

Inadequate reasons scupper housing rejection

The High Court has quashed an inspector's decision dismissing an appeal for eight dwellings at a former mushroom farm in the Nottinghamshire green belt, with a judge concluding that the appellant had been prejudiced because inadequate reasons had been provided.

The appellant promoted the scheme on the basis that the development would provide sufficient income to enable the removal of asbestos from farm buildings. She asserted that the buildings were severely dilapidated and vandalised. The asbestos presented a threat to vandals and local residents close to the site, she maintained.

The inspector had accepted that the buildings were in a poor condition and that there was a risk of trespass. This presented to a risk to all those who entered the buildings, including fire brigade workers who were often called to deal with incidents on the land. But he agreed that this objective did not amount to a very special circumstance so the scheme was inappropriate in the green belt.

However, Mr Justice Owen decided that the inspector had failed to give adequate reasons for this conclusion. The inspector had accepted that it was in the general public interest to deal with the risk presented by the site and that there was no obvious green belt use that would enable the hazard to be removed, the judge found.

He ruled that the appellant had been substantially prejudiced by flawed reasoning, since she did not know whether the scheme had been rejected as a consequence of the asbestos risk or the effect of the dwellings on the openness of the area. The decision was quashed.

Dowmont-Iwaszkiewicz v First Secretary of State and another; Date: 10 November 2004; **Ref:** CO/1445/2004.