



Core Strategy Legal Challenge

Frequently Asked Questions

6 November 2013

1. What is the legal challenge about?

On Monday 4th November 2013 the Council's Chief Executive received notice of a claim to the High Court of Justice from solicitors acting for Grand Union Investments Ltd (GUI) against Dacorum Borough Council. This claim was lodged under Section 113 of the Planning Compulsory Purchase Act 2004. An official claim form which was issued on 31st October 2013 together with a supporting witness statement and numerous appendixes were also submitted.

The claim challenges the legality of the adoption of the Planning Framework Core Strategy by Dacorum Borough Council.

GUI's submission requests the High Court to do three things:

- a) Issue a 'Quashing Order' to quash the Core Strategy;
- b) Issue a written declaration that the Council's decision to adopt the Core Strategy was unlawful; and
- c) Award costs.

2. Who is Grand Union Investments Ltd?

The challenge has been made by Grand Union Investments Ltd (GUI), a development company. GUI has been promoting a major urban extension of new housing and other development to the south of Berkhamsted through the Core Strategy process. GUI appeared at the Examination to the Core Strategy in October 2012.

3. What are the grounds of the challenge?

The claim submitted by GUI states that the Core Strategy is unlawful on two grounds:

- a) **Ground 1**, Main Modification 28 (MM28), which commits the Council to an early partial review of the Core Strategy, could not make an unsound plan sound; and

- b) **Ground 2**, the Council has failed to undertake a legally compliant sustainability appraisal and/or strategic environmental assessment.

The basis of GUI's case on the first ground is that they maintain the Inspector concluded the submission version of the Core Strategy was not sound because it did not accord with the National Planning Policy Framework (NPPF) in respect of housing supply. They maintain that MM28 only records the Council's commitment to undertaking a partial review but argues that this may not be carried out either by 2017/18 as Council has stated, or at all.

On Ground 2, GUI argues that although the Council has carried out an appraisal of the effects of MM28, it has made no attempt to *"identify, describe and/or evaluate the likely significant effects on the environment of implementing the Core Strategy as modified by MM28 and/or the reasonable alternatives that might arise under the partial review..."* Furthermore it maintains that the conclusion that MM28 would be unlikely to have any sustainability implications was irrational.

4. Will the Council be defending this challenge?

Yes. The Council has appointed Rob Jameson of Attwaters Jameson Hill Solicitors, and Simon Bird QC to represent the Council, with support from Officers.

Rob Jameson is the Planning Solicitor who advised the Council throughout the Core Strategy Examination. Simon Bird QC has already provided initial advice to the Council in response to the legal issues raised by GUI.

5. What is the timetable for the legal challenge to be heard in the High Court and a decision to be issued?

This is not yet known, and will be determined by the High Court. Legal challenges usually take many months before they are heard in court. The decision of the High Court Judge usually follows relatively soon after the close of the hearing session.

6. What happens to the Core Strategy in the meantime?

The Core Strategy remains part of the statutory development plan for the Borough of Dacorum and will be given full weight in the decision making process. The fact that a challenge has been lodged is not a consideration for planning decisions, as its outcome cannot be prejudged. Applications will continue to be considered in accordance with the adopted Core Strategy (and relevant 'saved' policies from the Dacorum Borough Local Plan 1991-2011).

The situation would only change if the High Court finds in favour of GUI and orders the Core Strategy to be quashed (in whole or part).

7. What are the implications for progressing other planning policy documents and technical work, such as:

- **Site Allocations DPD;**
- **Development Management DPD;**

- **Technical work to inform the early partial review; and**
- **Community Infrastructure Levy (CIL).**

The legal challenge has no direct consequences for the content and timing of other Development Plan Documents (DPDs), work on the Community Infrastructure Levy (CIL), or technical work being undertaken to inform the early partial review of the Core Strategy. These will all continue to progress as planned.

The only impact upon this work would be if the High Court finds in favour of GUI. If this were the case, then the work undertaken would be used to inform a new plan which the Council would need to prepare.

8. What will the role of the Planning Inspectorate (PINs) be in the legal challenge?

Whilst the grounds of the challenge relate to a recommendation made by the Planning Inspector who presided over the Core Strategy Examination, the Planning Inspectorate are not listed by GUI as a third party in the challenge. This is because it was the Council who took the decision to adopt the Core Strategy, not PINS.