

THE EVERTON CALL IN PUBLIC INQUIRY

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To interested parties of the above Inquiry

Dear Sir or Madam

You recently attended the Pre-Inquiry meeting in Kirkby and requested that a copy of the notes be sent to you and I have enclosed or attached them for your information.

If you have any questions please do not hesitate to contact me.

Kind regards



Yvonne Parker
Programme Officer
19 September 2008

**TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND)
RULES 2000**

PLANNING APPLICATION: 08/00001/HYB

PLANNING INSPECTORATE ref: APP/V4305/V/08/1203375

Pre-Inquiry Meeting 11 AM 16 September 2008

The Kirkby Suite, Norwich Way, Cherryfield Drive, Kirkby L32 8XY

1 Introduction

The Inspector introduced herself: Mrs Wendy Burden BA DipTP MRTPI appointed by the SoS to hold an Inquiry into the APPLICATION BY TESCO STORES LTD FOR MIXED USE DEVELOPMENT, INCLUDING NEW FOOTBALL STADIUM, CONVENIENCE AND COMPARISON RETAIL, RESIDENTIAL AND LEISURE USES, KIRKBY TOWN CENTRE AND LAND TO THE SOUTH OF CHERRYFIELD DRIVE, KIRKBY

The application was called in by the SoS for her own determination on the 6 August. The inquiry will open on the 18 November at 10.00 AM¹.

The 3 hour restriction in the car park was lifted for the PIM. Queries about future parking provision should be addressed to the Programme Officer.

Yvonne Parker is the Programme Officer to the Inquiry and she will act as the point of contact between the Inspector and all the parties to the inquiry. She is working entirely under my direction and will report directly to the Inspector. Ms Parker's duties include the physical arrangements for setting up the inquiry, ensuring the inquiry runs efficiently, maintaining the database and handling inquiry documents. Any queries should be raised in the first instance with Ms Parker, who will if necessary consult with the Inspector.

The Inspector asked all the parties not to speak directly to her unless it is during an open session of the inquiry.

An attendance list was circulated. Attendees were asked to ensure that they have filled in their details, setting out clearly their names and addresses and who they were representing.

The pre inquiry meeting was arranged in order to deal with procedural matters in preparation for the opening of the inquiry. It was not an opportunity to discuss the merits of the case for or against the proposal.

A note of the meeting will be prepared and sent to all those whose names appear on the attendance lists and have indicated that they would like a copy. It will also be sent to those parties who have requested a copy of the note but who were unable to attend. The note will also be published on the inquiry website.

¹ There was some debate as to the opening date, reported under AOB in the notes

2 Purpose and scope of the Inquiry

The planning application was called in by the SoS for her own determination on the 6 August.

The purpose of the inquiry is for the Inspector to hear the evidence relevant to the planning application which will enable her to prepare a report to the SoS and make a recommendation as to whether or not planning permission should be granted. She will be assisted by Inspector Andrew Pykett who will be focussing on highways and access issues.

For the benefit of those who have no experience of proceedings of this sort, the Inspector is appointed as an impartial person with no interest in the outcome of the inquiry. She will make an independent assessment of the evidence which is presented to her and which will inform her recommendation to the SoS. The scope of the inquiry will be confined to those matters which inform the issues identified in the SoS's call in letter.

The Inspector pointed out that she is not a follower of the sport of football and asked the parties to be patient if her ignorance was demonstrated in the course of proceedings.

3 Appearances

Those who wish to appear at the inquiry include:

For the Council: Martin Kingston QC and John Barratt: 8 witnesses

For the Applicant: Patrick Clarkson QC and Rupert Warren: 8 witnesses; instructed by Berwin Leighton Paisner for Tesco Ltd and Halliwells for Everton FC.

Statutory parties: none of the rule 4 parties (owners of land within the application site) made themselves known to the PIM.

For the Rule six parties:

Liverpool CC: Stephen Sauvain QC: 2/3 witnesses

Sefton MBC]

West Lancs DC]

Roger Lancaster of Counsel: 7/9 witnesses

St Helens Council]

Lancs County Council]

Knowsley Liberal Democrats: Peter Fisher

Kirkby Residents Action Group: Tim Stratford

Grosvenor Ltd rep by Drivers Jonas: Eve Bailey

Interested persons:

The Inspector indicated that she was aware from the large amount of correspondence that the Council had forwarded, and from the letters which are now being sent to the Inspectorate that there is a lot of public interest and concern in this case. A number of interested persons had contacted Yvonne Parker, and she has encouraged you to form groups and select one or two people to speak for the group. This is very helpful to the Inquiry since it ensures that a properly focussed case can be put to the Inspector who in turn will report it to the SoS. It is important that the parties do not repeat points already made by others, since repetition does not help the Inspector's understanding or add any weight to what is being said.

