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PTA Template 269J1 - OCT16 - Planning



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C1/2018/1424



GLADMAN DEVELOPMENTS LIMITED -v- SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

ORDER made by the Rt. Hon. Lord Justice FLAUX

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal, against the refusal of the High Court to grant permission to apply for a planning statutory review by the Order of Nathalie Lieven QC dated 12 June 2018

Decision

Refused as totally without merit.

Permission to appeal: [] Granted [X] Refused [] Adjourned

OR

Permission to apply for a planning statutory review: [] Granted

Where permission to apply for a statutory review is granted, the application should be returned to the Administrative Court []

OR

There are special reasons (set out below) why the application should be retained in the Court of Appeal []

Reasons

- 1. Ground 1 is unarguable. There was no procedural unfairness. It was foreseeable that the application might be refused on the grounds of landscape and visual impact. Despite the statement of common ground, the applicants were well aware that there were third parties who were objecting to the proposed development on the grounds of landscape and visual impact. The applicants had ample opportunity to adduce evidence and make submissions about that issue.
2. Grounds 2 and 3 are equally unarguable. The inspector did not misunderstand the development plan. Policies are to be interpreted objectively in context and not as statutes and the explanatory text assists that process. The inspector's reading of policy S1A was in accordance with those principles. The suggestion that the inspector failed to distinguish between the old and the new plans is equally unfounded for the same reasons.

Where permission has been granted and the matter will be retained in the Court of Appeal

- (a) time estimate (excluding judgment)
(b) any expedition



Signed: [Signature]
Date: 24 January 2019

By the Court

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where - a) the Court considers that the appeal would have a real prospect of success; or b) there is some other compelling reason why the appeal should be heard.
(2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
(3) Rule 52.15 provides that, in granting permission, the Court of Appeal may grant permission to appeal or permission to apply for judicial review. Where the Court grants permission to apply for judicial review, the Court may direct that the matter be retained by the Court of Appeal or returned to the Administrative Court.

**DATED 24TH JANUARY 2019
IN THE COURT OF APPEAL**

ORDER

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Lower Court Ref: CO/464/2018