

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
PLANNING COURT

In the matter of an appeal pursuant to section 288 of the Town and Country Planning Act 1990

Case No: CO/5503/2014

BETWEEN:-

MACTAGGART & MICKEL LIMITED

Claimant

-and-

(1) SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT  
(2) WILTSHIRE COUNCIL

Defendants

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[DRAFT] CONSENT ORDER

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TAKE NOTICE that we, the undersigned solicitors acting for the Claimant and First Defendant in the above claim (the Second Defendant having elected, by way of letter to the Court dated 16 December 2014, not to participate in these proceedings), HEREBY CONSENT to an Order in the following terms:

BY CONSENT IT IS ORDERED THAT:-

1. The decision of the Secretary of State for Communities and Local Government, under reference APP/Y3940/A/13/2206963 dated 27 October 2014, to refuse an appeal made under section 78 of the *Town and Country Planning Act 1990* ("the Act") against the refusal of Wiltshire Council to grant planning permission for residential development of up to 350 dwellings and associated development, be quashed under section 288(5)(b) of the Act and remitted to the Secretary of State for redetermination, for the reasons set out in the Schedule to this Order.

SNW  
~~JE~~  
by way of full  
public inquiry that will  
consider all matters de novo

2. The Secretary of State for Communities and Local Government do pay the Claimant's reasonable costs of this claim, to be subject to detailed assessment if not agreed.

~~JS~~ on the standard basis  
gsw

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Date: April 2015  
For the Treasury Solicitor  
Solicitor for SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT  
Government Legal Department  
One Kemble Street  
London  
WC2B 4TS  
Ref: Z1429862/GHO/B5

Shepherd & Wedderburn LLP

<sup>May</sup>  
Date: 1 April 2015 gsw  
Shepherd and Wedderburn LLP  
Solicitors for MACTAGGART & MICKEL LIMITED  
Condor House  
10 St Paul's Churchyard  
London EC4M 8AL  
Ref: M4298.73 /KVL

### SCHEDULE

1. These proceedings concern an application under section 288 of the *Town and Country Planning Act 1990* ("the Act") by the Claimant against the decision of the Secretary of State for Communities and Local Government ("the Secretary of State"), under reference APP/Y3940/A/13/2206963 dated 27 October 2014, to refuse an appeal made under section 78 of the Act against the refusal of Wiltshire Council to grant planning permission for residential development of up to 350 dwellings and associated development, at 'Land off Coate Road and Windsor Drive, Devizes, Wiltshire'.
2. The Secretary of State has carefully considered the said decision in light of the Claimant's Details of Claim attached to its Part 8 Claim Form sealed on 27 November 2014, the evidence served in support of that claim, and the Claimant's skeleton argument.
3. With reference to Ground 4 of the Details of Claim, the Secretary of State concedes that in paragraph 14 of his decision letter, he erred in his reasoning in relation to the interpretation of the Ministerial Statement on Neighbourhood Planning dated 10 July 2014, namely in that it is referred to as reinforcing the terms of published planning guidance in relation to neighbourhood planning. The Secretary of State consequently erred in his approach to determining the appeal under section 78 of the Act. The Secretary of State therefore considers that it is appropriate for the Court to make an Order quashing the decision and remitting the decision for redetermination.

