



**In the High Court of Justice
Queen's Bench Division
Planning Court**

CO Ref:
CO/2082/2017

In the matter of a claim for Planning Statutory Review

GRAINGER PLC

Versus

SSCLG and another

**Application for permission to apply for Planning Statutory Review
NOTIFICATION of the Judge's decision (CPR PD 8C 7.1 to 7.8)**

Following consideration of the documents lodged by the Claimant and the Acknowledgements of service filed by the Defendant and Interested Party

Order by the Honourable Mr Justice Dove

Permission is hereby refused.

Reasons:

There is no error of law, in the form of a misinterpretation of planning policy, in paragraph 11 of the Inspector's decision. Nowhere does she say, as the claimant alleges, that the development plan policies "perform an equivalent role to a gap policy". What she says, having identified the relevant policies, is that they "seek to protect the district's countryside from adverse development and protect landscape character and setting, including the separate identities of settlements". That summation is grounded in the policies. As she observes, it is a generic approach consistent with the Framework and an alternative to the designation of specific sites as green gaps. The claimant's contentions that the deletion of the open gaps aspect of Local Plan policy G4, and absence of specific policy on gaps between settlements, mean that the inspector has erred in law are without substance. Her distillation of the policy did not and could not render the landscape consequences of developing in a gap between settlements irrelevant in policy terms: the generic approach would include the assessment of those consequences as part of the application of the policies. The inspector's extensive and detailed findings in relation to the adverse landscape effects of the proposals were grounded in considerations specified by the policies, as set out in paragraph 12 of the Acknowledgment of Service.

Ground 2 is unarguable: the weight to be attached to out of date policies in applying the tilted balance under paragraph 14 of the Framework is a matter of planning judgment for the decision-maker (see Suffolk Coastal DC v Hopkins Homes [2017] UKSC 37 paras 55-56 and 60-61). Ground 3 is similarly unarguable. The question of whether a landscape is one which is "valued" is quintessentially a question of planning judgment and the Inspector's reasons for her conclusions are clear and based upon relevant considerations.

It follows that I am satisfied that permission must be refused and the defendant awarded his costs. I do not propose to award a second set of costs in favour of the interested party.

- The costs of preparing the Acknowledgment of Service are to be paid by the claimant to the defendant, in the sum of £ 2,703 unless within 14 days the claimant notifies the court and the defendant, in writing, that they object to paying costs, or as to the amount to be paid, in either case giving reasons. If they do so, the defendant has a further 14 days to respond to both the court and the claimant, and the claimant the right to reply within a further 7 days, after which the claim for costs is to put before a judge to be determined on the papers.

Signed

21:vi:17

The date of service of this order is calculated from the date in the section below

For completion by the Planning Court

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date):

Solicitors:

05 JUL 2017

Ref No.

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court under CPR PD 8C 7.8, you must complete and serve the enclosed FORM 86B within 7 days of the service of this order.