



**APPEAL REFS: APP/W4325/W/22/3313726,
3313729, 3313734, 3313737, 3313741, 3313743, 3313775, 3313777**

Various appeals by Leverhulme against Wirral Council¹

Case Management Conference Summary Note

1. This note summarises the discussion from the Case Management Conference (CMC) held 29 March 2023 at 14:00. The main purposes of the CMC were to discuss the procedural and administrative aspects of the inquiry, and the issues that will need to be addressed in evidence. This is to ensure the forthcoming event can be conducted in an efficient and effective manner.
2. The Inspector appointed to conduct the inquiry is Katie McDonald MSc MRTPI.
3. The inquiry is scheduled to open at 10:00 on Tuesday 16 May 2023. The inquiry will resume at 10:00 on subsequent days and ideally adjourn by 17:00. If the inquiry is running behind schedule, the resumption time may be moved to 09:30, but this will be kept under review.
4. It is scheduled for 23 days, sitting:
 - 16 – 18 May
 - 25 – 26 May
 - 7 – 9 June (virtual)
 - 13 – 15 June
 - 20 – 22 June
 - 27 – 29 June
 - 4 – 6 July
 - 11 – 13 July
5. The venue for the inquiry is likely to be the Wallasey Town Hall, Brighton Street, Wallasey, Wirral CH44 8ED. This is under review and confirmation on the venue will be required by **6 April**.
6. Wirral Green Space Alliance (WGSA) were granted Rule 6 (R6) status on 7 March 2023.
7. The Council's advocate is John Barrett, of Counsel, the appellant's advocate is Christopher Boyle KC and the R6 party's advocate is Peter Black. All acted as spokespeople at the CMC.
8. The Programme Officers are Helen Wilson and Yvonne Parker. They act as a neutral party of the inquiry and are responsible for, amongst other things, the inquiry website, programming appearances and ensuring the timely submission of documents.

¹ Annex 1 provides the appeal references and sites.

9. All communication for the inquiry should go through the Programme Officers via this email: inquiry@programmeofficers.co.uk with the Planning Inspectorate's Case Officer, Leanne Palmer cc'd in: leanne.palmer@planninginspectorate.gov.uk
10. A copy of this note will be placed on the inquiry website. This can be found at: <https://www.hwa.uk.com/projects/leverhulme-inquiry/>

Main Issues

11. It is agreed that for Appeals A-G, the proposals would be inappropriate development in the Green Belt. Therefore, after discussions on the conference call, and based on the material currently submitted at this stage, I consider the main issues for *Appeals A-G* to be:
 - a) Whether the cumulative effect of the developments proposed would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan.
 - b) The effect of the proposals on the openness and purposes of the Green Belt.
 - c) The effect of the proposals on the character and appearance of the area, including the effect on the settlements of Irby and Thingwall², Barnston³ and Raby Mere.⁴
 - d) The effect of the proposals upon the best and most versatile agricultural land.
 - e) The effect of the proposals upon biodiversity.
 - f) Whether the proposals would support active and sustainable modes of travel.
 - g) Whether the proposals would make suitable provision for infrastructure, and;
 - h) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposals.

Main issues for the SANG Appeal

- a) Whether the proposal would preserve the openness of the Green Belt and the effect of the proposal on the purposes of the Green Belt.
- b) The effect of the proposal on biodiversity.
- c) The effect of access upon habitats within the Suitable Alternative Natural Greenspace (SANG).
- d) Whether the proposal would provide sufficient habitat creation and/or enhancement.

² Appeal A only.

³ Appeal E only.

⁴ Appeals F and G only.

- e) The effect of the proposal on best and most versatile agricultural land.

