



Government  
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By email only  
Copied to the parties

Your ref: CO/234/2020

Our ref: Z2001436/KDW/JD3  
APP/F2360/W/19/3234070

17 February 2020

Dear Sirs

**CO/5006/2019**

**Wainhomes (North West) Limited v (1) Secretary of State for Housing Communities and Local Government and (2) South Ribble Borough Council Legal Department**

I act on behalf of the first defendant, Secretary of State for Housing Communities and Local Government (“Secretary of State”). I refer to the Acknowledgement of Service filed today (by email together with this letter) pursuant to which the Secretary of State advises that he does not intend to defend the claim.

We write to inform the court and the parties of the reasons for that decision.

The Claimant, Wainhomes (Northwest) Ltd, challenges the decision of the Secretary of State’s Inspector dated 13 December 2019 to refuse outline planning permission for a development consisting of up to 100 residential dwellings with access and associated works.

The right of appeal to the High Court arises under 288 Town and Country Planning Act 1990 (‘TCPA1990’). The Claimant seeks that the decision is quashed and remitted to the Secretary of State for re determination.

By way of background, the Claimant submitted an application (reference 07/2018/9316/OUT) for planning permission to the Second Defendant. The Second Defendant is South Ribble Council, and is

Gilad Segal - Head of Division  
Gary Howard - Deputy Director, Team Leader Planning, Infrastructure & Environment



the Local Planning Authority for the area. The application was submitted on 4 December 2018 (“the application”). The application was refused by the Second Defendant by decision notice dated 27 June 2019 (“the refusal”).

The Claimant appealed the refusal under section 78 of the Town and Country Planning Act 1990 APP/F2360/W/19/3234070 (“the appeal”).

The appeal was determined by way of an inquiry held from 12 to 15 November, 2019. The Secretary of State’s Inspector dismissed the appeal on 13 December 2019.

The Claimant’s application for permission to appeal was issued on 23 January 2020 at the HM Courts & Tribunals Service in Birmingham and served on the Government Legal Department in Westminster, London under cover letter dated 24 January 2020.

The Claimant claims that the Secretary of State’s decision should be quashed on 5 Grounds. The Secretary of State agrees that the decision should be quashed on **Ground 5 only**.

This is on the basis that the Secretary of State agrees that the Inspector did not expressly consider the specific point put by the Claimant at paragraphs 80 – 81 Statement of Facts and Grounds. That is, the Inspector did not expressly consider whether the distribution of the housing requirement that would result from the application of the Standard Methodology within the Housing Market Area would render policy G3 out of date irrespective of whether the Council could demonstrate a five year supply of housing land. Accordingly, the Secretary of State accepts that the decision should be quashed but only for the reasons set out in paragraphs 80 – 81, paragraph 82 (failure to give adequate reasons) and paragraph 83 (in so far as that paragraph relates to a failure to take into account a material consideration) of the Claimant’s Statement of Facts and Grounds.

Unless the court directs otherwise, the Secretary of State does not intend to play any further active role in these proceedings. No disrespect to the court or parties is intended.


As to costs, it is recognised that these are at the discretion of the court. Were the court minded, however, to award the Claimant its costs then the Secretary of State would invite and order to the following effect:

- (a) Any of the Claimant’s costs incurred on or before the date of service of the Secretary of State’s acknowledgement of service (ie 17 February 2020), be paid by the Secretary of State ie the First Defendant, to be assessed on the standard basis, if not agreed, and
- (b) Any of the Claimant’s costs incurred after 17 February 2020 to be paid by the Second Defendant.

If the court were minded to make any different costs order that may affect the First Defendant, then the First Defendant would welcome an opportunity to make brief written submissions in advance.

If I can be of any further assistance, please let me know. Otherwise, I would be grateful if this letter could be placed before the judge allocated to determine the claimant’s application for permission, as well as on the court file.

Yours faithfully

  
**Kerstin Wittkopf**  
**For the Treasury Solicitor**

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