at least in part – within my report and it will help me if a copy is submitted in electronic form in Word format. The submission of copies of proofs, summaries of proofs and a schedule of conditions (agreed if possible) in electronic form will also help me to be more efficient and effective in writing my report.

“Evening sessions” are dealt with under the item on inquiry dates and sitting times.

15. Rule 6 Parties

This status is for those parties who intend to play a major part in an inquiry. Rule 6 parties have responsibilities as well as rights. In this case, the Borough Council, EH, NBAF and GCE, have submitted their Statements of Case. Their Rule 6 status entitles them to appear at the inquiry, to call evidence and to XX.

16. Nature and Format of Evidence

I refer the main parties to the Planning Inspectorate Procedural Guidance (PINS 01/2009 – which Google can find). Section 6 of this deals with Inquiries, including at 6.6 Statements of Common Ground and, at 6.8, Proofs of Evidence. Summaries must be provided for any proofs that exceed 1500 words. The main parties should comment as necessary on the submitted written representations.

17. Inquiry Timetable

The initial assessment for the length of the inquiry was 12 days. However it was clear that in view of the issues raised and the number of witnesses to be called that longer would be needed, possibly 6 sitting weeks. I appreciate that this may cause some difficulty for parties, but it is not possible to contain the Inquiry to three weeks.

At this stage, the parties have indicated that they intend to call the following witnesses:

Applicants (VES):

Keith McGurk	Company overview
Richard Kirkman	Technology choice
Paget Fulcher	Transport
Alf Maneylaws	Noise
Roger Barrowcliffe	Air Quality
Jim Bridges	Health
Simon Aumonier	Climate Change
James Riley	Ecology
Matthew Chard	Landscape
Andres Harris	Cultural Heritage
Steven Kosky	Planning

Hertfordshire County Council (HCC):

Ian Leech	Case officer
Andrew Brown	Heritage
Jonathan Billingsley	Landscape
Vetti Vetti-Vellu	Transportation

Welwyn Hatfield Borough Council (WHBC):

Anthea Hoey	Site selection and alternative sites assessment
Tim Morgan	Waste hierarchy, scale and size of proposed facility
Patrick Kerr	Transport
Mark Flatman	Landscape and visual impact
Marcus Watts	Noise
Simon Chivers	Green Belt, Planning Policy, Planning Balance

English Heritage (EH):

John Neale	Heritage Impact
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New Barnfield Action Fund (NBAF):

Cathy Roe	Impact on community and amenity
Paul Zukowskyj	Site selection and prematurity
Claire Taylor	Green Belt
Cllr Dreda Gordon	Impact on Southfield School

Anastasia Nicholas Impact on Gobions Folly Arch
Adam Edwards Impact on Cycleway

Gascoyne Cecil Estates

Peter Clegg or Operational impacts on Hatfield House
 Anthony Downs
Gavin Fauvel Visual impact/mitigation

Total number of witnesses at present is 30.

Proofs of evidence have not yet been prepared. It is too early to estimate how long each witness will take. With this in mind, a 'rule of thumb' is 0.75 days per witness or 1:1 where there will be more than one advocate asking questions, to give an overall figure that is sufficient to include openings, closings, conditions and residents sessions. On that basis, this inquiry is likely to last 23 - 24 days.

However, the timetable for the inquiry is not 'set in stone' and, if good progress is made, it will be shortened.

18. Inquiry Dates and Sitting Times

I normally sit from 10am until about 1.0pm and from 2.0pm until 5.0. The lunch adjournment can be varied depending on the stage reached in the proceedings. Also, I would be prepared to start earlier – say 9.30am, on mornings after the first day if the parties wished it and to end shortly after lunchtime on a Friday to allow for travelling home. A 10 - 15 minute break can be arranged at a convenient time each morning and afternoon for tea or coffee.

There will be benefit in having a break of a couple of days at the end of the inquiry before I hear the closing submissions, to allow time for the advocates to prepare their closings. I could also do my site visit at this time.

If the inquiry lasts the expected 24 days, it would sit on:

Week 1 Tues 10/9 to Fri 13/9 = 4 days

Week 2 Tues 17/9 to Fri 20/9 = 4 days

Week 3 Tues 24/9 to Fri 27/9 = 4 days

Break Mon 30/9 to Fri 04/10

Week 4 Tues 08/10 to Fri 11/10 = 4 days

Week 5 Tues 15/10 to Fri 18/10 = 4 days

Week 6 Tues 22/10 to Fri 25/10 = 4 days

Thus, the inquiry would end on 25/10/13 if this estimate is correct or earlier if possible.

Evening sessions for residents can be arranged if there is adequate demand, and it is assumed that there will be. These would normally take place at a point in the inquiry timetable after hearing the cases for the main parties and round about the time for the sessions on Conditions and any S106 Obligations. On any day with an evening session, there would be no morning session that day and we would sit from 14.00 to 17.00 hours and then have the evening session from 19.00 to 22.00 hours.