Other Matters

- 12. Evidence on housing land supply will be necessary because of the dispute between the parties. The appellants' evidence is also likely to dispute the housing figures in the emerging Local Plan, and the R6 party will present their own evidence in this regard. The Council also intend to call a regeneration witness to assist the inquiry with evidence on brownfield development in the Wirral. Mr Barrett confirmed that he would provide an outline of this evidence to the appellant so they can decide if they need to field their own witness on this topic.
- 13. The R6 party raised a question about how the first block of the emerging Local Plan Hearings would feed into the inquiry. In short, they will not. The hearings are a separate process, carried out by different Inspectors who the inquiry Inspector will have no contact with. Care must be taken by all parties that matters and evidence heard at the local plan hearings does not cross over into the inquiry if that evidence is not before the inquiry Inspector.
- 14. A copy of the Stage 2 Shadow HRA is to be sent by the appellant by 6 April. Mr Barrett also raised a question about outstanding ecological surveys, Ref CD S02 21-27. Mr Boyle said he would take instructions and report back to the Council. It is important that all surveys have been submitted to the Council. If new evidence is being produced, the appellants will need to explain why this has not been submitted with the appeals and it will be at the Inspector's discretion whether to accept it.

Dealing with the evidence

- 15. All the evidence will be heard in topics, addressing Appeals A-G first and the SANG Appeal separately at the end.
- 16. *For Appeals A-G*, evidence on openness of the Green Belt could potentially be in writing depending on the extent of disagreement. The R6 party and appellant agreed to in writing, but the Council favoured a round table session (RTS). If there was a RTS, this would be led by the Inspector, informed by the proofs and other evidence. An agenda would be issued nearer the time, and the RTS would involve all main parties, if they have points to raise. Interested parties may wish to ask questions, through the Inspector, during a RTS.
- 17. For evidence on purposes of the Green Belt, the appellant requested formal presentation of evidence in chief, which would be the subject of cross-examination by opposing parties; unless agreement on matters is reached. A Green Belt Statement of Common Ground (SCG) is necessary, agreed by all 3 parties. Once the areas of agreement and disagreement have been resolved, each parties' view on how to hear this evidence is required by **11 April**.
- 18. Character and appearance evidence will be dealt with through formal evidence. The R6 party will not present evidence on this topic. A character and appearance SCG is necessary.

19. Depending on the extent of agreement the Council and appellant can reach, evidence on biodiversity may not be necessary as a separate topic of evidence, but rather part of the RTS on planning obligations. The R6 party would like to be involved in this. An update on how to hear this evidence is required by **11 April**. If matters on biodiversity are agreed or remain in dispute, a SCG would be useful to the Inspector.
20. Active and sustainable modes of travel is likely to be formal evidence if there is still fundamental disagreement. However, this could be a RTS if the dispute between parties is narrowed. The Council set out that whilst negotiations are taking place to mitigate the effects, they are still of the view that the sites are unsustainable. The R6 party agreed. A topic specific SCG is necessary. An update on how to hear this evidence is required by **11 April**.
21. Matters relating to infrastructure are likely to be agreed so that this would form part of the RTS on planning obligations. The Council are required to provide the figures for sports and education contributions, along with justification, to the appellant by **6 April**.
22. Housing land supply, on the matter of deliverable sites, is likely to be a RTS. However, if there are matters relating to requirement, formal evidence is likely to be necessary. A topic specific SCG is necessary. An update on how to hear this evidence is required by **11 April**.
23. The Council's regeneration witness would be heard as formal evidence. The appellant may or may not present its own witness for this topic.
24. The appellants requested that they present a witness to provide an overall vision for the appeals. It is my understanding that this will be a presentation. The presentation material should be shared with the Inspector, Council and R6 party at least one week before the inquiry opens. Following this, there will be a discussion in a round table format, with questions from the Inspector. Opposing parties can put questions to this witness, through the Inspector.
25. Planning evidence will be given formally, and should include all other outstanding matters, including the loss of best and most versatile agricultural land, benefits, planning policy, along with addressing objections/support from interested parties.
26. *For the SANG Appeal*, a RTS will take place for the evidence on openness and purposes of the Green Belt. A topic specific SCG is necessary.
27. The Council and appellant appear to be of the understanding that biodiversity evidence may not be necessary. An update on this needs to be provided by **11 April**. If matters on biodiversity are agreed or remain in dispute, a SCG would be useful to the Inspector.
28. Planning evidence will be given formally, and should include all other outstanding matters, including prematurity, the loss of best and most versatile agricultural land, benefits, planning policy, along with addressing objections/support from interested parties.

