CASE MANAGEMENT CONFERENCE SUMMARY

1. The Inquiry, which is scheduled to sit for up to four days, is to be held at Council Chamber, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU, opening at 10.00am on Tuesday 21 April 2020.

2. The advocates were confirmed as Miss Emma Dring for the Council and Miss Anjoli Foster for the appellant.

3. The Inspector will aim to finish each day at around 17.00/17.30 and, with the exception of the first day, the Inquiry will resume at 09.30 on subsequent days.

4. The Council agreed to provide an officer during the Inquiry to assist with administration and to act as a point of contact at the event for interested parties.

5. The Council may wish to draw the attention of interested parties to this Note, including posting a copy on its web site.

Main Issues

6. It was agreed that the main issues in this case are likely to relate to:
   - The effect of the proposal on the landscape character and appearance of the area, including on identified public viewpoints;
   - The effect of the proposal on the setting of the Grade I Listed Church of St Andrew and St Peter;
   - The effect of the proposal on the identified strategy for growth for the district; and,
   - Whether any adverse effects, including conflict with the development plan considered as a whole, would be outweighed by other material considerations.

Dealing with the Evidence

7. It was agreed that matters relating to landscape character and appearance and the effect on the listed building would be the subject of individual round table sessions.

8. Separate topic specific statements of common ground/areas of disagreement are required in relation to each of the areas the subject of the round table sessions. The appellant to take the lead on preparing those, liaising with the Council. Whilst identifying areas of agreement, the statements will need to focus on the areas where
there is no agreement. The Inspector will lead the sessions, but the parties should work together on a draft agenda for each session, to be submitted no later than 7 April 2020. The Inspector will issue finalised agendas based on those shortly before the Inquiry opens.

9. Matters relating to planning policy, including the growth strategy and the overall planning balance, including any benefits of the proposal were agreed as being best suited to the formal presentation of evidence and cross-examination.

10. Any outstanding matters, including matters raised by interested parties, will also be dealt with through the formal presentation of evidence in chief and cross-examination.

Conditions

11. An agreed schedule of suggested planning conditions and the reasons for them, including references to any policy support, is to be submitted at the same time as the proofs. The Council should take the lead on preparing the list, in discussion with the appellant. You will need to pay careful attention 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. You are reminded that as set out in the NPPF, conditions that are required to be discharged before development commences should be avoided unless there is a clear justification. The reasons for any such conditions will also need to address that. Any difference in view on any of the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given.

Planning Obligation

12. An early draft of the planning obligation is to be submitted by 24 March 2020, with a final agreed draft to be submitted shortly before the Inquiry opens. That final draft must be accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council.

13. The statement must contain a fully detailed justification for each obligation sought, including monitoring, setting out how it complies with the CIL Regulations, in particular the test of necessity in terms of how it would mitigate a particular harm arising out of the development proposed. It should include reference to any policy support and, in relation to any financial contribution, exactly how it has been calculated and on precisely what it would be spent. Although the restriction on the pooling of contributions has been lifted, the Statement will still need to set out whether any of the schemes are the subject of other pooled financial contributions, in order to allow the Inspector to be able to come to a view on whether any contribution sought in relation to this appeal is justified.

14. A short time will be allowed after the Inquiry for submission of a signed version.
Core Documents/Inquiry Documents

15. You will need to discuss and agree a list of core documents in advance of preparing your proofs so they can be properly referenced in the proofs. That list is to be co-ordinated by the appellant and must be submitted with the proofs, together with a hard copy set of the documents. A template for that list is attached. The Core Documents should comprise only those documents to which you will be referring and do not need to include a copy of the National Planning Policy Framework. Any Appeal Decisions and/or legal authorities on which any of you intend to rely will 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 you are seeking to rely, with the relevant paragraphs flagged up.

16. The Inspector is content to rely on electronic copies of the documents that accompanied the planning application, other than the plans which she will need in hard copy. She will also require any other Core Documents in hard copy although where any documents on which it is intended to rely are lengthy, only relevant extracts need to be supplied, as opposed to the whole document. Such extracts should, however, be prefaced with the front cover of the relevant document and include any accompanying relevant contextual text.

17. Any documents submitted once the Inquiry has opened will be recorded as Inquiry Documents on a separate list, overseen by the Inspector.

18. A minimum of two copies of any new documents produced at the Inquiry will be required - one for the other main party and one for the Inspector. Depending on the presence of interested parties, it may also be necessary to make additional copies available to assist them.