The following parties identified themselves:

Tom Norman: Kirkby Traders Association²

Jennifer Wharton: Women for Kirkby's Future

James Catterall: Grange residents

Thomas Scott: Brookhaven Residents Association Group

David Dodd: Kirkby Small Firms Forum

Other parties who are not represented within a group, and who wish to participate in the inquiry on their own behalf:

Ed Faughan: Southdene

Peter Ross: resident and school governor

Mr Degier: resident of 56 years

Rona Hazelhurst

Edwin Arlodynski

Michael Gallagher

Brian Caulfield - supporter

In order to produce a programme for the Inquiry, the Inspector needs to know how many witnesses are expected to appear, and how long each party expects to take to present its case, and to cross examine opposing parties. That information should be given to the PO.

The Inspector informed the meeting that she would ask again at the opening of the Inquiry for the names of any interested parties who wish to speak but who have not registered their names for the PO to programme.

² Mr Morgan's status was challenged and the Inspector asked for some documentation to support his position as representative of 250 traders.

4 Procedure and Programme

The inquiry will be held under the T & CP Inquiries Procedure Rules 2000.

Although the Rules indicate that the Council should be the first to present its case, since the Council support the proposals, the applicant will present its case first, with the Council to follow.

This will ensure that the Rule 6 parties and other interested persons are fully aware of the case which is being put before they appear,

Any other supporters of the proposal will then be heard. It will not be necessary for them to cover material already given by the applicant and the Council.

Any Statutory parties under Rule 4 will then be heard.

The Rule 6 parties will then be heard.

Then the objectors will have their say. Those who have organised themselves into groups with a spokesperson will be heard first, followed by individuals representing themselves. The Inspector agreed to programme 1 or 2 evening sessions timed from 19.30-22.00. These will be held for those who are unable to attend the normal sitting times of the Inquiry, and will be an opportunity for them to address the Inspector. Names of those wishing to speak at an evening session should be given to the PO, so that she could programme the sessions.

The Inspector explained that there was an opportunity to hold concurrent sessions to hear the highways evidence. Although the Council indicated that they could accommodate two sessions, the applicant was concerned that the highways evidence was integrated into the whole regeneration case and it would not be easily separated. The applicant considered that the lead Inspector needed to hear all the evidence to understand the regeneration case. Other parties opposed concurrent sessions because they had inadequate resources to cover two sessions. The Inspector agreed that concurrent sessions would not be appropriate in this case.

The Inspector agreed that the programme would not be organised on a topic basis.

5 Site Visits

The Inspector will visit the site of the application before the inquiry opens, and from time to time during the inquiry. She will also make an accompanied site visit at the close of the inquiry. Normally, she is accompanied by a party representing both sides of the case. Since the LPA is in agreement with the applicant in this case, one of the Rule 6 parties who are objecting to the proposal would accompany her.

The Inspector emphasised that the site visit is for her to view the physical features of the site and its surroundings. She will not hear any further evidence or arguments for or against the proposal.

6 Venue, and facilities

Inquiry to be held in the Kirkby Suite. Other rooms will be available for the participants, and the PO will have the details.

There will also be limited photocopying, and tea and coffee will be provided.

7 Inquiry dates and sitting times

Inquiry to open at 10 AM on the 18 November. Sit from Tuesday to Friday each week. The Inspector will consider opening at 9.30 on subsequent days, and will break at around 1PM for an hour for lunch. Sit until 5 PM with an earlier close on Fridays. – 4PM.

Currently allocated for 16 days, but will be reviewed once more information is available on the number of witnesses/interested parties to appear.

8 Issues to be addressed

SoS has set out in her letter of call in the matters relevant to the consideration of the application.

