

Case Name: *Chichester District Council v Secretary of State for Housing, Communities and Local Government & Anor* [2018] EWHC 2386 (Admin) (12 September 2018)

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Commentary: A challenge brought by Chichester District Council against an Inspector's decision of 2 November 2017 to allow an appeal by Beechcroft Ltd (the Second Defendant) against the Council's decision to refuse an application for planning permission for up to 34 dwellings and related development in Southbourne, West Sussex. The Claimant challenged the Inspector's decision letter on the basis of (i) whether the proposed development conflicts with the Southbourne Parish Neighbourhood Plan 2014-2019 ("Neighbourhood Plan") and (ii) whether the Inspector irrationally relied upon a distinction between the "policies" of the Neighbourhood Plan and its "aims". Judge Andrew Grubb, sitting as a Deputy Judge, dismissed both grounds and upheld the Inspector's decision.

Development in the Southbourne Area of West Sussex is controlled by the existence of the Neighbourhood Plan and the Chichester Local Plan ("LP"). It was common ground between the parties that the proposed development was in conflict with the LP. NPPF paragraph 198 states that "where a neighbourhood planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should normally not be granted"

The Claimant argued that the Inspector failed to determine whether the planning application conflicted with the NP as the decision letter stated that, although it did not conflict with the policies in the Neighbourhood Plan, it was "at odds" with its aims. Further, according to the Claimant such a distinction between the "policies" and "aims" of the Neighbourhood Plan was irrational.

The judge found that it was plain that the Inspector concluded that the proposed development did not conflict with the NP. Explicit reference was made in the decision letter to paragraph 198 NPPF and the judge was clear that the inspector, an expert in the field of planning, should not be presumed to act in ignorance of the applicable law and policy.

Further, the judge found that the Inspector was correct in distinguishing between the "policies" of the Neighbourhood Plan and its "aims". In this case the relevant policies identified the settlement boundaries and allocated sites for development whilst the underlying aims of these policies was to reduce traffic congestion at a level crossing (although this was not explicitly part of any policy). By finding that the relevant planning application was not in conflict with the policies of the Neighbourhood Plan but that it did not comply with the aims of the plan the Inspector had not erred in concluding that the proposed development was not in conflict with the Neighbourhood Plan.