



**Date :** 23 April 2025

**Inspector :** Darren McCreery BA MA MRTPI

**Appeal Ref:** APP/H5960/W/24/3358065

**Site address :** 41-49 Battersea Park Road (Booker Cash & Carry) and 49-59 Battersea Park Road (the former BMW Car Service Garage), London, SW8 5AL

**Proposal :** Application for Phased Full Planning Permission for: Demolition of all existing buildings and construction of three new buildings, together comprising Residential (Use Class C3) and Student Accommodation (Sui Generis) along with Commercial, Business and Service (Use Class E) and/or Local Community and Learning (Class F) floorspace. Associated works include hard and soft landscaping, car parking and new vehicular access / servicing, and other ancillary works.

### **PRE-INQUIRY NOTE (INCLUDING PROGRAMME)**

1. Ahead of the inquiry opening on Tuesday 29 April, this note addresses some matters to assist all parties with preparation and making the best use of inquiry time. Where necessary it cross references to documents within the inquiry core documents<sup>1</sup> and uses the reference system in square brackets (e.g. the National Planning Policy Framework is [CDB.01]).
2. Other procedural matters are addressed within the Case Management Conference (CMC) note [CDN.01].
3. **The Council should publish this Pre-Inquiry Note on the inquiry webpage and ensure that the programme is signposted to assist interested parties. They should also ensure that hard copies of the programme are available at the inquiry.**

### **Confirmed inquiry programme**

4. The confirmed inquiry programme is at **Annex 1** and will serve as the agenda for the proceedings.

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<sup>1</sup> Available at - <https://www.wandsworth.gov.uk/planning-and-building-control/booker-bmw-redevelopment/booker-bmw-core-documents/>

5. The programme has been amended since the CMC note to reflect the Council's indication that they do not intend to call any witnesses at the inquiry. Estimated timings from the advocates are to follow and, unless there has been prior notification, my assumption is that they will be followed.

**Interested parties wishing to speak at the inquiry**

6. As indicated in paragraph 2.4 of the CMC note, there will be a dedicated slot for interested parties to speak on day 1 (Tuesday 29 April) after opening statements. This will be the main opportunity to speak at the inquiry. Anyone joining the event virtually is advised to be mindful that contributing to discussions outside the dedicated slot can be challenging at in person events and, therefore, opportunities to do so are likely to be limited.

**Road table session - clarification on extent of dispute and evidence and documentation**

7. A short roundtable will be held after openings and interested party statements.
8. The main procedural change following the CMC is the Council's indication that they do not intend to submit further evidence or call any witnesses at the inquiry. The Council will rely principally on the written evidence in their Statement of Case dated 27 February 2025. This procedural change will have the following implications for the Inquiry:
  - A spokesperson for Council will need to be present throughout the Inquiry (both the in person and virtual sessions). Where we meet in person they will be asked to sit at the main table in the usual way.
  - The Council will be able to make a short opening statement based on their Statement of Case.
  - The Council will not be entitled to cross examine any of the Appellant's witnesses. The Council will only be able to contribute during witness questioning at my invitation, which will be by strict exception.
  - The Council will be able to participate in the roundtable sessions (conditions, obligations, etc) in the usual way.
  - The Council will not be entitled to do a closing statement.
9. As things presently stand, I am also likely to raise the following:
  - Paragraph 1.1 Statement of Common Ground (SOCG) agrees the description of development, which differs from the description set out at the head of this Pre-Inquiry Note and the CMC note. I will ask about the description that should be used in the Appeal Decision.
  - Paragraph 1.25 SOCG says that an agreed list of drawings and documents is at Appendix 4 of that document. I do not have that appendix and will ask for it or, instead, whether the intention is for me to regard the Condition 2 of Appendix 2 (SCOG) as an agreed list of drawings and documents.

- Clarification on the main issues and whether they remain the same as those set out at paragraph 3.1 of the CMC note. Specifically, I will ask if the living conditions main issue referring only to properties at New Mansion Square is accurate.
- Clarification on the extent of alleged development plan conflict in light of the Council's letter dated 29 January 2025 (Appendix D of their statement of case) identifying LP2 of the Local Plan and their Statement of Case (at paragraph 5.17) also referring to policies LP28 of the Local Plan and H15 of the London Plan.
- The latest position on the Council's Partial Local Plan Review.