These are:

- a. Whether the proposed development accords with the development plan for the area (in this instance the emerging replacement RSS for the North West, and the Unitary Development Plan), having regard to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004.**
- b. The extent to which the proposed development is consistent with Government policies in Planning Policy Statement 6: Planning for Town Centres, particularly with regard to:
 - i. whether there is a qualitative and quantitative need for a retail development;**
 - ii. if the scale of the proposed development has been demonstrated as appropriate;**
 - iii. whether there are any more central sites capable of accommodating the proposed development as a whole or in disaggregated form;**
 - iv. the impact of the proposed development on the vitality and viability of nearby centres;**
 - v. whether the application is in accordance with the retail hierarchy of the sub-region;**
 - vi. whether the development should be promoted through the development plan process, rather than through a planning application;**
 - vii. the accessibility of the site by all means of transport and the promotion of linked shopping trips between the****

development to the south of Cherryfield Drive and the existing town centre;

- c. Whether the application would deliver a sustainable form of development, as outlined in PPS1: Delivering Sustainable Development, and respect the need for appropriate standards of design in relation to the individual elements of the scheme, and the spatial relationship between the different components of the development;
- d. Whether the application promotes sustainable transport choices and reduces the need to travel by private transport as identified in PPG 13: Transport;
- e. Whether the application has fully taken into consideration the requirements of PPG17: Planning for Open Space, Sport and Recreation, with particular regard to the loss of open space and playing fields;
- f. The relationship between the development to the south of Cherryfield Drive and the existing Kirkby Town Centre, including the proposed phasing and the need to ensure that the planned development of the existing town centre is fully secured within an acceptable timeframe as far as possible;
- g. Whether any permission which may be granted should be subject to any conditions and, if so, the form they should take; and
- h. Any other relevant matters.

In addition to the SoS matters, from an initial reading of the application, there are a number of benefits being put forward by the applicant in support of the overall scheme. From the list of documents, there is a draft S106 agreement. However, the Inspector does not have a copy of that. It would be helpful to have a definitive list of those aspects of the scheme which are to be subject to the S106 Agreement. For any components of the proposal which are not to be covered by the S106, but which are put forward as potential benefits of the scheme, the Inspector wishes to be informed how the applicants expect them to be delivered.

The S106 will need to be completed and sealed before the close of the Inquiry, and the Inspector asked for a copy of the draft agreement as soon as possible.

The Inspector indicated that she will be relying on the legal advocates to the Inquiry to look in detail at the S106 to inform her as to its legal provisions and enforceability.

The Inspector asked if there were any other matters which anyone considers should be added to the list set out by the SoS. The issue of health was raised and the Inspector indicated that in terms of quality of life this was a matter which fell within c above.

9 Nature and format of evidence

All those wishing to give evidence should produce a proof of evidence to be submitted to the PO. PO will advise the exact arrangements for where these should be delivered and collected. It is normal for proofs to be submitted 4 weeks before the opening of the Inquiry. With an opening date of the 18 November, this would be by 21 October, which is 5 weeks time.

Following discussion it was agreed that proofs would be submitted 3 weeks before the inquiry opens which is Tuesday 28 October at 10am.

Rebuttals – not necessary unless new point is raised – please do not repeat arguments – deal in x-exam where disagreement. Within 2 weeks of evidence to be rebutted.

Proofs in excess of 1500 words should have a written summary.

**Evidence should focus on the matters listed by the SoS.
PO will indicate number of copies required. At present 15.**

SoCG – cover matters which are agreed and identify differences between the parties. May be separate documents for retail and highways, and should include conditions. Parties indicated some difficulties in producing SoCG with proofs.

The Inspector asked all those intending to prepare economic impact analyses written within the framework of Planning Policy Guidance Note 6, to adopt a broad approach and seek to achieve uniformity on common base data. The applicants have already undertaken a retail assessment as part of the background documents to the planning application. What is important is that the Inspector does not have a number of different studies submitted which all use different base data.

The parties should seek agreement between themselves as far as possible on the retail evidence in particular on the following matters:

- Base and design years, including base price.**
- Current and projected population distribution.**
- Travel isochrones and catchment populations.**
- Existing and projected retail floorspace in relevant centres, including the proportion of net sales to gross floor area and vacancy rates.**
- Current and forecast retail expenditure, including where appropriate, conversion factors and regional discounts.**

They should then be able to focus on the main areas of difference and identify them for the benefit of the inquiry.

For those for whom traffic impact is an issue, The applicants have produced extensive traffic studies in support of the application and again, the Inspector

asked for co-operation between the parties wishing to bring evidence to the inquiry such that you are using agreed base data and then identifying the main areas of disagreement.

Agreement should be sought on matters such as:

- Existing traffic flows.
- Appropriate growth rates (low, high or local).
- Trip generation - agreed or appropriate operator.
- Parking standards (TRICS).
- Design modelling and parameters for capacity (eg ARCADY, PICADY).

