

CANTERBURY DISTRICT LOCAL PLAN EXAMINATION

RESPONSE TO INSPECTOR FOLLOWING CLIENTEARTH NO.2 HIGH COURT DECISION

J & J Design on behalf of Barham Court Farms

ID reference: 777517

Programme Officer emails dated 09 and 21st November 2016

Inspector's Question:

Whether the judgement in the case *ClientEarth (No.2) v Secretary of State for the Environment, Food and Rural Affairs* [2016] EWHC 2740 (Admin) has any implications for the Canterbury District Local Plan.

1. BACKGROUND

- 1.1 Barham Court Farms are promoting the redevelopment of the disused farmstead at Barham Court Farm The Street Barham for a housing allocation for up to 25 units for delivery early in the plan period.
- 1.2 Barham Court Farms have not previously raised issues regarding Air Quality, but are aware that this has been raised by others and is a matter before the Inspector, who has now invited comments in the light of the recent court decision.

2. COMMENTS ON BEHALF OF BARHAM COURT FARMS

- 2.1 The Court indicated at paragraph 89 that it is likely that it will be necessary to designate additional Clean Air Zones in more cities (ie. more than Leeds, Southampton, Derby, Birmingham and Nottingham – as identified in 2015 AQP), but ultimately this will depend on the outcome of further modelling.

- 2.2 However, the Court also observed:

[Counsel for the Secretary of State] was right in her submission that the Government did not need to do more than was necessary to meet the compliance targets; in that sense the response had to be proportionate. That may well mean that the scope of the zones both inside and outside London does not need to change. Again ... that is ... a question for the defendant after considering further modelling. [90]

- 2.3 Canterbury City Council has adopted an Air Quality Action Plan for the Broad Street/Military Road Air Quality Management Area. The aims and objectives from the Action Plan are incorporated into the draft Local Plan (eg. Park & Ride, new A12 slip roads). These are before the Examination.
- 2.4 We conclude that the Council should respond in a proportionate manner. There is no certainty that any more detailed measures will be necessary in Canterbury to meet the national objectives in response to the Directive and Air Quality Standards Regulations 2010.

3. CONCLUSION

- 3.1 For all these reasons, we conclude that the court judgement has no implications for the Canterbury District Local Plan and no further action is necessary pending the Government's response to the decision of the court and further modelling, following which the Council can consider its position in the light of a new national Air Quality Plan.

J R Shephard
22 November 2016