29. The appellant should take the lead on preparing the various SCG, liaising with the Council and R6. Whilst identifying areas of agreement, the statements will need to focus specifically on the areas where there is no agreement. A SCG on best and most versatile agricultural land is also necessary between the Council and appellant.
30. Importantly, a SCG on the green belt balance is necessary to supplement the planning evidence. This will need to include harms (definitional and other harms) and other considerations/benefits. The document should identify what is a benefit, how it will be a benefit, i.e. who/what will benefit, what it will do, what level of benefit would it offer. For example, the potential new primary school: how/when would it be delivered, is the developer paying, would it serve other children outside the developments etc. Finally, weight needs to be ascribed to the harms and other considerations/benefits by all 3 main parties in a tabulated document that considers all sites, and then the cumulative effect.
31. The details at the end of this note sets out the preferred format and content of proofs and other material, which should be observed.
32. A list of all witnesses and their availability needs to be sent to the Programme Officers by **11 April**.

Inquiry running order – as matters stand

33. Following my opening comments on the first morning of the inquiry, I will invite opening statements from the main parties, appellant first, the Council and then the R6 party. I will also hear from interested parties who wish to speak.
34. The main parties are also to explore an evening session for interested parties. This was mooted as a virtual evening session during 7 – 9 June week. The appellant would provide witnesses on standby to respond to any points raised by interested parties. Please provide an update on this by **2 May**.
35. I will then hear from the appellants' witness on their vision.
36. Evidence for appeals A-G will be heard first, in the following order:
 - openness and purposes of the Green Belt,
 - character and appearance
 - biodiversity (if necessary)
 - active and sustainable modes of travel
 - infrastructure (if necessary)
 - housing land supply
 - regeneration
 - planning
37. I will then hear evidence for the SANG appeal, with openness and purposes of the Green Belt heard first, followed by biodiversity (if necessary) and finally planning evidence.
38. Accompanied site visits will take place on Fridays, with there being 5 visits planned for sites A, BCD, E, FG and the SANG. Please provide agreed itineraries for the site visits by **2 May**.

39. A RTS on conditions and the planning obligations will be carried out (without prejudice). Ideally, there should be one session at the start of the inquiry, followed by another session after the planning evidence for the SANG appeal.
40. Closing submissions from the Council, R6 and then the appellant would follow all the evidence. These should ideally be no longer than one hour, but given there are 8 appeals, it is expected that they will be longer. The closing submissions should set out each parties' respective cases as they stand at the end of the inquiry, with a copy emailed to the Programme Officers, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt. Any case law should also be attached along with references to relevant paragraphs. A written copy of the closing submissions should also be provided on the day to the Inspector. Time should be built into the programme to enable the effective preparation of the closing submissions.
41. Should there be any applications for costs, they will be heard after closing submissions.
42. The inquiry will then be closed.

Conditions (without prejudice)

43. A 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, in a 'Word' document – for each appeal. The Council are to take the lead in drafting conditions.
44. Any differences in views on the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given.
45. 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**. It is important to ensure that conditions are kept to a minimum and are tailored to tackle specific problems, rather than standardised conditions or used to impose broad unnecessary controls. Remove all unnecessary 'tailpieces' from the conditions, e.g. *unless otherwise agreed in writing*.
46. Please order the conditions in line with the Planning Practice Guidance⁵ (PPG) and combine where possible to ensure there are not several conditions requiring very similar details.

