

**Case Name:** *Terry, R (On the Application Of) v Tonbridge & Malling Borough Council* [2019] EWHC 2046 (Admin) (26 February 2019)

**Full case:** [Click Here](#)

**Commentary:** This was a renewal of a permission hearing in which the Claimant sought permission to challenge the decision of Tonbridge & Malling Borough Council to grant a residential planning permission. Holgate J refused the application on its two grounds. In the first of these grounds the Claimant alleged that the planning report incorrectly reported that there was no direct relationship between the proposed development and nearby residential dwellings. The judge found that the relevant planning officer had carried out a site visit and omitted to refer to the existing properties on the basis that there was no potential for overlooking from these properties. This, it was held, was a planning judgment that did not meet the legal burden for a finding of irrationality and therefore in which the Court could not interfere.

The judge gave little time to the second ground in which the Claimant alleged that the planning officer had not taken into consideration a development plan policy restricting development in the countryside, The planning report was clear that the development was outside of a settlement boundary and the policy in question was so 'trite', to use the judges's word, that it was one which professional decision makers should be considered to be keeping in mind when making any decision even if no explicit reference to it is made.

*Case summary prepared by Town Legal LLP*