Inquiry Running Order

19. In terms of running order, following the Inspector’s opening comments on the first day of the Inquiry, she will invite opening statements from the main parties (appellant first, followed by the Council) which will set the scene.

20. The Inquiry 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.

21. Pursuant to the discussion at the case management conference and the availability of witnesses, the Inspector will then hold the round table sessions on firstly the effect of the proposal on the setting of the Church of St Andrew and St Peter, followed by landscape character and appearance, before undertaking the accompanied site visit, probably during the afternoon of the second day. Whenever it takes place, the purpose of the visit is simply for the Inspector to see the site and its surroundings. She will not be able to listen to any representations/discussion/arguments during the visit, but parties can point out physical features. It is important therefore to give some thought as to where you wish her to see the site from. It would be
helpful if an agreed itinerary could be circulated with the topic specific statements of common ground.

22. The Inquiry will then proceed with the formal evidence with matters relating to planning policy, including the growth strategy and the overall planning balance, including any benefits of the proposal, dealt with through evidence in chief and cross examination, Council first and then the appellant. The appellant’s evidence should also address any other matters raised by interested parties at application and appeal stage.

23. On conclusion of that, the Inspector will lead the usual round table discussion on conditions and provisions of the planning obligation. That will be followed by closing submissions (Council, then appellant) which should set out your 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. Preferably, they should be no longer than around 30-40 minutes in length.

Timings

24. All proofs are to be submitted no later than 24 March. Details of the preferred format and content of proofs and other material were annexed to the pre-conference note. Topic specific statements of common ground should be submitted by 31 March.

25. The Council is to make sure a copy of the Inquiry notification letter, and a list of those notified is sent in to PINS no later than 31 March.

26. An early draft of the planning obligation is also to be submitted at the same time as the proofs, with a final agreed draft no later than 7 April, to be accompanied by the CIL Compliance Statement prepared by the Council and the relevant office copy entries.

27. 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 7 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.

28. The advocates are to work collaboratively on the time estimates for each stage of their respective cases, with final timings for openings and closings, evidence in chief and cross-examination, are to be submitted no later than 7 April. A draft programme will be issued following receipt of your final timings in due course, when the Inspector will have a better feel for the overall duration. Other than in exceptional circumstances, you are expected to take no longer than the timings indicated, which will require the cooperation of both advocates and witnesses.
24 March | Deadline for submission of:
- all proofs
- suggested planning conditions (Council to lead)
- core documents list (appellant to lead)
- initial draft planning obligation

31 March | Deadline for the Council to submit a copy of the Inquiry notification letter and list of those notified.
Deadline for topic specific statement of common ground for each of the round table sessions. (appellant to lead)

7 April | Deadline for submission of:
- final draft planning obligation and relevant office copy entries
- CIL Compliance Statement (Council to lead)
- any necessary rebuttal proofs
- draft agendas for each of the Round Table Sessions
- final timings

21 April | Inquiry opens 10.00 am

Costs

29. No application for costs is currently anticipated by any party at this stage, although positions were reserved. If any application is to be made, that should be done 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 Planning Guidance. Unreasonable behaviour may include not complying with the prescribed timetables.

Survey

30. Following the conference, you will have been sent a link to a short survey asking for views on the conference call as a part of the early engagement process. It would be very much appreciated if you could complete it if at all possible. Feedback on this is very important in helping us ensure that the early engagement process is as productive as it can be in supporting effective improvements to the way we conduct inquiry appeals following the Rosewell Review.

Andrea J Mageean
12 March 2020
Appendix

TEMPLATE FOR CORE DOCUMENTS LIST
(adapt headings to suit)

**CD1** Application Documents and Plans
1.1
1.2 etc

**CD2** Additional/Amended Reports and/or Plans submitted after validation
2.1
2.2

**CD3** Committee Report and Decision Notice
3.1 Officer’s Report and minute of committee meeting
3.2 Decision Notice

**CD4** The Development Plan
4.1
4.2

**CD5** Emerging Development Plan
5.1
5.2

**CD6** Relevant Appeal Decisions*
6.1
6.2

**CD7** Relevant Judgements*
7.1
7.2

**CD8** Other
8.1
8.2

* Any Appeal Decisions on which a party intends to rely must each be prefaced with a note explaining the relevance of the Decision to the issues arising in the current Inquiry case, together with the propositions relied on, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon.