

Inquiry into the Metropolitan Borough of Solihull (Shirley Town Centre Redevelopment) Compulsory Purchase Order (CPO) 2007 and related Orders under S247 and S257 of the TCPA 1990

NOTES FROM PRE-INQUIRY MEETING (PIM)
Held on 10 March 2008

Appointed Inspector: Mary Travers BA(HONS), DIP TP, MRTPI

Inquiry start date: Thursday 8 May 2008

Time and venue: 10:00 hours
The Council Chamber, Council House, Solihull
Metropolitan Borough Council (SMBC), Homer Road,
Solihull

1. Introduction

The Inspector, Mary Travers, introduced herself and explained that she has been appointed by the Secretary of State to conduct the Inquiry into the above named CPO and the Orders under S247 and S257 of the Town and Country Planning Act 1990 for the stopping-up of sections of the public highway and of a length of public footpath respectively.

2. Purpose of the PIM

The Inspector advised that the PIM does not form part of the Inquiry and it would not deal with any evidence or discussion of the merits or otherwise of the Orders. Its purpose was solely to assist with preparation for the Inquiry.

3. Intended Appearances at the Inquiry

For the Council: Mr I Dove QC (assisted by Mr C Young of Counsel) who will potentially call eight witnesses, as follows:

Mr M Swallow (negotiations)
Mr R Birch (development matters)
Mr R Barnes (retail matters)
Mr P Watson (strategic matters)
Mr G Palmer (planning application)
Mr A Williams (urban design)
Mr P Cockcroft (highways and transportation)
Mr J Ojeil (highways and transportation)

For GC Shirley Ltd: Mr J Cahill QC who will call one witness, Mr S Edwards.

For Age Concern Solihull and the Shirley Royal British Legion Club Ltd: Mr M Orlik, Solicitor, who indicated that if necessary he would call two witnesses, Mr K Salway (FRICS) and Mr S Almond (Chair of the British Legion).

For Wilf Gilbert (Staffs) Ltd: Mr N Barlow, of Barlow Associates.

Councillor Howard Allen.

For Wilson (UK) Investments Ltd: Mr B Steer of Lambert Smith Hampton.

For Keep Shirley Alive: Mr R Wise.

Councillor T Hodgson.

The parties indicated that their appearances would be dependent on the progress of on-going negotiations between the Council and the objectors. Subject to this, the parties should circulate final lists of their witnesses and the order in which they are to be called no later than at the opening of the Inquiry. It should be noted that other interested persons may wish to speak at the Inquiry, especially in regard to the public footpath Order.

4. Purpose and Scope of the Inquiry

The Inspector explained that her role will be, firstly, to advise the Secretary of State on whether there is a compelling case in the public interest to make the CPO, and to that end the purpose of the Inquiry is to hear objections and representations relating to the Order. It is important to emphasise that the Inquiry will not be concerned with matters of financial compensation. Secondly, the Inquiry will consider objections into the two related Orders under S247 and S257 of the Act. Following the closure of the Inquiry the Inspector will prepare a report to the Secretary of State with a recommendation on whether the Orders should be confirmed with or without modification.

Mr Young who appeared on behalf of the Council confirmed his understanding that all the relevant statutory requirements have been complied with to date. A Core Document that provides a brief summary of the relevant requirements, the dates of compliance, a copy of the letter of notification of the Inquiry and a list of the persons notified should be submitted by the Council at the opening of the Inquiry.

The total numbers of outstanding objections to the Orders are 17 to the CPO, 7 to the S247 Order, and 163 to the S257 Order. The parties present confirmed that every effort will be made before the opening of the Inquiry to resolve outstanding objections. The Inspector asked to be kept informed of the progress of negotiations which could lead to an objector withdrawing from the Inquiry. At the opening of the Inquiry the Council should provide a situation report on the extent of the land acquired, or where negotiations are at an advanced stage, and a map to accompany it.

5. Procedure

The Inquiry will commence with an initial presentation of the case for the CPO from the Council and then a series of sessions on specific objections. Thus:

- The Council will first present the case for the CPO with an overall opening statement by Mr Dove followed by evidence in chief from the Council's witnesses and then the other parties may put questions of clarification only to those witnesses. This will enable objectors to be fully aware of the Council's position at the outset.
- The cases of any supporters of the CPO will then be heard.
- Objectors to the CPO will then be heard as follows. For each objector the Council's witnesses will first be called to give any rebuttal evidence specific to that objection, and then the objector will have the opportunity to ask questions of the Council's witnesses. This will be followed by the objector presenting his or her case and in turn being open to questions from the Council's advocate. Where the Council's witnesses or objectors are cross-examined there will be opportunities for re-examination by their respective advocates or, if objectors are appearing in their own right, for them to make any final points in the light of questions they have been asked.
- It would be helpful if objectors who wish to ask questions of the Council could indicate to the Council and the Inspector not less than 3 days before they are due to appear which witnesses they wish to question.
- At the end of consideration of each objection the objector and then the Council may make closing statements.
- The same procedure will be followed for the Road Closure Order and the Footpath Order.
- Before the end of the Inquiry there will be an opportunity for any interested persons to speak.
- At the end of the Inquiry the Council will give a final closing statement. Substantial opening and closing statements should be submitted in writing and an electronic copy should be e-mailed in due course to the Planning Inspectorate.

Objections put in the form of written representations will carry the same weight as those made through appearances at the Inquiry. The Council should also respond to any objections for which only written representations are made in the same way as for those with appearances. Mr Young agreed that a schedule would be submitted that contains a brief justification for including parcels of land where the CPO is unopposed.

Both the Council and objectors should concentrate in their evidence on the essentials of the Order(s) and the grounds of objection. Where there are matters not in dispute it may be appropriate and helpful to set these out in the form of a brief statement of common ground. The Council and objectors represented at the PIM agreed that they would arrange to meet as soon as possible and preferably before Easter to discuss matters of common ground and to clarify any outstanding matters about the nature of their cases. Similar meetings between the Council and other objectors are strongly commended. The Inspector advised that these meetings should also be used to agree baseline data and assumptions if any objectors intend to raise technical issues about retail need and capacity at the Inquiry.

The Inspector will make visits to the area covered by the Orders before, during and after the Inquiry. As far as possible these visits will be unaccompanied but if anyone considers it necessary for the Inspector to enter any property then he/she should inform the Planning Inspectorate as soon as possible so that an accompanied visit can be arranged. Contact with the Planning Inspectorate should be made to Mr David Smale (see below).

6. Programme

While every effort should be made to resolve outstanding objections, provision will be made for an 8-day Inquiry as necessary. The Inquiry is scheduled to open on Thursday 8 May. It will sit on Tuesday to Friday each week, normally from 10:00 to 17:00 hours with a break for lunch of an hour around 13:00 hours and shorter breaks during morning and afternoon sessions. On Fridays there will be an earlier finish, either at lunchtime or early afternoon. Starting and finishing times on some days may be subject to change to suit particular needs, in consultation with the parties concerned.

A draft timetable will be prepared and circulated as early as possible on the basis of information about expected appearances and the evidence to be presented to the Inquiry. For this purpose the Inspector will seek time estimates from the parties at a later stage but probably before the opening of the Inquiry. The Council advised that it expected to require about 7 hours in total to present its case. Mr Cahill anticipates that his client's case may require up to one day and stated that he will only be available on 8-9 May and 16 May, while Mr Orlik will not be available on 8-9 May, and Mr Barlow will not be available on 9 May.

Given the level of public interest in the matter, the Inspector will endeavour to set a specific date for the hearing of objections to the public footpath Order. Nonetheless, she emphasised that the draft timetable may be subject to change and therefore the onus will rest on objectors and interested persons to keep in touch with the progress of the Inquiry. Ms Toni Weston of Wragge and Co will act as the contact point in this regard (see below). Although not essential, it is advisable for interested persons who may wish to speak at the Inquiry to attend on the opening morning in order to confirm this.

7. Submission of Evidence

It was agreed that the Council's proofs of evidence and any proofs of evidence from the objectors would be exchanged by 17 April. A set of proofs (together with the Core Documents and any Statements of Common Ground) should also be deposited with the Planning Inspectorate, for onward transmission to the Inspector, by the same date. Any rebuttal proofs of evidence should be submitted to the Inspector and exchanged between the parties by 1 May. Everyone appearing at the Inquiry is asked to keep to these deadlines. Late production of evidence, or of additional substantive evidence at short notice, is unfair to those who have submitted their evidence in time, and can disrupt the proper running of inquiries. The number of proofs to be exchanged between the Council and objectors is a matter for the parties but in most cases it is envisaged that a "one-for-one" exchange will suffice. Proofs exceeding 1,500 words in length should be accompanied by summaries. To make progress at the Inquiry as much as possible of the evidence will be taken as read since the Inspector will have read all the relevant material and will assume the parties will have too.

Proofs of evidence and supporting documents should be bound in A4 format with proofs clearly differentiated from summaries and appendices. Documents should be indexed, and page and paragraph numbered, and individual appendices should be clearly separated by dividers. As a general rule, paper should be kept to a minimum; wherever possible only references to, or extracts from, documents should be included in appendices, rather than complete documents. All measurements, except speed limits, should be metric.

The Council agreed that it will provide a list of Core Documents (CD) as soon as possible and that these documents will be maintained as a CD library to which objectors and other interested persons will have access by arrangement. Only relevant extracts from Core Documents should be provided for the Inspector but the full document should be available at the Inquiry if required. All participants are requested to make maximum use of the CD list and its referencing system to save duplication of paper in evidence. It will usually be sufficient simply to cross-reference from proofs to CDs with document, page and paragraph numbers. Please do not supply further copies of documents already in the CD library. The Council agreed to provide links to the Core Documents on the Inquiry website (see below) wherever possible.

8. Venue and Accommodation

The Inquiry will be held in the Council Chamber at the Council House except on 20 May when it will be necessary to use Committee Room 1. The venue provides access for the disabled and an induction loop system but if participants have any other special requirements they should contact the Council. Car parking is located in nearby public car parks. There are no public restaurant facilities within the Council offices.

The Council will ensure that up-to-date information about the Inquiry is provided on its website. This will include copies of the Council's evidence for the Inquiry, links to the Core Documents wherever possible, and the latest information about the Inquiry timetable.

9. Contact Details

For the Inspector:

Mr David Smale, The Planning Inspectorate, Operational Support Team, Room 3/06, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN tel 0117 3728189 or e-mail to david.smale@planning-inspectorate.gsi.gov.uk

For Solihull Metropolitan Borough Council:

Ms Toni Weston, 55 Colmore Row, Birmingham B3 2AS tel 0121 6852757 or e-mail to toni_weston@wragge.com

For GC Shirley Ltd:

C/o Shoosmiths, 7th Floor, 125 Colmore Row, Birmingham, B3 3SH.
jc@no5.com

For Age Concern Solihull and Shirley Royal British Region Club Ltd:
Mr M Orlik, Ladders Solicitors, 10 Elm Court, Arden Street, Stratford upon Avon,
Warwickshire CV37 6PA.
michael.orlik@ladders.co.uk

For Wilf Gilbert (Staffs) Ltd:
Mr N Barlow, Barlow Associates Ltd, Packington Hall, Meriden, Coventry, CV7 7HF.
nick@packingtonestate.co.uk

Councillor Howard Allen:
hallen@solihull.gov.uk

For Wilson (UK) Investments Ltd:
Mr B Steer, Lambert Smith Hampton, Interchange Place, Edmund Street, Birmingham B3
2TA.
bsteer@lsh.co.uk

For Keep Shirley Alive:
Mr R Wise, 29 Olton Road, Shirley, West Midlands, B90 3NF.
richardrwise@btinternet.com

Councillor T Hodgson:
9 Waterdale, Shirley, Solihull, West Midlands, B90 4JP
thodgson@solihull.gov.uk

10. The meeting closed at 15:10 hours.

A copy of these minutes is to be made available for public inspection at the Council Offices and placed on the Council's website.