

# Knowledge and Professional Matters: Issue 02/2022

February 25, 2022

## Knowledge & Professional Matters

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Previous issues of [Knowledge Matters](#) and [Knowledge & Professional Matters](#) can be viewed in the Inspector area of the Intranet

## Professional Lead News

### Levelling Up white paper

This is a longer version of the article on PINS Intranet news.

The government published its [Levelling Up White Paper](#) on 2 February 2022, which looks at opportunities to tackle regional inequalities across the UK. On 28 different measures of prosperity and indices of inequality, the UK has been found to be one of the most spatially unequal countries among the OECD. The white paper thus sets out the government's plan to "spread opportunity more equally across the UK under a programme of systems change" by 2030, with

“specific policy interventions that build on the 2021 Spending Review to deliver change now”.

The government’s [press release](#) summarises the 332-page document. Key elements of the white paper include:

- 12 national levelling up missions, given status in law, to shift government focus and resources to Britain’s forgotten communities by the end of the decade (see Annex A: The 12 Missions to Level Up the UK within the press release);
- Transferring more power from Whitehall to local leaders in all parts of England under a devolution framework that goes beyond metropolitan areas, granting ‘London style’ powers and a mayor where needed;
- The beginning of a decade-long project to level up Britain, with “radical new policies announced across the board”; and
- Domestic public investment in Research & Development “to increase by at least 40% across the North, Midlands, South West, Scotland, Wales, and Northern Ireland”.

## **Planning and Levelling Up**

Unlike the ‘Planning for the Future White Paper’ (2020) which focused solely on the planning system and its reform, the use of planning measures in the Levelling Up white paper are just one of many levers being proposed to enable regeneration and socio-economic growth. References to planning and shaping the built environment are found in different parts of the document but critically, the white paper states that the government plans to “introduce legislation to Parliament to underpin in statute the changes fundamental to levelling up, alongside wider planning measures” (p. xxvii).

Key planning proposals of the Levelling Up white paper relate to: delivering on housing across England with a focus outside of London and the South-East; making local plans simpler, shorter and more transparent; policies for planning and enhancing compulsory purchase powers to support the regeneration of towns and cities; improving democracy and engagement in planning decisions alongside widening “the accessibility of neighbourhood planning”; “further greening the green belt”; supporting environmental protection through planning; and “developing models for a new infrastructure levy”.

The next steps the government will take includes a process of engagement across the whole of the UK on the proposals in its white paper.

The Table at the end of this edition of Knowledge & Professional Matters provides a summary of references relating to planning, regeneration, and land use issues in the white paper. Extracts or statements reproduced from the white paper in that Table have not been fact-checked or commented upon by PINS staff. PINS does not comment on government policy or on its proposals.

## **Court of Appeal delivers judgment on the consideration of downstream emissions and indirect effects**

The Court of Appeal has held that the decision of Surrey County Council to grant planning permission for the continued extraction of crude oil for commercial purposes from the Horse Hill Well Site without requiring the Environmental Impact Assessment to include an assessment of the impacts of greenhouse gas emissions from the use of the refined fuel, was reasonable and lawful. This follows the refusal in the High Court of an application for judicial review of the Council decision to grant planning permission, in December 2020.

To determine whether subsequent emissions are an indirect effect on the environment which required assessment under the Environmental Impact Assessment Regulations, the CoA judges concluded that the decision-maker must ascertain whether it is truly an effect of the proposed development. What needed to be considered was the necessary degree of connection required between the development and its putative effects. It was not possible to say that greenhouse gas emissions from the future combustion of refined oil products that originated from the development site were legally incapable of being an environmental effect requiring assessment under the legislation. Ultimately, it was a matter of fact and evaluative judgment for the decision-maker.

The appeal was dismissed on a 2:1 majority, with all 3 judges agreeing that it was for Surrey County Council to judge whether the effects were indirect effects of the development. The decisive issue was whether the Council had given adequate reasons for concluding that they were not; the majority found that they were adequate. The dissenting judge held that the decision to exclude from assessment all but direct releases of greenhouse gas emissions from the well site boundary was based upon demonstrable flaws in reasoning, such that the Council's decision was legally flawed.

