

Case Name: *Renew Land Developments Ltd v Welsh Ministers & Ors* 2019 EWHC 742 (Admin)
(26 March 2019)

Full case: [Click Here](#)

Commentary: A section 288 claim against the decision of a planning inspector appointed by the Welsh Ministers dismissing an appeal against a refusal of planning permission was successful.

The application was for residential development of 80-100 units on a former quarry. Part of the reason for refusal of the application by the Council was that it would result in the loss of existing open space with no provision for replacement. The Inspector in refusing the appeal said that the loss of informal open space in a community where there is an overall deficit carried significant weight. The Inspector acknowledged the fall-back position whereby the land could be fenced off under permitted development rights preventing the use as informal open space and other benefits but did not consider that they outweighed the loss of open space.

The first ground of challenge was that the Inspector's treatment of the open space issue was unlawful because she had wrongly categorised the area as open space when there was no evidence of a formal agreement of the landowner and was irrational in her treatment of the fall-back position.

The court upheld the first ground of challenge and found that the inspector was irrational to conclude that the development would result in an unacceptable loss of open space as she had acknowledged that the fall-back position was likely to materialise and had failed to make further inquiries of the parties as to the actual status of the land.

The court dismissed the second ground of challenge, as if the inspector had been correct in her assertion that the development would amount in an unacceptable loss of open space the inspector was entitled to accord weight to competing considerations in her assessment of the planning balance.

Case summary prepared by Town Legal LLP