

CRAWLEY CORE STRATEGY (NOVEMBER 2007) HIGH COURT CHALLENGE

Background

The Council submitted its Core Strategy to the Secretary of State in May 2006. The Examination into the 'soundness' of the Core Strategy was undertaken in February and March 2007, before an Independent Inspector. The Council received the Inspector's binding report on 20th August 2007, which concluded that the Core Strategy was 'sound' and could be adopted by the Council.

In November 2007 the Council adopted the Core Strategy. The Adoption was followed by a six week period in which any person aggrieved by the adoption of the Core Strategy could make an application to the High Court to challenge the Council's adoption of the Core Strategy. On the 7th January 2008, the North East Sector consortium (Taylor Wimpey UK Limited and Beazer Homes Reigate Limited) submitted a challenge to the Core Strategy to the High Court.

The challenge sought to quash two elements of the adopted Core Strategy. Firstly, the consortium were seeking to quash the North East Sector chapter development principle and objective that residential development should not occur in an area subject to either existing, or possible aircraft noise above 60 dBA. Secondly, the consortium were seeking to quash paragraph 2.7 of the Core Strategy, which states that development of the North East Sector is precluded until a definitive decision regarding the requirement of a second runway at Gatwick is made by the Government.

The Council decided to contend the consortium's challenge. The High Court challenge was heard on 13th, 14th and 15th October 2008 after an exchange of skeleton arguments and witness statements.

Judgement

Mr Justice Wilkie found in favour of the consortium for both elements of the Core Strategy that were being sought to be quashed. A brief summary of the grounds that the consortium's challenge was successful is outlined below.

The judge found favour with the consortium's challenge to quash the North East Sector chapter development principle and objective on the basis that the Core Strategy Inspector in his binding report had given insufficient regard to West Sussex Structure Plan Policy NE19, which allows development up to 66 dBA and had not given reasons for his recommendation to include the 60 dBA principle and objective in the North East Sector Chapter.

In quashing paragraph 2.7 of the Core Strategy the judge concluded that the Core Strategy Inspector had misunderstood the Secretary of State's 2007 refusal of planning permission for the North East Sector and had overstated the extent to which development at the North East Sector was precluded by the possible requirement for a second runway at Gatwick.

The High Court served the Council with a quashing order, which requires the Council to revise the adopted Core Strategy by removing the elements that have been successfully quashed.