

Case Name: *Bellway Homes Ltd v Secretary of State for Housing, Communities and Local Government* [2025] EWHC 1455 (Admin) (13 June 2025)

Full case: [Click here](#)

Commentary: This was an unsuccessful statutory challenge by a claimant developer on a single ground relating to the interpretation of planning policy.

This case serves as a helpful reminder that an unduly strict and legalistic approach should not be applied to the interpretation of planning policy. The judgment contains a helpful summary of some of the legal principles guiding the court as to the interpretation of planning policy and the reading of inspectors' decision letters at paragraphs [9] to [13].

Facts

The Claimant challenged the decision of an Inspector to dismiss its appeal against the refusal of planning permission by Durham County Council (the "Council") for a 148-dwelling scheme on the edge of an existing village, Great Lumley.

The Council had refused planning permission on two grounds: the first relating to visual impact of the proposed development and its effect on the landscape; the second relating to whether the proposed development would have good access to sustainable modes of transport to services and facilities in Great Lumley.

Grounds

The claim was originally initiated on four grounds, three of which were refused permission at a renewal hearing. The single ground argued at the hearing was that the Inspector erred in law by misconstruing Policy 6 of the County Durham Plan 2020 (the "CDP"). Policy 6 provides that the development of sites which are not allocated in the CDP or in a Neighbourhood Plan and which are either:

- (i) within the built up area, or
- (ii) outside the built up area but "*well-related*" to a settlement,

will be permitted provided the proposal accords with all relevant development plan policies and fulfils each of the separate criteria set out at (a) to (j). Those criteria include at Policy 6(f) that the proposal "*has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement.*"

The Claimant's essential complaint was that the Inspector failed to recognise that the policy operates in two stages, requiring the decision-maker, first, to establish whether a

proposed site can pass through the "*gateway*" of being either (i) within the built up area, or (ii) outside the built up area but "*well-related*" to the settlement, and only secondly – if the proposed site has passed through that gateway – to decide whether the proposal accords with all relevant development plan policies and the requirements set out at parts (a) to (j) of Policy 6.

The Claimant argued the Inspector failed to follow this approach, and that he had not only conflated the two separate steps but in fact reversed them, in that he had used his conclusion that the policy did not comply with Policy 6(f) to determine the prior question of whether the proposed development site was well-related to the existing settlement, to the exclusion of other key considerations.

Judgment

Robert Palmer KC, sitting as a Deputy Judge of the High Court, found that the Claimant's submissions on the interpretation of Policy 6 adopted precisely the unduly strict and legalistic approach which the courts have repeatedly deprecated, by inappropriately seeking to apply the same linguistic rigour as would be applied to the interpretation of statute or contract. It was unduly formulistic to seek to divide Policy 6 into two parts, consisting first of a "*gateway*" and then of criteria which only become relevant once a judgement has already been made that the proposed development has passed through the gateway.

The Judge held that the Inspector's approach was based upon a correct approach to Policy 6 and on relevant considerations to which the weight to be attached was a matter for the Inspector alone. The Inspector was entitled to find a fundamental conflict with the development plan, to find that this was not outweighed by the acknowledged benefits of the proposal and to dismiss the appeal accordingly.

The Claimant's application was dismissed.

Case summary prepared by Anna Sidebottom