Case Name: *Chichester District Council v Secretary of State for Housing, Communities And Local Government & Anor* [2019] EWCA Civ 1640 (09 October 2019)

Full case: Click Here

Commentary: The Court of Appeal found that an Inspector had not erred in law in his application of paragraph 198 NPFF which states that where a planning application conflicts with a neighbourhood plan it should normally not be granted. The decision of the lower Court was upheld.

The Appeal was made by Chichester District Council against the judgment of Upper Tribunal Judge Grubb, sitting as a Deputy Judge in the High Court, who held that a Planning Inspector had not erred in his application of paragraph 198 NPPF in permitting an appeal against the refusal by the Appellant of a planning permission for 34 homes outside of the boundary of the village of Southborne. The Inspector found that the planning application was in conflict with two policies of the Chichester Local Plan and that it would not accord with the aims of the relevant Neighbourhood Plan. However, the development proposals would not conflict with the policies of that neighbourhood plan. As the Appellant could not demonstrate a five-year housing supply the Inspector applied the presumption in favour of sustainable development in paragraph 14 NPPF and allowed the appeal. This decision was upheld by the High Court.

The Court of Appeal held that the concept set out in paragraph 198 NPPF is straightforward and does not elevate the status of the neighbourhood plan within the development plan as a whole, nor does it alter the presumption that planning decisions must be made in accordance with a development plan unless material considerations indicate otherwise. The Inspector had correctly identified the development plan policies in play and was entitled to draw a distinction between the "aims" and "policies" expressed in the neighbourhood plan.

Case summary prepared by Juliet Munn