The judgment emphasises the need to give reasoned decisions relating to the consideration of indirect effects. Decision-makers should refer to the detailed advice in the ITM '[Approach to decision-making](#)' chapter (paragraphs 34-45) on the provision of reasoning.

Case: *R (on the application of Sarah Finch on behalf of Weald Action Group) v Surrey County Council, Horse Hill Developments Ltd, SoS LUHC v Friends of the Earth Ltd* [2022] EWCA 187.

## ITM Updates regarding Conditions

The [Appeals against conditions](#) ITM chapter has recently been updated to include a new detailed section on “The Finney Judgment”.

The section has been introduced due to recent legal advice received by the Knowledge & Horizon Scanning team following consideration of a query relating to a s73 appeal involving the removal of an occupancy condition.

Additionally, the [Conditions](#) ITM chapter has also been updated in relation to the section on Car Free Housing Conditions following Inspector feedback from the Annual Training Event (ATE).

## Planning Practice Guidance updates

Updates to the Planning Practice Guidance are tracked routinely by the Knowledge & Horizon Scanning team and published in the Library. However, Inspectors and Support Staff can obtain notifications directly from the gov.uk website. Individuals can sign-up [here](#) to receive notifications either daily, weekly or each time an addition or update is made to the gov.uk page.

## Rights of Way Casework

Just to let you know that following the sad loss of Stuart, Heidi Cruickshank has stepped in to fill the gap on a temporary basis, taking on the professional lead responsibility one day a week to support Rights of Way casework.

## Legal Updates

**Citation:** [CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC](#)  
**Reference:** [2022] EWHC 208 (Admin)  
**Judgment Date:** 5 February 2022  
**Outcome:** Challenge dismissed

<b>Background</b>	<p>The developers had argued that the inspectors took too broad an interpretation of Class AA of Part 1 of Schedule 2 of the 2015 General Permitted Development Order (the GPDO).</p>
<b>Grounds of Challenge</b>	<p>The challenge was pursued on the following grounds, in that the Inspectors erred in their approach to Class AA having:</p> <p>(1) misinterpreted para. AA. 2(3);</p> <p>(2) had regard to considerations immaterial to para. AA (2)(3); and/or</p> <p>(3) exercised his power under para. AA.2(3) in such a way as to thwart or run counter to the policy and objects of Class AA.</p>
<b>Judgment</b>	<p>The Judge drew comparisons with the use of the word “including” by comparing Class A of Part 20 with Class AA of Part 1 and Classes AA to AD of Part 20. The latter group have the same matters “included” in external appearance, so if the Claimants interpretation of Part 1 Paragraph AA.2 (3)(a)(ii) had been found to be correct, then it must also apply to Classes AA to AD of Part 20.</p> <p>The Court also confirmed that their conclusions on interpretation are consistent with the overall tenor of the consultation materials that the Court were shown. They are also consistent with the relevant provisions in the NPPF.</p>
<b>Implications</b>	<p>When considering the external appearance of a dwellinghouse, Inspectors should consider all impacts on neighbouring premises and the locality. Consideration of appearance could embrace the visual impact of a proposal on premises other than the subject dwelling, including streetscapes.</p>

