

Pickles hit by fresh legal challenges over regional housing targets

Colin Marrs, PlanningResource, 15 September 2010



Eric Pickles...facing new legal challenges

Communities secretary Eric Pickles has been served with two more legal challenges relating to his decision to scrap regional housing targets.

Pickles, who already faces a judicial review of the decision made by developer CALA Homes, a case which was this week fast tracked by the High Court.

And this week, two more developers made challenges under section 288 of the Town and Country Planning Act, both claiming he wrongly refused schemes on the back of the regional targets decision.

The first case involves a proposal by Catesby Property Group to build a mixed use development including 508 homes, shops and business space at Bude in Cornwall.

Stuart Andrews, head of planning at Eversheds, representing Catesby, said: "We are inviting the court to conclude that not only did the secretary of state fail to follow his own guidance, but that he did so without the required consultation."

The second case revolves around a plan by developer Colonnade Land to develop 326 homes at Rochford in Essex.

Both cases are expected to be heard early next year, after the CALA Homes judicial challenge has been decided.

The cases all surround a letter sent by Eric Pickles to local authorities where he announced the government's intention to abolish regional spatial strategies.

He said that the announcement of the intention should be a material planning consideration,

and that councils were free to turn down applications for housing based on the letter.

The Home Builders Federation last week claimed that plans for more than 100,000 homes have been scrapped since the letter was sent.

But Richard Ford, head of planning at international law firm Pinsent Masons questioned whether the legal challenges were worth the bother.

He said: "It is unfortunate that regional spatial strategies were abolished so quickly and some of the secretary of state's decisions since against Inspector's recommendations do seem misconceived.

"However, a quashing of bad decisions will simply mean they require re-determination, by which time the secretary of state should have sorted out the new guidance to marry up with the emerging Devolution and Localism Bill.

"Is this really time and money down the drain?"

Details of section 288 challenge by Catesby Property relating to its scheme in Bude, Cornwall:

In August, Pickles overturned the decision of a planning inspector that had recommended the scheme got the go-ahead.

In turning down the scheme, Pickles disregarded the inspector's conclusion, based on the South West RSS, that the Bude area only had a housing land supply of 3.47 years.

Pickles referred to the pre-existing structure plan, which outlined an 18.7 year supply, and the draft RSS, which outlined a seven year supply.

Planning rules mean that if councils cannot demonstrate they have more than a five year supply, they should look positively on housing planning applications.

However, Catesby's submission the court says that Pickles' decision to base his figures on the structure plan was mistaken.

It says this plan is out of date, and that Pickles' own guidance, released in July, says that councils should take the latest household projections into consideration.

The submission also claims that Pickles broke inquiry rules by not reopening the inquiry or consulting Catesby before refusing permission for the scheme.

Details of section 288 challenge by Colonnade Land relating to its scheme in Rochford, Essex:

The second case involves a proposed Greenfield development of up to 326 homes at

Coombes Farm, Rochford, Essex.

In July, Pickles turned down the application by developer Colonnade Land LLP, this time in line with a planning inspector's recommendation.

The inspector had concluded that there was a shortfall in the five year housing supply, but that this consideration was outweighed by the harm to the environment.

Pickles' decision letter said: "Revocation of the East of England Plan removes the numerical basis on which the inspector concluded that there appears to be a very significant shortfall in the five year planning supply."

But he also argued that the housing issue would still be outweighed by the environmental concerns.

A submission to the High Court by Cannings Connolly, solicitors for Colonnade, claimed that the decision to revoke the regional strategies was illegal, citing the same reasons as those outlined by CALA Homes' challenge.

It says: "The revocation decision was unlawful, and therefore the defendant took into account an irrelevant matter, namely the revocation decision, in determining the appeal."

The solicitors also, as with the Cornwall case, argue that Pickles was required to consult it before making the decision, because the revocation took place after the inquiry had closed.

It cited a number of other grounds for appeal, unrelated to the Pickles revocation.