



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

CO Ref: CO/4872/2018

In the matter of a claim for Planning Statutory Review

BECK HOMES (UK) LIMITED

versus

**SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL
GOVERNMENT (1)
NORTH HERTFORDSHIRE DISTRICT COUNCIL (2)**

**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 Defendants

Order by John Howell QC (sitting as a Deputy High Court Judge)

Permission is hereby refused.

Reasons:

1. Ground 1:

- a. The issue between the parties was whether (as the Claimant contended) Policy 6 should carry less than "its full original weight" or whether (as the Council contended) it should be given "significant weight" as it was consistent with the NPPF. As the Inspector found that "weight" should be given to it, the Inspector plainly accepted that the weight to be given was not of no significance and he did not suggest that it carried its full original weight. He was not arguably required to indicate some precise weight it was to have, given the conflict of the proposed development with it, assessed without regard to other matters, which could then be given to that matter in the balance that had ultimately to be struck. The individual elements involved in such an overall judgment are not necessarily things measurable on a single scale which can be added to, and subtracted from, each other and which have to be individually quantified before a conclusion on the overall balance can be reached. The relative weight of any consideration in such a balance (which is what is of significance) depends a planning judgment based on the circumstances of the particular case as the Inspector explained in [DL19].
- b. The Inspector's approach in [DL7], in considering whether the policies in the local plan, including policy 6, were consistent with the NPPF, is unarguably consistent with paragraph 213 of the NPPF.
- c. But, in any event, even if the Inspector failed to state what precise weight he attached to Policy 6 (in breach of the requirement to give reasons) and/or if he erred in the reason he gave for giving it weight, any such error was unarguably immaterial or at least it is highly likely that it would have made no substantial difference to the outcome. The Inspector was unarguably entitled to have regard to the significant harm to the countryside described in [DL8] and [DL9] which he found would be inconsistent with paragraph 170 of the NPPF and it was this harm, not the conflict with Policy 6, that was significant in his reasoning in

applying the 'tilted balance' in [DL20]. That harm would be not be diminished if Policy 6 did not exist.

- d. Given that the parties were broadly agreed on the degree of shortfall in the five year supply of housing land (either between 2.2 and 3.8 years or between 2.7 and 3.7 years), there was no arguable requirement on the Inspector to determine within which of these ranges, or precisely where within either range, the shortfall fell (as the Claimant in effect acknowledges in paragraph [36] of the Grounds).
2. Ground 2: there is no arguable basis for contending that the Inspector failed to take into account the benefits of the development listed in the Statement of Common Ground. Nor was the Inspector required to list every consideration that he took into account when striking the overall balance: by identifying which were the most significant benefits and disadvantages of the proposed development in striking that balance in his view, he unarguably explained the reasons for his decision. The Claimant cannot unarguably claim not to know why its appeal was dismissed.
 - The costs of preparing the Acknowledgment of Service are to be paid by the claimant to the First Defendant, in the sum of £3,299 unless within 14 days the claimant notifies the court and the defendant, in writing, that it objects to paying costs, or as to the amount to be paid, in either case giving reasons. If it does 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. Where the claimant seeks reconsideration, costs are to be dealt with on that occasion.

Signed

John Howell

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:

Ref No.

22 JAN 2019

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.



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

CO Ref no: CO/4872/2018

In the matter of a claim for Planning Statutory Review

BECK HOMES (UK) LTD

**versus SECRETARY OF STATE FOR HOUSING COMMUNITIES AND
LOCAL GOVERNMENT and Others**

Notice of RENEWAL of claim for permission to apply for Planning Statutory Review (CPR PD 8C 7.4)

1. *This notice must be lodged in the Planning Court Administrative Court Office, by post or in person and be served upon the defendant (and interested parties who were served with the claim form) within 7 days of the service on the claimant or his solicitor of the notice that the claim for permission has been refused.*
2. *If this form has not been lodged within 7 days of service (para 1 above) please set out below the reasons for delay:*

3. *Set out below the grounds for seeking reconsideration:*

4. *Please supply*

COUNSEL'S NAME:

COUNSEL TELEPHONE NUMBER:

Signed

Dated

Claimant's Ref No.

Tel.No.

Fax No.

**To the Planning Court Administrative Court Office, Royal Courts of Justice, Strand,
London, WC2A 2LL**

FORM 86B PLN