

Legal Update

Planning Officers Society Spring Conference

Beverley Firth

15 June 2018

Legal Update:

- Committee report/reasons
- Affordable housing
- S.73 applications
- Trends in practice

Committee report/Reasons

- R(oao) Steer v Shepway DC (2018)
- *“Councillors having regard to the requirements of Development Plan policy and Government advice set out within NPPF felt that, on balance, the development would conserve and preserve the scenic beauty of the AONB whilst also providing significant employment and tourism benefits and enhancing the North Downs and wider district. Councillors considered that the AONB location was suitable and that the application demonstrated that there would not be harm to the AONB...(and) the development therefore complied with policy and constituted sustainable development”*

“116. Planning Permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way;*
- any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.”*

Affordable Housing

- Parkhurst Road Ltd v SSCLG
- R (oao McCarthy and Stone and ors) v Mayor of London and GLA
- Emerging NPPF/PPG

Section 73 applications

- LB Lambeth v SCLG and others
- “Technical trap”
- No implied condition

Section 106 agreements

- Aberdeen and Shire Strategic Development Planning Authority (DPA) v Elsick Development Company
- R (oao Wright) v Forest of Dean DC

Trends in practice

- Affordable housing – Politics and politics
- Who is your developer?
 - (i) Master developer/housebuilder/landowner
 - (ii) Multi owned sites
 - (iii) Collaboration or no
 - (iv) Joint mitigation and tariffs
- Flexibility and longevity
 - (i) Review mechanisms
 - (ii) Monitor and manage
 - (iii) Detail when relevant

thank you



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