Planning Obligation (without prejudice)

47. In response to the final reason for refusal on Appeals A-G, planning obligations are to be offered by the appellant securing:
 - Off-site highway improvements
 - Sports facilities/pitch provision
 - Education
 - Affordable housing
 - Open Space and Play provision
 - Off Site Ecological Contributions

⁵ Paragraph: 024 Reference ID: 21a-024-20140306

48. An initial draft is to be submitted at the same time as the proofs, with a final draft to be submitted 2 weeks before the inquiry opens. This will also need to be accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council, comprising a fully detailed justification for each obligation, including any policy support. Two weeks will be allowed after the event has closed for submission of a signed version.

Core Documents/Inquiry Documents

49. An agreed core document list and all core documents are to be sent electronically to the Programme Offices by **11 April**. This is to ensure that the core documents can be properly referenced in advance of formulating the proofs. Parties are to liaise with each other in formulating the list.
50. The Programme Officers will provide hyperlinks to all the core documents in the list, so that they are easily accessible online.
51. Two hard copies of all core documents are to be provided by the appellant for use at the venue, 1) for interested parties and 2) for the witness table.
52. Additionally, I require a pack of **essential** reading documents (hard copy), which will be provided with the proofs.
53. The core documents should comprise only those documents to which witnesses will be referring. A copy of the National Planning Policy Framework does not need to be included as a specific core document. Any Appeal Decisions and/or legal authorities on which any witnesses intend to rely will each need to be prefaced with a note explaining the relevance of the document to the issues arising in the inquiry case, together with the propositions on which are being relied upon, and the relevant paragraphs flagged up.
54. An A3 hard copy plans/'ready reckoner' booklet is also to be produced by the appellant for the Inspector and other main parties. This needs to be submitted with the proofs.

Housekeeping

55. The venue will need to provide:
- Car parking (space reserved for the Inspector)
 - Secure overnight (for papers etc)
 - Retirement room for the Inspector, and break out rooms for the appellant, Council and R6 party.
 - Public and disabled access
 - Suitable capacity for public attendance
 - PA system
 - Hearing loop
 - WiFi
 - Photocopying
 - Accessible toilets
 - Water for all parties
 - Office space for the Programme Officers
 - Desk area for Programme Officers in the inquiry room

56. Guidance for setting up a venue for a public inquiry is provided [here](#). Please note paragraph 6 of the Guidance, which details electronic working requirements. The Inspector will need a monitor with USB-C port.
57. There will need to be suitable facilities for virtual participation should this be required, and the event will need to be livestreamed, but no recording is necessary.
58. The event will sit virtually on 7 – 9 June. The Council are to host this event, preferably on Teams. Comments from parties on what evidence is to be heard during these virtual sitting days is required by 11 April. This is because the Inspector was concerned about the fairness of hearing evidence from one party in person and another virtually. However, if all parties are happy to proceed with evidence being heard this way, she will continue in the order set out above.

Other matters

59. A public consultation on the revised ES chapters is necessary. This needs to take place by **6 April**.
60. The Council are required to provide 2 PDF documents containing 1) all public representations and 2) all consultation responses for each appeal. The PDFs should be searchable. The programme officers also need a list of each interested party's name and address so that they can issue a notification of the inquiry website and their contact details. The PDFs and contact details must be supplied by **6 April**.
61. As detailed at the CMC, Planning Inspectors across England are currently participating in industrial action in the form of action short of a strike, which includes not working beyond conditioned hours, that is, 37 hours per week, including travel time. This industrial action relates to an ongoing trade dispute over pay and conditions. Consequently, this will reduce the sitting time available during the inquiry, and therefore there are only 3 sitting days per week scheduled. It is not my intention to rush proceedings as it is important that all the evidence is heard and has been tested so that I can make a robust decision. Therefore, if all matters are not concluded by 13 July, the inquiry will be adjourned until a later date in Autumn.