**Gladman Developments Ltd v SSHCLG and others**

**Claim no. N/A**

**Court Order date: 15 February 2022**

**Outcome: Permission to apply to the Supreme Court refused.**

<b>Background</b>	<p>The case concerned two dismissed s78 appeals for proposed outline housing developments for up to 120 dwellings (in Corby Borough Council) and up to 240 dwellings (in Uttlesford District Council).</p> <p>The appellant challenged the Inspectors' decisions unsuccessfully in the High Court and Court of Appeal.</p> <p>The Court of Appeal judgment in <a href="#">Gladman Developments Ltd v SSHCLG, Corby Borough Council and Uttlesford District Council [2021] EWCA Civ 104</a> and its ruling was covered in <a href="#">Knowledge Matters Issue 76</a> and is referenced in the ITM Housing Chapter; namely, the Courts confirmed that</p> <p>paragraph 11d)ii of the NPPF does not require any development plan policies to be excluded from the “tilted balance”, and that there is no legal justification for the court to prescribe that the tilted balance in paragraph 11d)ii of the NPPF and the presumption in s38(6) must be applied in two separate stages in sequence.</p> <p>The challenge was one in a series of challenges (namely <i>Monkhill Ltd</i> and <i>Paul Newman Homes Ltd</i> – summarised below) put to the Courts to determine the meaning of NPPF policy for the “presumption in favour of sustainable development” in paragraph 11 of the revised NPPF.</p>
<b>Grounds of Challenge</b>	<p>(1) Whether a decision-maker, when applying the “tilted balance” under paragraph 11d)ii, is required not to take into account relevant policies of the development plan.</p> <p>(2) Whether it is necessary for the “tilted balance” and the duty in section 38(6) of the Planning and Compulsory Purchase Act 2004 to</p>

	<p>be performed as separate and sequential steps in a two-stage approach.</p> <p>(3) Whether the “tilted balance” under paragraph 11d)ii excludes the exercise indicated in paragraph 213 of the NPPF, which requires that policies in plans adopted before its publication should be given due weight, “according to their degree of consistency with [it]”.</p>
<b>Outcome</b>	The application was put before Lord Hodge, Lord Stephens and Lady Rose. Permission was refused because the application did not raise an arguable point of law which ought to be considered.
<b>Implications</b>	The Supreme Court ruling brings this litigation finally to a close. The Court of Appeal judgment therefore remains extant case law.

### **Monkhill Ltd v SSHCLG**

**Claim no. N/A**

**Court Order date: 15 February 2022**

**Outcome: Permission to apply to the Supreme Court refused.**

<b>Background</b>	<p>The case concerned a dismissed s78 re-determination appeal for 29 dwellings.</p> <p>The appellant challenged the Inspector’s decision unsuccessfully in the High Court and Court of Appeal.</p> <p>The Court of Appeal judgment in Monkhill Ltd v SSHCLG &amp; Waverley BC [2021] EWCA Civ 74 and its ruling was covered in <a href="#">Knowledge Matters Issue 76</a> and is referenced in the ITM Housing Chapter; namely, that the first part of paragraph 172 (National Parks, the Broads, AONBs) of the NPPF was capable of sustaining a clear reason for refusal. The fact that it does not include a self-contained criteria or test (in terms of a reason to</p>
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	<p>refuse), other than in major development, does not disqualify it as a relevant policy under paragraph 11d)i.</p> <p>The challenge was one in a series of challenges (namely <i>Hopkins Homes Ltd</i> and <i>Samuel Smith Old Brewery (Tadcaster)</i>) put to the Courts to determine the meaning of NPPF policy relating to development in AONBs.</p>
<b>Grounds of Challenge</b>	<p>(1) Whether the Inspector was wrong to interpret the first sentence of paragraph 172 of the NPPF, which says “great weight should be given to conserving and enhancing landscape and scenic beauty” in an AONB, as a policy whose application is capable of providing “a clear reason for refusing” planning permission under paragraph 11d)i of the NPPF.</p>
<b>Outcome</b>	<p>The application was put before Lord Hodge, Lord Stephens and Lady Rose. Permission was refused because the application did not raise an arguable point of law of general public importance which ought to be considered.</p>
<b>Implications</b>	<p>The Supreme Court ruling brings this litigation finally to a close. The Court of Appeal judgment therefore remains extant case law.</p>

