

Case Name: *Wokingham Borough Council v Secretary of State for Housing, Communities And Local Government & Anor* [2019] EWHC 3158 (Admin) (21 November 2019)

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Commentary:

An Inspector had not acted unlawfully in affording weight to that the fact that policies within a local plan which set development limits were based on out-of-date housing requirements.

The case was brought by Wokingham Borough Council (the "Council") against a decision by a Planning Inspector to allow the second respondent's appeal for non-determination for an outline application for up to 55 dwellings and an area of SANG between the villages of Three Miles Cross and Spencers Wood.

The Council submitted that the Inspector had erred in law by affording "substantial" rather than "full" weight to a conflict between the proposed development and development plan policies which restrict development. In particular, the Inspector took the view that local plan policies on development limits were out of date as they were based on outdated housing requirements

Amongst other grounds, the Council claimed that the Inspector failed to have regard to a material consideration – namely whether or not the development limits were preventing the council from providing a five year housing land supply.

Mrs Justice Lang found against the Council on all grounds and, in particular, held that:

1. The fact that the development limits in the local plan policies were based on out of date housing requirements was clearly a relevant factor for the Inspector to consider and the decision taken was a rational one which the Inspector was entitled to make; and
2. An Inspector must decide in the context of the facts and circumstances of each case whether, and to what extent, the grant of planning permission outside of settlement boundaries is a material consideration, and if so, how much weight to accord to that factor. In light of the unsatisfactory evidence presented by both parties on this issue during the planning inquiry Lang, J. found that the Inspector was entitled to rely on the unchallenged conclusion of an Inspector in a previous planning appeal dealing with development in the same village who noted that the use of land outside development limits in achieving the housing land supply would reduce the weight to be given to those limits, in support of his conclusions.

Case summary prepared by Juliet Munn