### **Round table session - other matters**

I may ask about the following:

- Clarification on what is understood to be the position of the GLA, considering their 2022 stage 1 referral report and subsequent discussions and actions.
- Traffic and highways issues, including considering TFLs letter dated 26 February 2025 (this may be addressed in discussion relating to the section 106 agreement).
- Fire safety, including considering LFBs letter dated 18 August 2024 and the need for internal access roads to accord with various details set out in their letter.

### **Site visit**

10. I will carry out a site visit. Based on the evidence provided, I am of the view that the visit can be most efficiently and effectively done on an unaccompanied basis.

11. It would assist if the Council and the Appellant were to agree a suggested walking route/list of viewpoints ahead of the visit.

12. Other parties can also suggest public places they would like me to visit.

### **Conditions**

13. Without prejudice to the outcome of the appeal, planning conditions agreed between the Council and the Appellant are included at Appendix 2.0 of the SOCG.

14. **Conditions 4 to 7** (Contaminated land) appears to repeat requirements and it is unclear how everything fits together (including the triggers for the conditions and how they are intended to operate in the context of a phased development). As written, they do not appear to me to pass the tests in the Framework and I see little point in wasting inquiry time discussing them without the parties first reviewing them and attempting a redraft. As such, I would ask that the parties work on an agreed redraft of the conditions that is to be submitted to me ahead of the Inquiry starting.

15. Each of the other conditions in the SOCG may be discussed at the roundtable, and I will ask the Council to lead on taking me through them. To assist, and from a first review, questions I have may include:

- Condition 9 – are the requirements sufficient clear in terms of what constitutes a ‘penetrative method’? Is the condition reasonable in the context of the site and anything that is presently known about its underlying ground conditions?
- Condition 13 and 14 – look to repeat requirements? Why is it necessary?
- Conditions 16 and 17 – would the waste and surface water network upgrades referred to in these conditions not be part of the ‘all water network upgrades’ covered by conditions 15? If so, why is condition 16 and 17 necessary and is the relationship with condition 15 sufficient clear?
- Condition 18 – Is the relationship between this condition and Condition 9 clear and are the requirements aligned and logical? Are both conditions needed?
- Condition 19 – does this repeat condition 15, with a different trigger? If so, why is it necessary?
- Condition 20 – what is ‘the water main’ referred to, or should it say ‘any water main’? When should the ‘information’ be submitted and is the submission only necessary if development would be within 5 metres of a water main? In terms of the last sentence, what is the ‘asset’ that is referred to and is the facility for unrestricted access to it at all times after construction works reasonable and serving a planning purpose?
- Condition 21 – is the ‘water abstraction source’ sufficiently identified?
- Condition 24 – are the phases of development sufficiently identified and is the ‘prior to commencement of monitoring’ trigger for this condition effective?
- Condition 27 – is the requirement at (a) clear?
- Condition 32 – is the intention that the requirement relates only to the illumination of ‘the building’ (presumably external) and no other lighting within the site? Does this condition repeat Condition 37?
- Condition 33 - does this repeat Condition 28 and, if so, why is it necessary?
- Condition 34 – why does the condition ask for landscaping details already required to be specified under other conditions?
- Condition 50 – is the requirement for one EVCP correct? Does this condition repeat Condition 51(c)?
- Condition 54 – does this relate to development outside of the site on land outside the control of the Appellant? If so, is it appropriate to control this matter by condition?
- Condition 62 – how is the restriction on hours of operation reasonable? Should the condition include flexibility to allow the LPA to agree alternative hours in writing?
- Condition 63 – is this reasonable?

16. For the avoidance of doubt, where pre-commencement conditions are included, agreement as part of the SOCG (with any necessary adjustment discussed at the Inquiry) will be regarded as ‘written agreement’ by the Appellant for the purposes of satisfying Section 100ZA (5) Town and Country Planning Act 1990 (as

amended). The Appellant should clearly indicate if they do not give such agreement.