**Paul Newman Homes Ltd v SSHCLG**

**Claim no. N/A**

**Court Order date: 15 February 2022**

**Outcome: Permission to apply to the Supreme Court refused.**



<b>Background</b>	<p>The case concerned a dismissed s78 appeal for 50 dwellings and associated facilities.</p> <p>The appellant challenged the Inspector’s decision unsuccessfully in the High Court and Court of Appeal.</p> <p>The Court of Appeal judgment in <a href="#">Paul Newman Homes Ltd v SSHCLG &amp; Aylesbury Vale DC [2021] EWCA Civ 15</a> and its ruling was covered in <a href="#">Knowledge Matters Issue 75</a> and is referenced in the ITM Housing Chapter; namely, the issue of “relevant” plan policies under the two triggers in para 11d) of the NPPF.</p>
<b>Grounds of Challenge</b>	<p>(1) Whether the Inspector correctly interpreted paragraph 11d) of the revised 2018 NPPF and presumption in favour of sustainable development, the “tilted balance”, and</p> <p>(2) The proper interpretation / construction of Local Plan policy GP35 concerning conservation of the built environment.</p>
<b>Outcome</b>	<p>The application was put before Lord Hodge, Lord Stephens and Lady Rose. Permission was refused by the Supreme Court because the application did not raise an arguable point of law of general public importance which ought to be considered.</p>
<b>Implications</b>	<p>The Supreme Court ruling brings this litigation finally to a close. The Court of Appeal judgment therefore remains extant case law.</p>

**FCP Land 4 Limited v SSHCLG & Horsham District Council**  
**Claim no. CO/3100/2021**  
**Court Order Date: 12 January 2022**

**Outcome: Permission to apply for Planning Statutory Review refused by the Courts**

**Background**

An appeal for 473 dwellings and associated development at Old Crawley Road, Horsham, in the High Weald Area of Outstanding Natural Beauty, was refused by an Inspector. Referring to NPPF paragraph 177, the Inspector found that there were no exceptional circumstances, and that the development was not in the public interest.

**Grounds of Challenge**

The Claimant sought statutory review on two grounds:

(1) The Inspector misconstrued the policy test of “exceptional circumstances” at paragraph 177 of the NPPF, which led them to failing to apply the tilted balance at 11(d)(ii), and

(2) The Inspector failed to have regard to the principle of consistency or supply adequate reasons, before adopting a different approach to the interpretation of the policy at NPPF paragraph 177 to that of another decision.

**Consent Order**

With regards to ground 1, the Inspector found that neither limb of NPPF paragraph 177 was met. Further, given that there was no challenge to the Inspector’s finding on the lack of public interest, even if the Claimant was correct that there was an error of law, permission would still have been refused. Whether or not circumstances of the case were ‘unusual’ is relevant to whether there are exception circumstances, and whether something is exceptional is a matter of planning judgment. The Inspector clearly undertook the balancing exercise under paragraph 177, concluding that there were no exceptional circumstances. The Judge therefore found ground 1 of the challenge inarguable.

The Judge found that ground 2 was merely a reinstatement of ground 1. The alternative appeal decision in question turned on its own facts, and the differences between the two obviously affected the planning balance. Therefore ground 2 was also

	inarguable. Permission to apply for Planning Statutory Review was refused on both grounds.
<b>Implications</b>	Whether a case is unusual or rare is relevant when considering whether there are 'exceptional circumstances' according to paragraph 177 of the NPPF and whether something is exceptional is a matter of planning judgment.

<b>Amy Towell v SSLUHC &amp; Wiltshire Council</b> <b>Claim no. CO/3996/2021</b> <b>Court Order Date: 14 January 2022</b> <b>Outcome: Permission to apply for Planning Statutory Review refused by the Courts.</b>	
<b>Background</b>	Dismissed s78 appeal for conversion of storage building to a dwelling.
<b>Grounds of Challenge</b>	<p>(1) Failure to advert to paragraph 74 of the NPPF and the presumption of allowing sustainable development.</p> <p>(2) Erroneous finding that the proposal would require "major rebuilding" under policy CP48.</p> <p>(3) Failure to have proper regard to other relevant developments.</p>
<b>Outcome</b>	<p>Grounds were unarguable.</p> <p>(1) The Inspector had expressly considered the parties' representations on the NPPF and its approach and had regard to it, but it was not necessary to "spell out every step of her reasoning". The complaint that the Inspector failed to have regard to the development plan being out-of-date was not arguable, as the presumption of allowing sustainable development was "rebuttable" in this case, the weight to be given to the development plan was a matter for the Inspector, the proposed</p>

