

Implications of a recent court judgement in relation to neighbourhood plans and the approach to the determination of planning applications

The Council already recognises that the policies in Aylesbury Vale District Local Plan (dated 2004) relating to the supply of housing district wide, are now out of date under paragraph 49 of the NPPF given that these identified housing targets and the council only has a 3.1 years supply of deliverable housing sites.

A recent judgement in Woodcock Holdings v Secretary of State for Communities and Local Government makes a number of points of particular relevance in relation to neighbourhood plans which we will have to have regard to. This quashed the Secretary of State's decision which gave the neighbourhood plan significant weight where there is no 5 year supply and confirmed that paragraph 198 of the NPPF does not give enhanced status to Neighbourhood Plans as compared to other statutory development plans.

It concluded that *"paragraphs 14 and 49 do apply to the housing supply policies in a draft development plan, including a draft neighbourhood plan, and therefore should have been applied in the present case when assessing the weight to be attached to those policies in the Neighbourhood Plan and to any conflict with such policies."*

What does this mean for determining planning applications:

Paragraph 49 of the NPPF states that "Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites." Paragraph 14 of the NPPF states a presumption in favour of sustainable development in decision-taking. It means, unless material considerations indicate otherwise:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
 - specific policies in the NPPF indicate development should be restricted.

It is clear from this judgement that Paragraph 49 and 14 of the NPPF apply to housing supply policies in made Neighbourhood Plans and draft policies in emerging plans . It does not affect the status of the non housing supply policies in those plans. This means that we cannot reject housing applications just because there is a conflict with housing supply policies in a recently made or draft neighbourhood plan. We have to consider whether a development should be approved under the presumption in favour of sustainable development that applies and consider whether there is any adverse harm which would significantly and demonstrably outweigh the benefits under the NPPF, including its contribution to the 5 year housing supply and the weight to be afforded to neighbourhood plans policies. Each application will need to be considered on its own merits and a judgement made on the planning balance.

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