

Case Name: *Edith Weston Parish Council v Secretary of State for Housing, Communities and Local Government & Anor* [2025] EWHC 2908 (Admin)

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Commentary: HHJ Jarman KC dismissed a statutory review brought by Edith Weston Parish Council ('the Claimant') under section 288 of the Town and Country Planning Act (TCPA) 1990 against the decision of a planning inspector to grant outline planning permission for up to 62 dwellings on land near the village of Edith Weston.

In an agreed error, the Inspector treated the Edith Weston Neighbourhood Plan 2023-2041 (EWNP) as a material consideration, rather than applying a presumption in favour of its policies. However, applying the *Simplex* criteria, HHJ Jarman KC held that Inspector would inevitably have reached the same conclusion had the agreed error not occurred. He therefore declined to grant relief under Ground 1.

Under Ground 2, the Claimant submitted that the Inspector was wrong to conclude that paragraph 14 of the National Planning Policy Framework (NPPF) was not engaged and that therefore the proposal was to be determined in accordance with the presumption in paragraph 11 of the NPPF. This was on the basis that the EWNP contained no allocations to meet its identified housing requirement. The Claimant argued that because there was a policy in the EWNP which set design principles for the redevelopment of a nearby barracks (which had already received outline permission), paragraph 14 was engaged. HHJ Jarman KC agreed with the Inspector that the EWNP contained no allocations as the relevant policy was to inform reserved matters and the EWNP also specifically disallowed allocation. Accordingly, the Inspector did not err in failing to apply paragraph 14.

Ground 1

Five days prior to the inspector's decision, the EWNP was approved in a referendum. The EWNP consequently became part of the local development plan (pursuant to section 38(3A) of the Planning and Compulsory Purchase Act (PCPA) 2004). However, no-one informed the Inspector. The Inspector therefore reached his decision on the basis that the EWNP was an emerging plan which should be dealt with as a material consideration under section 70(2) TCPA. Instead, it was agreed that the Inspector should have applied a presumption in favour of the EWNP pursuant to section 38(6) PCPA.

Because the proposed site was located in the countryside, i.e. outside the current limits of development, the Inspector identified a conflict with the EWNP. For the same reason, the Inspector identified a conflict with the spatial strategies in the Rutland Local Development Framework, Core Strategy Development Plan (CS) and the Site Allocations and Policies Development Plan Document (DPD). The Inspector correctly identified these two documents as parts of the applicable development plan. Accordingly, the Inspector correctly applied section 38(6) to the conflicts with the CS and DPD, but failed to do so in respect of the EWNP.

Notwithstanding these conflicts, the Inspector concluded that the benefits of the scheme outweighed the identified harms. In particular, the Inspector gave considerable weight to

the fact that the development would deliver 40% affordable housing and reduce Rutland's 'very significant' housing land supply shortall. In contrast, the Inspector gave only moderate weight to the policy conflicts, because these spatial policies were inadequate in light of the local housing land supply targets. In order to meet these targets, it would be necessary in any event to bring forward additional housing sites in the countryside.

Having identified the relative weight given to these issues by the inspector, HHJ Jarman KC concluded that this weighting would inevitably have been the same whether there were three, rather than two, development plan policies seeking to prevent development in the countryside. He also highlighted the fact that because the Inspector believed the EWNP to be at an advanced stage of preparation, it was given considerable weight irrespective of the legal error. Since the outcome would inevitably have been the same had the Inspector acted lawfully, the *Simplex* criteria was satisfied. HHJ Jarman KC therefore refused to quash the grant of planning permission.

Ground 2

The Claimant also challenged the Inspector's view that paragraph 14 of the NPPF was not engaged because the EWNP did not contain allocations to meet its identified housing requirement.

In reaching his decision, the Inspector relied on paragraph 11, which states that where a local authority is unable to demonstrate a five-year housing supply, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the NPPF as a whole.

The application of paragraph 11 is subject to paragraph 14, which provides that:

In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

- (a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
- (b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).*

The Claimant submitted that paragraph 14(b) was satisfied by a policy in the EWNP which set design principles for the redevelopment of a nearby barracks. This redevelopment had already received outline permission. The Inspector rejected the Claimant's submission on the basis that this policy did not allocate housing, but merely informed the reserved matters stage.

HHJ Jarman KC held that the Inspector was entitled to reach this view. Furthermore, he relied on the fact that the EWNP specifically states that allocations are to be dealt with

elsewhere in the local plan. Since the EWNP did not contain any housing allocations, Ground 2 also failed. The challenge to the Inspector's decision was therefore dismissed.

Case summary prepared by Archie Hunter