	<p>development related only to a single dwelling, and the matters of substance (including consideration of Part 8 of the NPPF) showed that the outcome would have been no different.</p> <p>(2) There was no basis to contend that the Inspector had failed to consider the decisions or other properties put before her. Importantly, the Inspector had not found that the proposed development would involve “major rebuilding”; rather, that the appellant had failed to show that it would not do so. In construing “major rebuilding”, there is no “hard-edged definition; the matter is one of fact and degree”. On a charge of “irrationality”, the Inspector had used her judgement based on the submitted evidence and there was no ground that the finding reached was not open to her.</p> <p>(3) Reasons had been given on the question of suitability of the location against applicable policies / the NPPF and in so doing, the proposal was found to be inappropriate. Given that judgement, it was “unavailing to refer to other developments”.</p>
<b>Implications</b>	The challenge turned on its own facts but is shared for interest.

**Churchill Retirement Living Limited v SSLUHC & East Devon District Council**  
**Claim no. CO/3235/2021**  
**Court Order Date: 25 January 2022**  
**Outcome: Challenge conceded by the Secretary of State by Consent Order.**

<b>Background</b>	<p>Dismissed s78 appeal for demolition and redevelopment of site to form 57 retirement apartments. The proposal was found to conflict with Strategy 32 of the East Devon Local Plan, which seeks to prevent the loss of employment land.</p> <p>A main issue was the effect of the development on business and employment opportunities in the area, specifically the onsite Livestock Collection Centre. The Inspector found that whilst only a</p>
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	<p>"relatively small number of people are directly employed on the site, many others are reliant on the centre for employment".</p>
<b>Grounds of Challenge</b>	<p>'5' grounds, including: (1) the Inspector had no evidence to find that many people relied on the livestock collection centre for their employment (thereby wrongly concluding that the development conflicted with Strategy 32).</p>
<b>Outcome</b>	<p>All grounds were considered 'arguable' at 'permission' stage.</p> <p>The granting Judge observed that, by the end of the appeal, there appeared to have been no evidence that anyone else (other than one employee) was reliant on the Livestock Collection Centre for employment. Though it had served 450 vendor clients over the previous two years, the Inspector's conclusion that people were dependent on it for jobs appeared to have been a "not necessarily correct" inference. It was uncontested that the use of the site for a Livestock Collection Centre was due to end in October 2021, with premises being sought elsewhere by the lessee. There was thus "considerable evidence that the development [proposed] would not cause the loss of employment land at all". The position should have been tested by the marketing of the site as Strategy 32 demands, with "evidence before the Inspector that demand would be minimal".</p> <p>Ground (1) was therefore conceded, as the Inspector had erred in relying on insufficient evidence to support her conclusion that many others were reliant on the livestock collection centre for employment.</p>
<b>Implications</b>	<p>The challenge turned on its own facts but is shared for interest.</p>

**HPH Selly Oak Property Limited v SSLUHC & Birmingham City Council**  
**Claim no. CO/4317/2021**  
**Court Order Date: 26 January 2022**