Timings

6 April 2023	Deadline for:	Who responsible?
	Venue confirmation	Council
	PDFs of all interested parties' comments for each appeal	Council
	PDFs for all consultees' responses for each appeal	Council
	List of name and addresses of all interested parties to Programme Officers – inquiry@programmeofficers.co.uk	Council
	Public consultation by Council on additional ecological information submitted with appeals.	Council
	Council to provide figures and justification for	Council

	sports and education contributions to appellant.	
	Copy of the Stage 2 Shadow HRA	Appellant
11 April 2023	Deadline for:	Who responsible?
	Core documents list	All
	All core documents	All
	Agreed topic specific Statements of Common Ground – to inform proofs.	All
	A list of all witnesses and their availability	All
	Method of hearing evidence for: • Appeals A-G: openness of the Green Belt, purposes of the Green Belt, biodiversity, active and sustainable modes of travel, infrastructure and housing land supply. • SANG Appeal: biodiversity	All
	Comments on 7-9 June week for hearing evidence	All
18 April 2023	Deadline for:	Who responsible?
	All proofs	All
	Initial draft planning obligation	Council and appellant
	Conditions	Council lead
	Press notice	Council
	Essential reading pack	All
	Plans booklet	Appellant
2 May 2023	Deadline for:	Who responsible?
	Final draft planning obligation and relevant office copy entries	Appellant
	CIL compliance statement	Council
	Rebuttal proofs	All
	Time estimates	All
	Copy of the Inquiry notification letter and list of those notified	Council
	Copies and locations of site notices	Council
	Site visit itineraries	All
9 May 2023	Deadline for:	Who responsible?
	Presentation material	Appellant
16 May 2023	Inquiry opens 10.00 am	

62. The programme officers will issue a draft timetable following receipt of time estimates. Other than in exceptional circumstances, participants are expected to

take no longer than the timings indicated, which will require the cooperation of advocates and witnesses.

63. 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, as discussed at the CMC, they are extremely useful to narrow areas of disagreement and save inquiry time. Where rebuttals are to be submitted, copies should be provided no later than **2 May**. It is important that any rebuttal proofs do not introduce new issues.

Costs

64. No costs applications have been made to date. If any costs claims are to be made, the PPG makes it clear that they should be made in writing to the Inspector before the inquiry.
65. You are also reminded that to support an effective and timely planning system in which all parties are required to behave reasonably, I have the power to initiate an award of costs in line with the PPG. Unreasonable behaviour may include failing to comply with the prescribed timetables.

Katie McDonald

INSPECTOR
3 March 2023

Content and Format of Proofs and Appendices

Please also see Annex F.10 of the [Procedural Guide: Planning appeals – England](#) for guidance on Proofs of Evidence.

Content

Proofs of evidence **should**:

- focus on the main issues identified, in particular on areas of disagreement;
- be proportionate to the number and complexity of issues and matters that the witness is addressing;
- be concise, precise, relevant and contain facts and expert opinion deriving from witnesses' own professional expertise and experience, and/or local knowledge;
- be prepared with a clear structure that identifies and addresses the main issues within the witness's field of knowledge and avoids repetition;
- focus on what is necessary to make the case and avoid including unnecessary material, or duplicating material in core documents or another witness's evidence;
- where case law is cited in the proof, include the full Court report/transcript reference and cross refer to a copy of the report/transcript which should be included as a core document;
- where data is referred to, include that data, and outline any relevant assessment methodology and the assumptions used to support the arguments (unless this material has been previously agreed and is included as part of the statement of common ground).

Proofs **should not**:

- duplicate information already included in other inquiry material, such as site description, planning history and the relevant planning policy;
- recite the text of policies referred to elsewhere: the proofs need only identify the relevant policy numbers, with extracts being provided as core documents. Only policies which are needed to understand the argument being put forward and are fundamental to an appraisal of the proposals' merits need be referred to.

