

# The case management conference and preparation for virtual appeals



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## Case management conference introduction

- New stage of the inquiry process introduced following the Rosewell Review
- Guidance in Section F.10 of PINS Procedural Guidance
- F.10.2 *“Amongst other things this will set out what the Inspector considers the main issues are likely to be and any other matters that may need to be addressed. Also the note will set out how the Inspector thinks that the evidence can best be addressed in order to conduct the inquiry in the most efficient and effective manner.”*

## Virtual case management 10 top tips

- Be proactive and discuss procedural issues with other parties beforehand
- Identify all of the issues, including those raised by 3<sup>rd</sup> parties
- Be prepared to discuss the appropriate form of evidence for each issue
- Think about realistic time estimates & timetable & witness availability
- Ensure document preparation and management is dealt with satisfactorily

## Virtual case management 10 top tips cont'd

- Make sure key members of the team are on the call and can communicate with each other during it
- Consider pencilling in a second CMC after exchange of evidence
- The Scott Schedule is a key document, so make sure dates for preparation are realistic
- Start thinking about the site visit route, access requirements and involve 3<sup>rd</sup> parties
- Encourage the Inspector to be active rather than passive at the virtual Inquiry

## The virtual appeal: the technology

- MS Teams is PINs uniform choice of technology
- No need for Microsoft Office 365 -you can use the web app
- Telephone number is also available for audio only
- PINs technology support was available –will this continue as standard?
- Practice using Teams beforehand and learn to share screens
- Learn keyboard shortcuts (Ctrl+shift+M = mute; Ctrl+shift+O = camera on/off)

## The virtual inquiry –the documents

- It is really important to have an electronic document library online and to update it regularly throughout the inquiry
- The electronic core documents should be easy to navigate quickly e.g. use bookmarks or a hyperlinked index
- Check the size and orientation of the pages in the electronic documents (e.g. if you need to share your screen you don't want to have to enlarge and rotate an image)
- Will the Inspector require hardcopies e.g. of large plans? Check at the CMC

## The virtual appeal: involvement of 3<sup>rd</sup> parties

- For the first 2 virtual inquiries, Parish Councils were given Rule 6 status
- Parish Councils were invited to join the CMC
- Parish Councils were invited to question Appellant's witnesses
- Public session scheduled after openings for other members of the public too
- Document sharing on screen essential so public can follow inquiry

## The virtual appeal: practical arrangements for the team

- Significantly easier if the team are in the same room, but still perfectly manageable when dispersed
- WhatsApp -the 'virtual yellow post-it note'?
- Schedule separate video calls in breaks and after close of inquiry
- Ensure all witnesses understand the rules about not communicating during their evidence and not using notes/scripts



## The basic format of the virtual inquiry

- Just the same as for an in person inquiry in most respects
- Formal dress & usual formalities of address
- Only speakers have their cameras and microphones on
- 3 x 1.5 hr sessions per day (approx. 9:30am start & 3:30pm finish)
- Monday sittings

## The virtual inquiry: the giving of evidence

- Inspectors are asking for lists of documents to be referred during each witnesses' evidence so they can open the relevant files on their PC in advance
- It is harder to see whether a witness/the Inspector has located the correct page reference, so check and do not rush
- The technology means interrupting/talking over someone is difficult, so watch for visual cues e.g. raised hand

## The virtual inquiry: the giving of evidence cont'd

- Beware witnesses who are too relaxed sat at home giving evidence without the pressure of a public forum
- The virtual platform gives witnesses more 'space' to talk, so avoid waffle and make answers short, precise and relevant
- Be courteous –getting cross at a computer screen will be seriously counterproductive
- It is more tiring, so ask for breaks if you need them

## The giving of evidence cont'd

- Will there be a need for guidance on how witnesses behave during breaks?  
At one virtual inquiry the witnesses remained on camera during breaks (save for comfort breaks) to confirm the absence of contact with other team members
- The Commercial Court's practice where dishonesty is alleged against a witness is to have the witness attended by a trainee from the other side's solicitor to ensure good conduct

## Roundtables

- PINs appears to be cancelling roundtable sessions that had been fixed at CMCs in Feb/March
- At the first virtual inquiry the Inspector did in the end hold a roundtable on 5YHLS and it proved effective
- It is much harder to hold a free flowing discussion virtually and it relies on a clear agenda, a proactive Inspector and self-discipline from the participants not to speak out of turn

## My own experience

- 7 day inquiry with 11 witnesses dealing with heritage, landscape, planning, transport & 5YHLS (recorded for PINs internal training purposes)
- Very few technical glitches
- Concluded on time and all participants said it had been a fair and effective process
- Hopefully we proved to PINs that the roundtable format can operate virtually
- The evidence was fully tested and it felt like a ‘proper’ inquiry

## Concluding thoughts

- It works!
- Co-operation between parties is vital to keep the show on the road
- Opportunities for public participation are potentially greater & cheaper
- The shorter hearing days call for very focused written evidence and even more focused oral evidence and cross-examination. Proper preparation from the very beginning is imperative.

# Thank you for listening

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