<b>Outcome: Permission to apply for Planning Statutory Review refused by the Courts</b>	
<b>Background</b>	Dismissed s78 appeal for demolition of a supermarket and erection of student accommodation and commercial and community space.
<b>Grounds of Challenge</b>	<p>(1) Misinterpretation of policy GA9 of the Birmingham Development Plan, by considering that student accommodation is not a “residential” use to which this policy applies.</p> <p>(2) Misinterpretation of local plan policies TP21 and TP24 by incorrectly excluding from their ambit student accommodation.</p>
<b>Outcome</b>	<p>The grounds were unarguable with no realistic prospect of success.</p> <p>Justice Lang decided that the Inspector was correct in interpreting “residential” in Policy GA9 as not including purpose-built student accommodation (‘PBSA’). Policy GA9 “clearly distinguishes between the types and purposes of regeneration and development that will be encouraged around the appeal site on the one hand, and the University on the other”. Reading the Plan policies in full and in context, they distinguish between PBSA as specifically addressed in Policy TP33, and other forms of residential development as addressed in TP21, TP24, TP27 and TP31.</p> <p>Contrary to the Claimant’s submission, the Council had disputed their interpretation of Policy GA9 at the Inquiry and the Claimant was given a fair opportunity to present its position to the Inspector. Even had the Claimant’s interpretation of the policy been favoured, the proposal still conflicted with policies TP21 and TP24 which were relevant to the Inspector’s determination, as well as having found that the unacceptable scale, mass, height and design of the proposal was contrary to Policies PG3 and TP33.</p>

<b>Implications</b>	The challenge turned on its own facts but is shared for interest, particularly regarding the interpretation of 'residential' in the policy.
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## Topic Area Updates

### Local Plans

#### Paused or withdrawn plans

As noted, the Levelling Up white paper mentioned that only 39% of local authorities have adopted a plan for their area within the last five years. Issues around local plan progress have been reported in the press recently, with Basildon Council announcing on 10 February 2022 following an extraordinary meeting, that it was withdrawing its plan from examination. Committee papers stated that its decision was based upon, in part, to its current administration placing "a greater emphasis on protecting the green belt". In January, Hertsmere Borough Council suspended its draft 12,000 home plan following consultation objections to the level of proposed green belt release, and Welwyn Hatfield Borough Council voted to adopt a reduced housing target of 13,279 dwellings under its revised plan (rather than the Inspector's proposed modifications of 15,200 homes), because of similar concerns. Whilst Mid Sussex District Council had resolved to delay its draft plan so that "the outcome of any change in government policy can be known", with Ashfield District Council and Arun District Council pausing work on their plans for the same reason.

However, Basildon's monitoring officer has asked for the Council's decision to withdraw its plan be suspended, to allow for a report under section 5 of the Local Government and Housing Act 1989 to be issued. The Council will then need to review the monitoring officer's report and make its decision.

## Latest Adopted Plans, SPDs & CIL Charging

### Schedules

Adopted Plans	Supplementary Planning Documents	CIL Charging Schedules
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<b>Liverpool City Council</b> adopted the <a href="#">Liverpool Local Plan 2013 – 2033</a> on <b>26 January 2022</b>	<b>High Peak Borough Council</b> adopted the <a href="#">Water in Buxton Supplementary Planning Document (SPD)</a> <b>9 December 2021</b>	
<b>The Royal Borough of Windsor and Maidenhead</b> adopted the <a href="#">Royal Borough of Windsor and Maidenhead Borough Local Plan 2013 – 2033</a> on <b>8 February 2022</b>	<b>The New Forest National Park Authority</b> adopted the <a href="#">New Forest National Park Design Guide (incorporating the National Park Design Code) SPD</a> on <b>27 January 2022</b> .	
<b>Birmingham City Council</b> adopted <a href="#">Development Management in Birmingham DPD (DMB)</a> on <b>7 December 2021</b>	<b>South Cambridgeshire District Council</b> adopted on <b>7 February 2022</b> and <b>Cambridge City Council</b> adopted on <b>11 January 2022</b> the <a href="#">Greater Cambridge Shared Planning Biodiversity SPD</a>	
<b>Mendip District Council</b> adopted the <a href="#">Mendip District Local Plan Part II 2006-29: Sites and Policies</a> on <b>20th December 2021</b>		
<b>Fylde Council</b> adopted the <a href="#">Fylde Local Plan to 2032 Partial Review</a> on <b>6th December 2021</b>		
<b>Great Yarmouth Borough Council</b> adopted their <a href="#">Local Plan Part 2</a> on the <b>9th December 2021</b>		



<b>North Yorkshire County Council</b> adopted their <a href="#">Minerals and Waste Joint Plan 2015-2030</a> on <b>16 February 2022</b>		
<b>Darlington Borough Council</b> adopted the <a href="#">Darlington Local Plan 2016-2036</a> on the <b>17 February 2022</b>		

Please see the [Latest Adopted Plans page](#) for more information.