19. Documents

Proofs and summaries will be listed as documents. References to them can then be made in my report.

Documents should have a suitable short prefix to denote their source. Referencing should be kept simple, with a single or two letter prefix. It was agreed that the prefixes will be 'H' for HCC, 'V' for the appellants, 'WH' for the Borough Council and 'EH' for English Heritage, NB for NBAF and GCE for Gascoyne Cecil Estates.

This numbering system will assist with keeping documents in order and retrieving them quickly during the inquiry. The document list will need to be updated regularly. Can I ask HCC to undertake that responsibility in liaison with other parties.

Further points of detail: please

Use at least an 11 point font which is easy read on a document or see on a screen (and preferable Verdana).

Use A4 paper whenever possible.

Use black ink and capitals if you need to write on a document.

Ensure photocopies are clear and legible.

Place photos, maps and plans in a separate folder or appendix and cross reference them to the text.

Do not try to cram too many papers into a folder.

All documents should be paginated throughout so that references can be found easily during the inquiry and precise references be included in my report.

It is not normally necessary to send valuable original documents.

Thirty copies of documents should be submitted, to allow for those for the parties, the inquiry library, for the public to examine and for me. Also electronic copies will be needed for the inquiry website. Electronic copies of Appendices need to include the reference number on the front cover.

Any additional documents submitted during the inquiry must be appropriately referenced before I accept them. Copies must also be given to the Inquiry admin officer for the inquiry library and to update the documents list.

Core Documents (with the prefix CD) are background documents of relevance to the inquiry, such as the development plan. It would be expensive and wasteful to have the same documents submitted by more than one party. The parties should liaise over which ones they will submit and they must keep the PO informed. If it only necessary to submit a short extract from a Core Document, this will be cheaper but it must be provided in context with the related supporting text and the front cover included. It would also help to have hotlinks to the full document.

The list of Core Documents should be in topic groups with gaps in the numbering between them to assist the inclusion of additional ones. I will need a copy of the Core Documents and there needs to be an inquiry library copy with, if possible, an electronic copy and other copies via the PO for the public as necessary. It is not unusual for many Core Documents to not be used during an inquiry so it would be wrong to have 20 copies of each provided. Additional copies of ones that are being well used will be provided as necessary.

Rebuttal proofs deal with matters that were not foreseen in opposing proofs. While I would not encourage a proliferation of documentation at a late stage, focused rebuttals on points raised in an opposing proof can help the efficiency of the Inquiry. But they must be submitted in good time, preferably two weeks before the start of the inquiry but - no later than one week before.

20. Residents/third parties

A large number of people attending the PIM indicated that their views would be represented by NBAF.

Around 10 people have asked to speak at the inquiry so far (in addition to those who will be appearing as witnesses for the Rule 6 parties. Other residents who wish to speak at the inquiry should give their contact details to the case officer, or to the programme officer when appointed. The simplest way is by email or letter before the inquiry but equally effective would be by turning up at the inquiry on the first day and giving details then.

Residents appearing at the inquiry should marshal their thoughts beforehand and put them down on paper, with copies for me and the

main parties. Residents might face questions from the opposing side but this often does not take place at residents' sessions and, in any event, I will ensure that there is no aggressive questioning.

No matter how strongly people feel about this proposal, there is nothing to be gained by a procession of people all saying the same thing. On the day, some residents might decide that their point had been made and that it did not need to be repeated. Repetition should be avoided.

Residents/third parties should submit their statements for circulation not later than three days before they are to speak at the inquiry. However, this is not to say that anyone who does not do so would not be able to speak at the inquiry but, as I say above, inquiries are not the place to spring surprises. If a statement is not provided electronically/on paper, then the resident would have to speak slowly, at 'dictation speed', when appearing so that I could make notes.

Any technical matters to be submitted by residents/third parties should be submitted by 23 July 2013 (the same submission date as SoCGs) so that they can be addressed in proofs by the parties.

21. Inquiry Library

Documents and proofs etc should be available for the public to inspect. HCC and WHBC are requested to give consideration to where such documents should be placed on deposit for the public to view. HCC helpfully offered to set up a website where all documentation could be read by those with access to the internet. There would need to be close liaison with the programme officer to ensure that the website is updated regularly. The inquiry website will include the programme, the witnesses and the subjects that they deal with.

22. Other procedural arrangements

EH asked for consideration of a topic-based approach (i.e. hearing all witnesses dealing with a specific topic one after the other rather than within their positions within the 'batting order') particularly for the Effect on Heritage Assets.

The parties agreed to facilitate this, bearing in mind that there would be some overlap with landscape/visual impact, so that these matters would be heard together to avoid the need to recall witnesses. It is expected that this topic based session would occur in the third week of the Inquiry.

David Richards

12/06/13.