



The Planning Inspectorate

**APPEAL REFS: APP/X5210/W/19/3243781 (Appeal A) and
APP/X5210/Y/19/3243782 (Appeal B)
135-149 Shaftesbury Avenue, London WC2H 8AH**

PRE-INQUIRY MEETING SUMMARY NOTE

1. The pre-inquiry meeting between the Inspector and representatives of the appellant, the London Borough of Camden (the Council) and three Rule 6 Parties (the Theatres Trust (TT), the Covent Garden Community Association (CGCA), and the Phoenix Garden (PG)) took place on Friday 28 February 2020.
2. The Inspector appointed to conduct the Inquiry is Tom Gilbert-Wooldridge. The Inquiry will open at 10:00 on Tuesday 28 April 2020 at a venue to be confirmed by the Council shortly. The Inspector will aim to finish each day at around 17:00 and, with the exception of the first day, the Inquiry will resume at 09:30 on subsequent days.
3. The Council indicated that it would look to provide an officer during the event to assist with administration and to act as a point of contact for interested parties.
4. The Council should ensure that interested parties are made aware of this note. It is recommended that a copy be posted on the Council's website.

Main Issues

5. At the meeting, the Council indicated that reason for refusal 3 (Appeal A) relating to noise and disturbance could be resolved through further details submitted before the Inquiry, while reasons for refusal 4-14 (Appeal A) could be addressed via a legal agreement. The Council will seek to clarify its position before the proofs are due. The CGCA and PG confirmed that they have concerns relating to some of these reasons for refusal including Nos 3, 8 and 9. The PG has also raised concerns regarding biodiversity and users of the garden.
6. At this stage, based on the material currently submitted and the discussions at the meeting, it was agreed that the main issues are likely to be:

For both appeals:

- a) the effect of the proposal on the significance of the host listed building and the nearby Seven Dials and Denmark Street Conservation Areas;

For Appeal A only:

- b) the effect of the proposal on the provision of cultural and leisure facilities;
- c) the effect of the proposal on the occupiers of neighbouring properties and the users of The Phoenix Garden, with particular regard to noise and disturbance, light, privacy and outlook;

- d) the effect of the proposal on biodiversity within The Phoenix Garden; and
- e) whether the proposal would make adequate provision to address effects on the local highway network, energy efficiency and climate change, and local employment, training and skills.

Dealing with the main issues

- 7. The first two main issues set out above will be dealt with through the formal presentation of evidence in chief by the witnesses for each of the relevant main parties, which would be subject to cross-examination. Due to overlapping matters for the first two main issues, it was considered that each party would present its evidence in full on both main issues before the next party. However, the Inspector will confirm whether a topic based approach would be more appropriate once he has received the proofs of evidence and any further statements of common ground.
- 8. The third, fourth and fifth main issues will be dealt with as round table discussions which the Inspector will lead, informed by the proofs and statements of common ground. The Inspector will issue agendas for the discussions beforehand as necessary.
- 9. Other matters raised by interested parties should be addressed by the appellant and Council in the proofs of their respective planning witnesses and at the Inquiry itself as necessary.
- 10. The parties indicated their willingness to engage in further discussions on the main issues to reduce areas of dispute prior to the Inquiry. In addition to the overarching statement of common ground between the appellant and the Council, the Inspector advocated the production of topic specific statements of common ground and/or statements of common ground between specific parties.

Conditions

- 11. An agreed schedule of suggested planning conditions and the reasons for them, including references to any policy support, should be submitted at the same time as the proofs. Careful attention must be paid to the wording, and the conditions will need to be properly justified having regard to the tests for conditions, in particular the test of necessity. Any differences in views on the suggested conditions, including alternative wording, should be highlighted in the schedule with a brief explanation.

Planning Obligations

- 12. An initial draft legal agreement has been submitted. This should be shared with all of the main parties. The appellant indicated that they are willing to discuss specific obligations with relevant parties to try and address their concerns. Any final draft legal agreement should be submitted two weeks before the Inquiry opens and should be accompanied by the relevant office copy entries along with a Community Infrastructure Levy (CIL) Compliance Statement prepared by the Council. The statement must contain a fully detailed justification for each obligation sought. Time will be allowed after the Inquiry for the submission of a signed version of the legal agreement.

