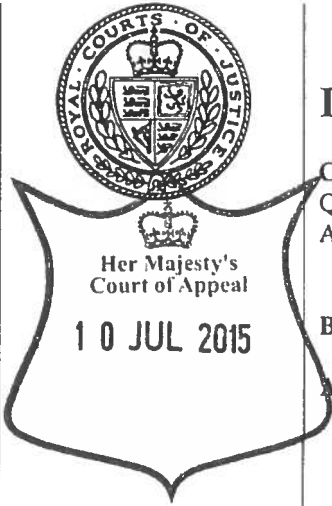


THURSDAY 9TH JULY 2015

IN THE COURT OF APPEAL

ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CO/3796/13



BEFORE LORD JUSTICE RICHARDS
LORD JUSTICE MCFARLANE
AND LORD JUSTICE CHRISTOPHER CLARKE

COURT 68
Appeal No.

BETWEEN:

C1/2014/1148

ASHDOWN FOREST ECONOMIC DEVELOPMENT LLP

Claimant/Appellant

- and -

**(1) SECRETARY OF STATE FOR COMMUNITIES AND LOCAL
GOVERNMENT**

(2) WEALDEN DISTRICT COUNCIL

(3) SOUTH DOWNS NATIONAL PARK AUTHORITY

Defendants/Respondents

UPON HEARING David Elvin QC and Charles Banner for the Claimant and
Douglas Edwards QC and David Graham for the Second and Third Defendants;

IT IS ORDERED that:

1. The Appeal is allowed.
2. The Appellant's claim for judicial review is allowed.
3. The Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan is quashed in part, namely that Policy WCS12 and other local plan text is quashed to the extent set out in the Schedule to this Order.
4. The Second Defendant shall pay the Claimant's costs in this Court and below, to be assessed if not agreed, and subject to the costs cap of [REDACTED] that has been agreed between the parties.

By the Court



SCHEDULE

The following parts of the Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan are quashed to the extent shown by being struck out, the remainder remaining in force:

(1) The third paragraph of Policy WCS12 (Biodiversity) -

~~“In order to avoid the adverse effect on the integrity of the Ashdown Forest Special Protection Area and Special Area of Conservation it is the Council's intention to reduce the recreational impact of visitors resulting from new housing development within 7 kilometres of Ashdown Forest by creating an exclusion zone of 400 metres for net increases in dwellings in the Delivery and Site Allocations Development Plan Document and requiring provision of Suitable Alternative Natural Green Space and contributions to on-site visitor management measures as part of policies required as a result of development at SD1, SD8, SD9 and SD10 in the Strategic Sites Development Plan Document. Mitigation measures within 7 kilometres of Ashdown Forest for windfall development, including provision of Suitable Alternative Natural Green Space and on-site visitor management measures will be contained within the Delivery and Sites Allocation Development Plan Document and will be associated with the implementation of the integrated green network strategy. In the meantime the Council will work with appropriate partners to identify Suitable Alternative Natural Green Space and on-site management measures at Ashdown Forest so that otherwise acceptable development is not prevented from coming forward by the absence of acceptable mitigation.”~~

(2) The accompanying text of the Local Plan:

~~3.32 “In accordance with advice from Natural England it will be necessary to reduce the recreational impact of visitors resulting from new housing development within 7 kilometres of Ashdown Forest by creating an exclusion zone of 400 metres for net increases in dwellings, requiring the provision of Suitable Alternative Natural Green Spaces (SANGS) in Uckfield and Crowborough and requiring contributions to on-site management measures at Ashdown Forest. In addition, measures will be required, as well as monitoring, to reduce the nitrogen emissions emanating from the increased number of vehicles using the roads crossing Ashdown Forest and Lewes Downs Special Area of Conservation, which is situated in Lewes District adjacent to the A26. Measures include creation of more self-sufficient communities in order to provide an alternative to trips by motor vehicle, on-site management techniques and use of SANGS to provide alternative recreation space outside of Ashdown Forest.”~~

~~5.16 (second page, p. 32) “Development within 7 kilometres of the Ashdown Forest will be required to provide for mitigation measures, including the provision of Suitable Alternative Natural Green Space prior to the occupation of~~



development.”

6.9 “The SHLAA revealed a number of potential sites at the fringes of the urban area, although many were considered unsuitable due to a combination of access, landscape and topographical issues. The most significant brownfield opportunity lies within the town centre in association with the comprehensive redevelopment of that area; all other significant available land is greenfield. In order to limit the impact of new housing development on the conservation interests of the Ashdown Forest, development will need to ~~make provision for areas of suitable alternative natural green space as part of strategic development in the town, contribute to management measures on the Ashdown Forest and~~ increase self sufficiency of Uckfield itself in order to reduce the reliance on the private motor car and reduce the potential impact of growth on Ashdown Forest through nitrogen emissions. This will include consideration of initiatives to discourage the use of the car.”

6.34 “The High Weald Area of Outstanding Natural Beauty encircles the town and restricts opportunities for significant growth, particularly to the north, west and south. Ashdown Forest is also a major visitor destination in its own right and there is an opportunity to enhance the attractions of the town to visitors. However, Ashdown Forest is an area of international importance for wildlife habitat which reinforces the constraints on further expansion in the town. Any land allocation potential will be restricted by the Habitat Regulations Assessment and mitigation measures, ~~through the provision of suitable alternative natural green spaces and management measures on the Ashdown Forest,~~ will be required.”

6.38 point 10

~~“10. ensuring relevant developments make an appropriate contribution to the planned and timely provision of suitable alternative natural green space, which will provide an alternative recreational destination for local people, and other mitigation measures on the Ashdown Forest;”~~

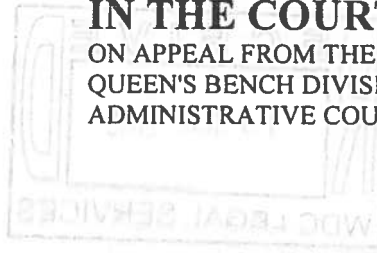


By the Court

THURSDAY 9TH JULY 2015

IN THE COURT OF APPEAL

**ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT**



ORDER

Copies to:

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King & Wood Mallesons Llp
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Wealden District Council
Dx 38303
Haksham
Ref: VS/MX1814

* This order was drawn by B Pimm (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to B Pimm, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is 020 7947 7856