

Case Name: *Gladman Developments Ltd v Secretary of State for Housing Communities And Local Government & Anor* 2019 EWHC 127 (Admin) (29 January 2019)

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Commentary: A successful judicial review claim which meant that an Inspector's decision to refuse planning permission for a 135 unit residential development in Henlow, Bedfordshire was quashed because he erred in law and the matter is to be re-determined.

The main issue before the Inquiry was the contention that the Claimant's proposal was in breach of a number of development plan policies derived from the Central Bedfordshire Core Strategy and Development Management Policies dated November 2009. One of these policies was DM4 concerning appropriate development within and beyond settlement envelopes. The Claimant's site was beyond the settlement boundary, giving rise to the undisputed proposition that development would be contrary to policy DM4. The Claimant contended that the weight to be afforded to policy DM4 had to be diminished as it was out of date. The tilted balance which favours the grant of planning permission in para 14 of the National Planning Policy Framework ("NPPF") can be triggered when one of the relevant policies of the development plan is considered to be out of date. Para 215 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The Claimant's argued that DM4 was inconsistent with various policies contained in the NPPF and therefore should be regarded as out of date and of little weight, leading to the application of the tilted balance in resolving whether planning permission should be granted.

There had been a series of appeal decisions bearing upon the question of the weight to be attached to policy DM4 and the issue as to whether it was out of date. Of particular importance, was the decision in the Meppershall appeal (May 2018) which addressed the earlier decisions and, in particular, the important 2016 Daventry case and concluded that limited weight should be given to DM4 and that it was out of date.

It was held in this case that the previous decision precisely on this issue should have been a material consideration by the Inspector and no legally adequate reasons were given to justify departing from it and therefore this was a case in which the principles of the North Wiltshire case applied (consistency with previous decisions).

Case summary prepared by Amy Bennett