



**In the High Court of Justice
Queen's Bench Division
Administrative Court
Planning Court**

CO/1312/2018

In the matter of an application under section 288 of the Town and Country Planning Act 1990

THORNHILL ESTATES LIMITED
(claimant)

versus

SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT
(defendant)

and

(1) **LEEDS CITY COUNCIL**
(2) **FARSLEY RESIDENTS ACTION GROUP**
(interested parties)

Application for permission

NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)

Following consideration of the documents lodged by the claimant and of the acknowledgements of service filed by the defendant and first interested party

Order by the Honourable Mr Justice Kerr

Permission is hereby refused. The claimant shall pay the defendant's costs assessed at £2,845, subject to any contrary representations received within 21 days of the date of this order.

Observations:

1. It was open to the defendant to judge that the planning balance went the other way from the balance as struck by the inspector. That is what in essence is said in para 49 of the decision letter. The defendant pointed out in the same paragraph that unlike the inspector he did not attach significant weight to the highways safety improvements or the possible new primary school for which the inspector found only a "potential" need (IR para 144).
2. If one avoids the error of reading the decision letter in an over-legalistic way, such is the defendant's simple and unimpeachable logic. The decision is not irrational; the reasoning is sound although the judgment is the opposite of that reached by the inspector. It is adequately though briefly explained in paragraph 49. There is no breach of the duty to give adequate reasons.
3. The distinction between a planning benefit and mitigation of a detriment is often artificial. Mitigation of a detriment affects what the net benefits are. The defendant's task was to exercise planning judgment in the public interest, weighing the pros and cons and judging how to strike the planning balance. The task was lawfully performed. I do not think the contrary is arguable.
4. The defendant is entitled to assessed costs in the sum claimed, subject to any

Contrary representations received within 21 days of the date of this order. I do not think the first IP should have its costs; still less in the high amount claimed (over £12k). The first IP did not need to go into detail and its grounds are prolix, while the defendant's were commendably succinct.

5. If the matter goes any further, the status of the second IP should be clarified, although it is not taking part at present. Is it an unincorporated association? A company limited by guarantee? It should be correctly characterised in the title to the application if the application is renewed orally.

Signed:



27.4.18

For completion by the Administrative Court Office

Sent / ~~Handed~~ to the claimant, defendant and any interested party / the claimant's, defendants, and any interested party's solicitors on (date): 30.04.18

Solicitors:
Ref No.