Core Documents/Inquiry Documents

13. The parties will work together on an agreed list of Core Documents so they can be properly referenced in the proofs and at the Inquiry. The Core Documents should comprise only those documents to which the main parties will be referring. The National Planning Policy Framework does not need to be included as a specific core document. Any appeal decisions on which parties intend to rely should each be prefaced with a note explaining the relevance of the decision to the issues arising in the Inquiry, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon. A hard copy set of the Core Documents, appropriately labelled and tabbed, is to be provided at the Inquiry venue, with an electronic copy submitted to the Inspector at the same time as the proofs.
14. Where any documents on which it is intended to rely are lengthy, only relevant extracts need to be supplied, rather than the whole document. Such extracts should, however, be prefaced with the front cover of the relevant document and include any accompanying relevant contextual text.
15. Any documents submitted once the Inquiry has opened will be recorded as Inquiry Documents on a separate list, overseen by the Inspector. A minimum of five copies of any new documents produced at the Inquiry will be required, one for the other main parties and one for the Inspector, with extra copies to be made available to assist interested parties.

Inquiry Running Order/Programme

16. In terms of the running order, following his opening comments on the first day of the Inquiry, the Inspector will invite opening statements from the main parties which should take no longer than 5-10 minutes – appellant first, then the Council, and then the three Rule 6 parties (TT, CGCA and PG - order to be agreed). Written copies of these statements should be provided.
17. The Inspector will then hear from any interested parties who wish to speak, although there is scope for some flexibility if someone has difficulties that prevent them from attending and speaking on day one.
18. Next will be the round table discussions on the third, fourth and fifth main issues. This will be followed by the evidence in chief and cross-examination on the first and second main issues. The Council's witnesses would go first followed by the witnesses for the Rule 6 parties and then the appellant's witnesses. Interested parties will be able to ask questions of witnesses where appropriate.
19. On conclusion of that, the Inspector will lead a round table discussion on the draft conditions and planning obligations. That will be followed by closing submissions which should be no longer than 30-45 minutes, with the Rule 6 parties going first followed by the Council and the appellant. They should set out the parties' respective cases as they stand at the end of the Inquiry, with a written copy handed up at the time, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt. An electronic copy of the closing submission should also be provided.

20. The Inspector will carry out an accompanied site visit, which is likely to take place before closing submissions. Its purpose is simply for the Inspector to see the site and its surroundings. He cannot listen to any representations/discussion/arguments during the visit, but parties can point out physical features. The parties were encouraged to agree on a suitable itinerary for the visit and liaise with any interested parties. Any internal site visit will need to take place in the morning due to the building's current use.

Timetable for submission of documents

21. Proofs are to be submitted no later than **31 March**. Details of the preferred format and content of proofs and other material were annexed to the note circulated in advance of the meeting. The Core Documents and draft planning conditions should be submitted by the same date. The Inspector does not envisage that he will need paper copies of proofs or core documents but will advise if necessary.

22. Any topic or party specific statements of common ground should be submitted by **14 April**. The final draft of the legal agreement should be provided no later than **14 April** to be accompanied by the CIL Compliance Statement and the relevant office copy entries.

23. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and PINS does not encourage the provision of such. However, where they are necessary to save Inquiry time, copies should be provided no later than **14 April**. It is important that any rebuttal proofs do not introduce new issues. As an alternative to a rebuttal, it may be that the matter could more succinctly be addressed through an addendum statement of common ground.

24. The advocates are to work collaboratively on the time estimates for each stage of their respective cases and are to agree a draft Inquiry timetable based on the running order set out above, respecting the availability of witnesses. Final timings for openings and closings and evidence in chief etc are to be submitted no later than **14 April**. A draft programme will be issued following receipt of final timings, when the Inspector will have a better feel for the overall duration. Other than in exceptional circumstances, participants are expected to take no longer than the timings indicated, which will require the cooperation of both advocates and witnesses.

25. The Inquiry is currently scheduled to sit for 6 days. On the basis of the information arising from the meeting, this appears to be a reasonable duration but it would be prudent to arrange for an extra day in terms of the venue booking. Copies of notification letters to interested parties of the Inquiry arrangements should be provided to the Inspector by **7 April**.

In summary:

31 March 2020	Deadline for the submission of: <ul style="list-style-type: none">• all proofs• suggested planning conditions• list and electronic copies of core documents
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7 April 2020	Deadline for the submission of: <ul style="list-style-type: none"> • copy of letter from Council to interested parties notifying them of Inquiry arrangements
14 April 2020	Deadline for the submission of: <ul style="list-style-type: none"> • topic specific statements of common ground • any necessary rebuttal proofs • final timing estimates • final draft legal agreement and relevant office copy entries • CIL Compliance Statement (Council)
28 April 2020	Inquiry opens 10:00.

Costs

26. No application for costs is currently anticipated by any party at this stage. If an application is to be made, the Planning Practice Guidance (PPG) makes it clear that they should be made in writing to the Inspector before the Inquiry. You are also reminded that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the power to initiate an award of costs in line with the PPG. Unreasonable behaviour may include not complying with the prescribed timetables.

Tom Gilbert-Wooldridge

2 March 2020