

## **Sensible decision making without a local plan**

### **Introduction**

The National Planning Policy Framework sets out that it is the purpose of planning to contribute towards the achievement of sustainable development. It explains at paragraph 8 that to achieve sustainable development ‘economic, social and environmental gains should be sought jointly and simultaneously through the planning system’. Local Plans play a central role in establishing what level of development is appropriate and where.

There has been some media attention on the perceived implications of making decisions without having an up-to-date Local Plan, particularly if the authority also can’t demonstrate a five year land supply of specific deliverable sites against objectively assessed housing needs (as required by paragraph 47 of the Framework). Some have suggested that any development, whatever the impacts, is acceptable in the absence of an up-to-date Local Plan because of para 49 of the Framework – sometimes referred to as ‘the presumption’. Some people effectively say ‘there’s no point in refusing this housing scheme as without a housing supply and plan, we don’t stand a chance on appeal’.

However national policy and the objective of pursuing sustainable development is a material consideration in planning decisions irrespective of the status of an area’s development plan. And levels of planning appeals upheld against an authority’s original determination remain constant at only one per cent of all planning decisions in England. There are several recent cases where development has been refused permission in the absence of an up-to-date Local Plan or five-year land supply because it would conflict with national policy objectives. These cases are summarised below; the full reasoning is set out in the relevant hyperlinked decision letters.

## **Decisions**

### [Spurstow, Tarporley, Cheshire East](#)

An appeal for up to 60 dwellings was dismissed on 7 January 2015. At the time Cheshire East Borough Council's Local Plan examination was suspended and the Council could not demonstrate a five year land supply. The inspector found that, although the proposal would have positive benefits in terms of housing provision, the site did not represent a sustainable location and would have pre-empted the distribution of development in that area in the emerging Local Plan. The inspector concluded that the proposals would result in 'obvious and irrevocable damage to the surrounding countryside and the character of this clear edge to the settlement... such harmful effects would be contrary to aims of the 'saved' and emerging planning policies and fundamentally undermine several of the core planning principles outlined in the [National Planning Policy] Framework'.

### [Fleet Marsdon, Aylesbury Vale District Council](#)

Four separate appeals recovered by the Secretary of State for determination for up to a total of 6,000 homes and associated uses, were dismissed on 26 January 2015. Aylesbury Vale District Council did not have an up-to-date Local Plan in place, nor could demonstrate a five-year supply of deliverable housing sites. However at paragraph 9.712 of his report the inspector says, in relation to one of the smaller appeals, that 'the proposals have the hallmarks of an ill-conceived and opportunistic response to the absence of an up-to-date Local Plan and a corresponding shortage of housing land'. Permission for all four schemes was refused as the development would conflict with national planning policy objectives of securing good design, conserving and enhancing the natural environment and open countryside, and ensuring all development is supported by appropriate transport infrastructure.

### [Coates Road, Devizes, Wiltshire](#)

An appeal recovered by the Secretary of State for 350 homes was dismissed on 27 October 2014. Although the Local Plan had not at that point been found sound, and therefore there was ambiguity over the robustness of the authority's five-year land supply, the Secretary of State determined that the proposal would conflict with the emerging Neighbourhood Plan (which had been submitted to the Council for examination). This decision is subject to ongoing litigation.

### [Gresty Lane, Crewe, Cheshire East](#)

An appeal recovered by the Secretary of State for 150 homes in the Green Gap in Cheshire East was dismissed on 19 January 2015. Cheshire East's Local Plan was at examination and a five-year land supply could not be demonstrated. Paragraph 10.151 of the inspector's report sets out that the loss of part of the Green Gap would be premature with reference to the objectives of national policy, and permission was refused on this basis.

### [Milcote Road, Welford-on-Avon, Stratford District Council](#)

An appeal dealt with by the Planning Inspectorate for 95 homes was dismissed on 18 December 2014. The Local Plan was at examination and the Council could not demonstrate a five-year land supply of housing. However the inspector determined that the proposal should be refused chiefly on the basis that it would have had an adverse impact on the character of that part of the district and it would have result in the loss of a significant quantity of best and most versatile agricultural land.

### [Clappers Lane, Bracklesham Bay, Chichester District Council](#)

An appeal dealt with by the Planning Inspectorate for 160 homes was dismissed on 9 January 2015. The Local Plan was at examination and a five year land supply could not be demonstrated. However permission was refused by the inspector on the grounds that the layout and deign would have been 'mediocre and unimaginative' and the proposal would have significant adverse traffic impacts. The proposal was contrary to the requirements of the National Planning Policy Framework.