## Inspector Training Manual Updates & PINS Notes

[Inspector Training Manual updates](#) & [PINS Notes](#) can be found in the Inspector Area of the Intranet

Inspector Training Manual Updates	PINS Notes
<a href="#">Housing</a> <b>31 January 2021</b>	<a href="#">PINS Note 03/2022: Securing contributions towards European site mitigation</a> <b>1 February 2022</b>
<a href="#">Local Plan Examinations (Retail and main town centre uses)</a> <b>10 February 2022</b>	<a href="#">PINS Note 04/2022: GPDO – Class AA External Appearance – CAB Housing Ltd, Beis Noeh Ltd &amp; Mati Rotenberg v SSLUHC EWHC 208 (Admin)</a> <b>9 February 2022</b>
<a href="#">Flood Risk</a> <b>16 February 2022</b>	<a href="#">PINS Note 05/2022 – Section 319A Town and Country Planning Act 1990 – Determination of Procedure</a> <b>15 February 2022</b>
<a href="#">Common Land and Town and Village Greens</a> <b>23 February 2022</b>	<a href="#">PINS Note 01/2022r2 – Housing Delivery Test Results</a> <b>22 February 2022</b>

Local Plan Examinations <a href="#">Role of the Inspector in the examination process</a> <b>24 February 2022</b>	
Local Plan Examinations <a href="#">Housing</a> <b>24 February 2022</b>	
The GPDO and prior approval appeals <b>24 February 2022</b>	
<a href="#">Appeals Against Conditions</a> <b>24 February 2022</b>	
<a href="#">Conditions</a> <b>24 February 2022</b>	
<a href="#">Planning Obligations</a> <b>24 February 2022</b>	

## Secretary of State Decisions

Since the last edition of Knowledge Matters the following have been issued:

Recovered appeal decisions – 0

Called in planning applications – 1

[Recovered Appeals and Called-in Applications](#) can be viewed on the gov.uk page in the Inspector area of the Intranet

<b>Decision</b>	<a href="#">Wembley Park Station Car Park, Land bound by Bridge Road, Brook Avenue and Matthews Close, Wembley HA9 8PG</a> (PDF)
<b>Date</b>	22 February 2022
<b>Recommendation</b>	Approve application and grant planning permission subject to conditions

<b>Outcome</b>	Allowed
<b>Type of development / Key Issues</b>	Mixed-use redevelopment including housing and retail (key issues include Design, delivery of housing and tall buildings)

**The Table below provides a summary of references to planning, regeneration, and land use issues from the Levelling Up white paper:**

<b>Green Belts</b>	<p>“Ensuring natural beauty is accessible to all will be central to our planning system, with improved Green Belts around towns and cities, supported by Local Nature Recovery Strategies reflected in plan making, and woodland creation supported across the UK” (p. xxiv).</p> <p>“The UK Government plans to empower local leaders and communities to reimagine their urban green space and improve access for communities who lack it. This includes enhancing and maintaining protection of the Green Belt. The UK Government will develop plans for:</p> <ul style="list-style-type: none"> <li>a. further greening the Green Belt in England;</li> <li>b. bringing wildlife back, aimed at increasing public access while simultaneously delivering nature recovery; and</li> <li>c. securing further environmental improvements” (p. 211).</li> </ul> <p>The “rebalancing of housing and transport investment, will reduce pressure on housing and on greenfield and Green Belt sites in overheated areas of London and the South East” (p. 225).</p>
<b>Housing</b>	Housing features in various parts of the white paper and the issues of ownership, affordability, quality, conditions, and supply. It states:

The UK Government's "ambition of delivering 300,000 new homes per year in England by the mid-2020s to create a more sustainable and affordable housing market" (p. 223).