### **Obligations**

17. My understanding of the latest position on the S106 agreement is that there remains a number of points between the parties. A two week extension to 25 April was given to allow the points to be resolved. Any valid obligations made will be discussed at the inquiry. I will ask the Appellant to lead on taking me through them and for someone involved on the Council side to also be in attendance.
18. To make the best use of inquiry time, it would assist the inquiry to have an agreed Regulation 122 CiL Regs compliance statement setting out how each obligation satisfies the relevant tests. That can be submitted alongside the completed S106 agreement.

### **Planning and Environment Bar Association Good Practice Memorandum 2: Guidance for barristers on dealing with experts at Planning and Other Similar Inquiries (2 November 2023)**

19. The parties will be assumed to be familiar with the good practice memorandum<sup>2</sup>, which is also endorsed by the Planning Inspectorate. I will also be mindful of it during the event when considering whether any conduct related interventions are necessary.
20. In relation to Evidence in Chief, I would emphasise the point at paragraph 12(1) that, whilst permissible, reading out of summary proofs is not necessary or generally of use to Planning Inspectors as we can be assumed to have read the material in advance.
21. I look forward to meeting everyone next week.

*D.R. McCreery*

INSPECTOR

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<sup>2</sup> <https://peba.org.uk/resources/>

**Annex 1****Inspector** : Darren McCreery BA MA MRTPI**Appeal Ref:** APP/H5960/W/24/3358065**Site address** : 41-49 Battersea Park Road (Booker Cash & Carry) and 49-59 Battersea Park Road (the former BMW Car Service Garage), London, SW8 5AL**Proposal** : Application for Phased Full Planning Permission for: Demolition of all existing buildings and construction of three new buildings, together comprising Residential (Use Class C3) and Student Accommodation (Sui Generis) along with Commercial, Business and Service (Use Class E) and/or Local Community and Learning (Class F) floorspace. Associated works include hard and soft landscaping, car parking and new vehicular access / servicing, and other ancillary works.**Inquiry programme (subject to change depending on progress)****Tuesday 29 April 2025 – 10:00 start (face to face)**

<b><i>Subject</i></b>	<b><i>Item</i></b>	<b><i>Speakers/ participants/ witness</i></b>
Introduction	Inspector	Mr McCreery
Opening submissions	Appellant	Mr Taylor
	Council	TBC
Statements	Interested parties	Various
Short clarification on: (i) extent of dispute (ii) evidence and documentation	Roundtable format	Various
Appellant witness 1 -David Feeney (student need)	Evidence in chief	Witness 1
	Inspector questions (and other parties at the Inspector's discretion).	Witness 1
	Re examination	Witness 1

**Wednesday 30 April 2025 – 10:00 start (face to face)**

<b><i>Subject</i></b>	<b><i>Item</i></b>	<b><i>Speakers/ participants/ witness</i></b>
Introduction	Inspector	Mr McCreery
Appellant witness 2 - Paul Fletcher (daylight, sunlight, overshadowing)	Evidence in chief	Witness 2
	Inspector questions (and other parties at the Inspector's discretion).	Witness 2
	Re examination	Witness 2
Appellant witness 3 - Alan McCartney (Architectural)	Evidence in chief	Witness 3
	Inspector questions (and other parties at the Inspector's discretion).	Witness 3
	Re examination	Witness 3
Appellant witness 4 - Sam Stackhouse (Planning)	Evidence in chief	Witness 4
	Inspector questions (and other parties at the Inspector's discretion).	Witness 4
	Re examination	Witness 4

**Thursday 1 May 2025 – 10:00 start (face to face)**

Other matters	Roundtable format	Various
Conditions and obligations	Roundtable format	Various
Costs (if any)	Roundtable format	Various
Site visit (unaccompanied)		Inspector only

**Friday 2 May 2025 – 10:00 start (Virtual)**

<b><i>Subject</i></b>	<b><i>Item</i></b>	<b><i>Speakers/ participants/ witness</i></b>
Introduction	Inspector	Mr McCreery
Closing submission	Appellant	Mr Taylor
Inquiry close	Inspector	Mr McCreery

**Tuesday 6 May 2025 – 10:00pm (virtual)**

<b><i>Subject</i></b>	<b><i>Item</i></b>	<b><i>Speakers/ participants/ witness</i></b>
<b>Reserve time – Only if needed</b>		