

**Case Name:** *Norton St. Philip Parish Council v Mendip District Council* [2022] EWHC 3432 (Admin) (16 December 2022)

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

**Commentary:**

The High Court (the “**Court**”) has allowed a challenge to the decision of Mendip District Council (the “**Council**”) to adopt the Mendip District Local Plan 2006-2009 Part II: Sites and Policies (“**LPP2**”). LPP2 complements the Mendip District Local Plan 2006-2009 Part I: Strategy and Policies (“**LPP1**”), and they both form part of the development plan for the district of Mendip in Somerset (the “**District**”).

Core Policy 1 of LPP1 sets out the spatial strategy for the District, distributing development between its hierarchy of settlements and directing the majority of development towards the five principal settlements in the towns of Frome, Glastonbury, Shepton Mallet, Street and Wells. Core Policy 2 of LPP1 sets the District’s overall housing requirement at 9,635 homes over the plan period of which 7,350 are to be located in the five named towns and 1,780 in primary, secondary and other villages. That overall housing figure included an additional 505 homes, largely as the result of a decision to extend the plan period from 2028 to 2029, but no work was carried out at the LPP1 stage to identify where in the District that development should be located: that was left to be considered in LPP2. During the public examination process, LPP2 was modified so as to allocate land for 510 dwellings to satisfy the requirement for 505. In this challenge, the claimant sought to quash those allocations in Policies MN1, MN2, MN3, NSP1 and BK1 of LPP2.

There were two central issues in this challenge. The first was whether the Council, and/or the Planning Inspector who conducted the independent examination of LPP2, had misinterpreted LPP1 as requiring all of the 505 dwellings to be located in the north-east of the District, rather than considering their distribution across the District in accordance with the spatial strategy. The Court considered that the Inspector’s interpretation of LPP1 was that the requirement for 505 additional dwellings was to meet needs in the north-east of the District and that, as a result of the Inspector’s interpretation of LPP1 and his directions to the Council in the context of the “soundness” of the plan, the Council proceeded on the basis that it should only consider allocations in the north-east of the District and not in sustainable settlements in other parts of the District. However, the Court was satisfied that the LPP2 Inspector had misdirected himself and that there was nothing to suggest that the additional 505 dwellings were required to be located in the north-east of the District. Instead, those needs were said to be district-wide and so allocations should have focused on sustainable locations across the District.

The second central issue was whether the Council failed to comply with regulation 12(2)(b) of the Environmental Assessment of Plans and Programmes Regulations 2004

by failing to consider through its sustainability appraisal any alternative locations to allocating the 505 dwellings in the north-east of the District. The work undertaken by the Council up to and including the submission draft of LPP2 did not consider how allocations to meet the additional 505 dwellings requirement should be distributed across the District in accordance with Core Policy 1 of LPP1: the Council only addressed that issue when the Inspector directed them to do so during the examination of LPP2. At that stage, the Council issued an addendum to its sustainability appraisal for the plan which only considered sites in the north-east of the District because of the Inspector's interpretation of LPP1. However, the Court held that the Council ought to have published an addendum to the sustainability appraisal which considered alternative allocations to those being considered in the north-east and consultation should then have taken place on that assessment before LPP2 could lawfully be adopted containing policies MN1, MN2, MN3, BK1 and NSP1.

Two further grounds of challenge failed but, given its findings on these two issues, the Court concluded that the challenge should succeed and the allocation of the additional 505 dwellings should be redetermined by the Council.

*Case summary prepared by Safiyah Islam*