Format of the proofs and appendices:

- Proofs to be no longer than 3,000 words if possible. Where proofs are longer than 1,500 words, summaries are to be submitted.
- Front covers to proofs and appendices are to be clearly titled, with the name and qualifications of the witness on the cover.
- Pages and paragraphs **must be numbered**.

Arrangements should be made for all proofs, appendices and other inquiry documents to be available online for members of the public.



Annex 1 – Appeal references:

Appeal A Ref: APP/W4325/W/22/3313729

Land east of Glenwood Drive, Irby CH63 1JD

Outline residential development for up to 290 dwellings (Use Class C3), including 30% affordable housing and 10% self-build/custom build properties; delivery of part of the Borough's cycle supergreenway; green infrastructure including sports pitches, play areas and parkland, wildlife habitats and green corridors; and off-site highway, environmental, biodiversity and accessibility enhancements (all matters reserved except for access).

Appeal B Ref: APP/W4325/W/22/3313734

Land east of Dale View Close, north of Gills Lane, Pensby

Outline residential development for up to 92 dwellings (Use Class C3), including 30% affordable housing; delivery of green infrastructure including a new public open space and play area, wildlife habitats and green corridors; and off-site highway, environmental, biodiversity and accessibility enhancements (all matters reserved except for access).

Appeal C Ref: APP/W4325/W/22/3313737

Land east of Thorncroft Drive, north of Gills Lane, Pensby

Outline residential development for up to 15 dwellings (Use Class C3), including 30% affordable housing; delivery of green infrastructure including a green space, wildlife habitats and wetland; and off-site environmental, biodiversity and accessibility enhancements (all matters reserved except for access).

Appeal D Ref: APP/W4325/W/22/3313741

Land west of Barnston Road, north of Gills Lane, Barnston, Wirral

Outline residential development for up to 153 dwellings (Use Class C3), including 30% affordable housing; delivery of green infrastructure including a new public park and play area, wildlife habitats and green corridors; and off-site highway, environmental, biodiversity and accessibility enhancements (all matters reserved except for access).

Appeal E Ref: APP/W4325/W/22/3313743

Land at Milner Road and Barnston Road, Heswall

Outline residential development for up to 120 dwellings (Use Class C3), including 30% affordable housing and 10% self-build/custom build properties; delivery of part of the Borough's cycle supergreenway; green infrastructure including a new public park and play area, community orchard, wildlife habitats and green corridors; and off-site highway, environmental, biodiversity and accessibility enhancements (all matters reserved except for access).

Appeal F Ref: APP/W4325/W/22/3313775

Land west of Raby Hall, Raby Hall Road, Raby Mere

Outline residential development for up to 38 dwellings (Use Class C3), including 30% affordable housing; safeguarded land for the expansion of Autism Together facilities; delivery of green infrastructure including a new pocket park and play area, wildlife habitats and green corridors; and off-site environmental, biodiversity and accessibility enhancements, including an off-road pedestrian and cycle connection between the site and Blakeley Road (all matters reserved except for access).

Appeal G Ref: APP/W4325/W/22/3313777

Land east of Raby Hall, Raby Hall Road, Raby Mere

Outline residential development for up to 80 dwellings (Use Class C3), including 30% affordable housing; delivery of green infrastructure including a new open green space and play area, wildlife habitats and green corridors; and off-site environmental, biodiversity and accessibility enhancements (all matters reserved except for access).

SANG Appeal Ref: APP/W4325/W/22/3313726

Land west of Barnston Road, Barnston, Wirral

Creation of a Suitable Alternative Natural Greenspace (SANG) development of 22.6 hectares including boundary works and means for access and parking; biodiversity enhancements to hedgerows, meadows/grasslands, field ponds and woodlands; creation of green infrastructure and footpaths; creation of wildlife habitats; and off-site highway works.