

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
IN THE PLANNING COURT

CO/2105/2017

BETWEEN:

ALDINGBOURNE PARISH COUNCIL

Claimant

- and -

SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT

First Defendant



- and -

WHITGIFT ESTATES LIMITED

Sixth Defendant

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CONSENT ORDER

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HAVING REGARD to the reasons set out in the Schedule to this Order

HAVING REGARD to the fact that only the First and Sixth Defendants have participated in these proceedings, none of the other Defendants having served an Acknowledgement of Service.

TAKE NOTICE that we the undersigned solicitors acting for the abovementioned parties HEREBY CONSENT to an Order on the following terms:

1. The claim pursuant to section 288 of the Town and Country Planning Act 1990 (TCPA), Administrative Court reference CO/2105/2017, be allowed and the decision of the First Defendant contained in the Appeal Decision Letter dated 24 March 2017 be quashed.

2. The planning appeal be remitted to the First Defendant for reconsideration *de novo*.
3. The First Defendant do pay that proportion of the Claimant's costs of the application amounting to the sum £4,000 (including VAT) within 14 days of the date of receipt of this order sealed by the court.
4. The Sixth Defendant do pay that proportion of the Claimant's costs of the application amounting to the sum £2,340 (including VAT) within 14 days of the date of receipt of this order sealed by the court.
5. That there be no other order for costs.

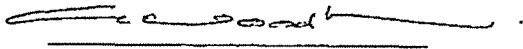
## SCHEDULE

1. These proceedings concern an application under section 288 of the TCPA to quash the decision of the First Defendant's Inspector, made by letter dated 24 March 2017, to dismiss the Claimant's appeal under section 78 of the TCPA against a decision allowing an appeal in respect of a proposal for 14 dwellings and associated works at Land south and west of Barnside, Hook Lane, Westergate, Aldingbourne.
2. The First Defendant has carefully considered the decision in light of the Claimant's Details of Claim. The First Defendant concedes that the said decision should be quashed on the grounds that:
  - (a) The Inspector failed to have regard to a material consideration, in particular that Policy EH1 of the ANDP could potentially still attract weight notwithstanding that it was "out of date" within the meaning of NPPF [14] and [49]; and
  - (b) The Inspector failed to give adequate reasons in respect of the weight to be applied to EH1 despite its "out of date" status within the meaning of NPPF [14] and [49], which was a principal, controversial issue in this case.
3. The Sixth Defendant filed and served its Acknowledgment of Service before learning of the Secretary of State's decision not to defend the claim.
4. By Order dated 10 September 2017 Mr Justice Holgate granted permission for the claim to proceed and directed that it be consolidated and heard with CO/901/2017 on 6 December 2017 with a time estimate of two days.
5. The Sixth Defendant has played no part in CO/901/2017, a separate claim for judicial review of a decision by the local planning authority to grant planning permission for development of the same land at issue in the instant claim.
6. The Sixth Defendant does not wish to bear the cost of a fully argued claim or run the risk of paying the Claimant's costs of the hearing, and seeks a prompt determination of the instant claim pursuant to the overriding objective.

7. For the reasons set out in paragraph 6 above the Sixth Defendant consents to an order in the terms above.

We consent to an Order in the above terms on behalf of the parties named below.

Dated this 10th day of November 2017



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Solicitors for the Sixth Defendant

ADMINISTRATIVE COURT OFFICE  
BY CONSENT ORDER AS ASKED  
13 NOV 2017  
*Carin Conka*  
*Carin Conka is a member of the  
in the case of the consent order  
by the court in the  
Q30 - DC 54.1A*

*By the Court*