10 Listing, numbering and availability of documents

The PO will keep a library of all the documents and will maintain a document numbering system. Documents will be available for inspection prior to the opening of the inquiry. There was discussion about the appearance of impartiality of the PO since she was paid by the LPA. The PO is a professional with long experience of acting in this role and it is normal for the costs of the inquiry, including that of the PO to be met by the LPA. The Inspector confirmed that she had full confidence in the impartiality and professionalism of the PO. All documents to the inquiry will be made public. There was discussion as to where documents should be kept and a discussion was held outside the PIM. Following discussion with the Inspector, the Inspector considers that the most appropriate location for the documents and the PO's office would be within the Kirkby Suite where the Inquiry is to take place in view of its accessibility and the availability of facilities she will require to do her work effectively.

Number of documents produced in support of the planning application. The Inspector does not yet have a full set. Any missing documents can be requested through the PO, but in any event a full set was required for the assistant Inspector. Also – full set must be made available for public inspection – the PO will produce a note to inform the parties where and when these will be available.

During the inquiry, all documents will be available in the library in the Programme Officer's room which will be located within the One Stop Shop.

11 AOB

Two of the Rule 6 parties, Knowsley Liberals and KRAG, raised the issue of the timing for the Inquiry, on the basis that they would not have time to prepare properly for an Inquiry starting just 14 weeks after the application was called in. They were supported in their case by a number of local residents, and one resident subsequently emailed the PO with his views.

The Inspector heard the views of all the parties present on the start date. The Council, the applicant and the Rule 6 parties represented by Mr Lancaster and Mr Sauvain all considered that they could be prepared to start on the 18 November.

A start date at 14 weeks following a called in application is in accordance with the Inquiry Procedure Rules. The planning application in this case was submitted on the 2nd January 2008, and having regard to the number of letters from interested parties submitted in response to the application, there is wide knowledge of the proposal and of the issues which will be considered during the inquiry. In these circumstances the Inspector considers that local interest groups and residents are better informed than may be the case in other inquiries where the time between submission of the application and the start date of the appeal is much shorter. She therefore considers that there is insufficient justification to delay the start date of the inquiry.

However, the Inspector has some sympathy with the difficulties for the interested parties in meeting a submission date of the 28 October for the exchange of proofs of evidence. Whilst it is essential that Knowsley Council, the applicant, the other Councils who are Rule 6 parties and Grosvenor Estates do produce their evidence by that date, the other Rule 6 parties and the interested parties will not be called to present their evidence until much later in the proceedings. Indeed, although the inquiry has a preliminary allocation of 16 days, having heard the estimates of time required by the main parties, it is clear that more sitting time will be required. The Inspector is minded to sit for four weeks to the 12 December, and then to adjourn over the Christmas period to reconvene on the 6 January. It is then likely to be necessary to sit for a further 8 days to the 16 January. The PO is investigating the availability of the accommodation and the parties to sit for these dates.

The Inspector proposes to hear Knowsley Lib Dems and KRAG after the Christmas adjournment, followed by other interested parties. In these circumstances, she considers that it would be reasonable to allow for a later submission of proofs by the parties who are to appear after Christmas. Clearly the Inspector and the applicant would need to be able to read the documents before the 6 January, so a deadline of 18 December is put forward. The Inspector wishes to receive the views of all the parties on her proposal by the 1 October. Once this has been agreed a note will be put on the website of her decision.

WJB 19 September 08

DOCUMENT NUMBERING for Proofs of Evidence and Written Submissions

The following prefixes are to be used :-

Tesco/Everton – to use TEV or something similar if it is a joint submission. If documents are being submitted separately please use TES for Tesco and EVE for Everton.

SUP/Name Supporters - parties are asked to use an acronym, where appropriate; eg Knowsley Council - KMBC

OBJ/Name Objectors - parties are asked to use an acronym, where appropriate; eg Kirkby Residents Action Group – KRAG

Individual objectors and supporters are asked to use their surname.

Proofs of evidence are to be numbered as follows:

eg.

TEV/P/1	Proof of evidence of witness 1
TEV/A/1	Appendices to proof of evidence of witness 1
TEV/S/1	Summary to proof of evidence of witness 1
TEV/R/1	Rebuttal proof of evidence of witness 1
TEV/R/1/A	Appendices to the Rebuttal proof of evidence of witness 1
TEV/R/1/S	Summary to the Rebuttal proof of evidence of witness 1
TEV/P/2	Proof of evidence of witness 2
TEV/A/2	Appendices to proof of evidence
TEV/R/2	Rebuttal proof of evidence

EXCHANGE OF PROOFS OF EVIDENCE

This will take place at my office in Kirkby. The date for the exchange of proofs for the Applicant, Knowsley Metropolitan Borough Council, all the neighbouring Local Authorities and Grosvenor Limited is Tuesday 28th October at 10am and you can pick up the other parties proofs of evidence at 3pm on the same day.

