

IN THE HIGH COURT OF JUSTICE

Claim No. CO/917/2020

QUEEN'S BENCH DIVISION

PLANNING COURT

BETWEEN

EAST NORTHAMPTONSHIRE COUNCIL

Claimant

-and-

SECRETARY OF STATE FOR HOUSING COMMUNITIES AND LOCAL GOVERNMENT

Defendant

- and -

LOURETT DEVELOPMENTS LTD

Interested Party



=====

CONSENT ORDER

=====

UPON the parties agreeing to the terms hereof

BY CONSENT IT IS ORDERED THAT:

1. Permission is granted and the decisions of the Defendant, dated 24 January 2020 and carrying reference number APP/G2815/W/193232099, to allow the Interested Party's appeal under s.78

of the Town and Country Planning Act 1990, and to make a partial award of costs in favour of the Interested Party, are quashed pursuant to s.288 of the same Act.

2. The appeal is remitted to be determined de novo.
  
3. The Defendant pay the Claimant's costs in the amount of £8616.66

Dated: This 7<sup>th</sup> Day of May 2020

#### **PARTICULARS**

- A. These proceedings concern an application brought under section 288 of the 1990 Act by the Claimant against (1) the decision of the Defendant to allow the Interested Party's appeal against the decision of the Claimant to refuse planning permission for residential development at land to the west of numbers 7-12 The Willows, Thrapston, NN14 4LY and (2) the decision to make a partial award of costs against the Claimant in respect of that appeal.
  
- B. The Defendant has carefully considered the Inspector's decision and the Claimant's Statement of Facts and Grounds and Reply, and the evidence served in support. He concedes that he erred in his interpretation of the definition of deliverable within the glossary of the National Planning Policy Framework ("NPPF") as a 'closed list'. It is not. The proper interpretation of the definition is that any site which can be shown to be 'available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years' will meet the definition; and that the examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition. Whether a site does or does not meet the definition is a matter of planning judgment on the evidence available.
  
- C. The Defendant therefore considers that it is appropriate for the Court to make an Order quashing the decisions and remitting the appeal to be determined de novo.
  
- D. The Interested Party agrees that the decisions should be quashed and the appeal remitted to be determined de novo.



Paul Bland  
Head of Planning Services

.....  
East Northamptonshire Council  
Cedar Drive  
Thrapston  
Northamptonshire  
NN14 4LZ



.....  
Abby Bradford  
For the Treasury Solicitor  
Government Legal Department  
102 Petty France  
Westminster  
London  
SW1H 9GL  
Ref: Z2003440/BYD/JD3



.....  
Irwin Mitchell LLP  
The Colmore Building  
9<sup>th</sup> Floor, 20 Colmore Circus  
Birmingham  
B4 6AH