The other parties should submit their proofs of evidence on Thursday 18th December **(subject to agreement as mentioned in AOB above)** at 10am and pick up the other parties proofs of evidence at 3pm on the same day.

I require 20 copies of your evidence.

Whilst I welcome as much as possible electronically, the size and level of the expected evidence will overload my email box so I would greatly appreciate everything on CD, preferably a minimum of two copies so that I can burn copies for other parties if necessary.

There will be a huge amount of evidence and therefore I will NOT be posting Proofs of Evidence to anyone so please ensure that you are available for this exchange as outlined above.

Written Representations are to be numbered as follows:

eg

WR/SMITH/ Written Representation

WR/SMITH/A Appendices to Written Representation

Written Representations should be submitted to me in by Tuesday 2nd December 2008

If you have any queries on the numbering of documents, please contact the Programme Officer.

Extra information from the Programme Officer

Programme Officer's Inquiry Office

I will have an office set up in the one stop shop in Kirkby from **1st October 2008**. It will be located at the top of the stairs and will be clearly sign posted. It will not be manned full time and if you wish to view documents in the Inquiry library or speak to me in person you will need to make an appointment.

My office telephone number from 1st October will be 0151 443 4209 which will divert to my mobile if I am not in the office and there is an answering service on my mobile if I am unable to take your call.

My mobile phone number is 0781 333 4305

My email address: programme.officer@ntlworld.com

My NEW address for correspondence is:

Ms Yvonne Parker,
The Programme Officer,
c/o Municipal Buildings,
Cherryfield Drive,
Kirkby, L32 1TX

If you have sent anything to the Huyton address it will automatically be forwarded to me.

Rule 6 Status

If you have applied and been granted Rule 6 Status, please note that you will have to submit 20 copies of all your submissions TO ME and not to Bristol, in order that they can be distributed to all the other Rule 6 Parties. You will also need to provide as much as you can electronically if possible.

I think that parties feel they have to have Rule 6 status in order to cross examine during the Inquiry. The Inspector will allow cross examination and questions regardless of whether you have Rule 6 status if you are not legally represented so you do NOT have to take on the responsibilities of Rule 6 which could be onerous if you are a small local group with limited resources. You can withdraw your request for Rule 6 status.

Appearance at the Inquiry

If you would like to speak at the Inquiry and have not already given me your details and availability could you please send them to me as soon as possible.

Programme for the Inquiry

I will endeavour to produce a draft programme as soon as I can after all the Rule 6 parties have submitted their statements (3rd October) and advised me about the number of witnesses they are bringing to the Inquiry. The programme will constantly change so it will be your responsibility to keep in touch with me so that I can advise you when you are due to appear or when certain witnesses are due to give their evidence.

Evening Sessions

The Inspector has agreed to hold a couple of evening sessions if necessary at the Inquiry. These sessions are being held for parties who are not available during the day and it is their opportunity to air their views to the Inspector. There won't be any cross examination at these sessions and only factual information will be provided by the Applicant and the Council. If you want to cross examine witnesses you will have to attend the Inquiry during the day sessions when the relevant witness is on the stand.

Core Documents

A set of Core documents will be available to view in the One Stop Shop in Kirkby and in the One Stop Shop in Huyton. We are also arranging to make a couple of sets available to the small groups which they can keep and share in their own offices or homes which will enable to work on them in the evenings if necessary. However, they will be responsible for picking up any additional documents as they are submitted. I will advise you as new documents arrive so that we can arrange a mutual time for you to collect them.

All the documents will be placed on to the website but this could take some time especially when all the proofs are submitted.

Website details

The link for the Inquiry website is -
http://www.knowsley.gov.uk/kirkby/public_inquiry.html

Please check it on a regular basis for updates and information. During the Inquiry a short daily update will be posted.

Inquiry Library

The Inquiry library includes all proofs of evidence, written representations, and core documents. The library is located in my office and you are welcome to view the documents during Inquiry hours. Before the start of the Inquiry you will need to make an appointment.

Photocopying facilities

There will be limited photocopying facilities in my office.

Rooms during the Inquiry

There will be a limited amount of rooms available during the Inquiry for participants. Please contact me if you would like me to try and arrange one for you. It may be necessary to share with other parties if there is a large demand for the rooms/spaces.

Refreshments

Coffee and Tea will be available during the Inquiry but must be consumed outside of the Inquiry room.

Car Parking

We are hoping to arrange reasonable parking facilities for the duration of the Inquiry and I will update you about this nearer to the Inquiry date.