There are plans to steer house building away from London and the South East: "[...] by extending opportunity across the UK, we can relieve pressures on public services, housing and green fields in the South East" (p. xiv).

The UK Government intends to scrap the 80/20 funding rule that focused investment on Greater London, and instead invest in more homes in the North and Midlands to relieve pressure on the South East (p. xxvi).

To correct "poor housing quality, overcrowding and a reliance on temporary accommodation", the UK Government plans to build "more homes in England and more genuinely affordable social housing" and "launch a new drive on housing quality" by introducing "new legislation to improve the quality and regulation of social housing" (p. xxvi).

The UK Government "will make improvements to the planning system and give councils more tools to regenerate land to achieve" the goal of homeownership. It references its measures underway to boost housing supply, such as "£1.8bn investment in brownfield and infrastructure projects to unlock the delivery of up to 160,000 homes across England", the £11.5bn Affordable Homes Programme to "deliver up to 180,000 affordable homes with 75% of these outside London", and an "additional £38bn in public and private investment in affordable housing". Additionally, a "£1.5bn Levelling Up Home Building Fund is being launched, which will provide loans to SMEs and support the Government's wider regeneration agenda in areas that are a priority for levelling up" (p. 224).

By the spring, the UK Government will publish a white paper "to consult on introducing a legally binding Decent Homes Standard in the Private Rented Sector", explore "a National Landlord Register and bring forward other measures to reset the relationship between landlords and tenants, including through ending section 21 "no fault evictions"" (p. xxvi).

	<p>The “Levelling Up Mission” for Housing states: “By 2030, renters will have a secure path to ownership with the number of first-time buyers increasing in all areas; and the government’s ambition is for the number of non-decent rented homes to have fallen by 50%, with the biggest improvements in the lowest performing areas” (p. 121).</p> <p>Homes England will be asked “to play a wider role in supporting Mayors and local government to drive their ambitions for new affordable housing and regeneration in their area”, and to use its resources and expertise “in dealing with developers to enable local leaders to leverage all the funding available in a particular place”. Such partnerships “will be boosted by the significant devolved funds for transport and housing, as well as the UKSPF and long-term investment funds”, and “complemented by the powers to help them utilise their funds and partnerships, such as through mayoral development corporations and Homes England’s compulsory purchase powers” (p. 142).</p>
<p><b>Planning Reform</b></p>	<p>Covered in the section “Reforming the planning system in England” at pages 227 and 228 and lists its initiatives underway. It states:</p> <p>On place-making, the “2020 amendments to the NPPF, the new National Model Design Code and the creation of an Office for Place are transforming the way people’s places look and feel, by ensuring beautiful and sustainable design across the country”.</p> <p>The Government has “pioneered beauty in the built environment through its planning reforms”, by taking on “many of the recommendations of the Building Better, Building Beautiful Commission to ensure that the needs and expectations of our communities are met”.</p> <p>Project Speed “will improve the delivery of critical major infrastructure projects, including new hospitals, schools and roads”.</p> <p>Changes to permitted development rights have “enabled a much-needed expansion of public infrastructure, including schools and colleges, without the need for a planning application”.</p>

	<p>The UK Government “will enhance compulsory purchase powers to support town centre regeneration; provide further support for re-using brownfield land for development; set a more positive approach to employment land in national policy to support the provision of jobs; and increase engagement with infrastructure providers in plan making to bolster productivity”.</p> <p>The section ends by stating: “[...] wider changes to the planning system will secure enhanced social and economic outcomes by fostering beautiful places that people can be proud of; improving democracy and engagement in planning decisions; supporting environmental protection, including support for the transition to Net Zero; and securing clear benefits for neighbourhoods and local people”.</p>
<b>New Infrastructure Levy</b>	<p>The UK Government “is developing models for a new infrastructure levy which will enable local authorities to capture value from development more efficiently, securing the affordable housing and infrastructure communities need” (p. 228).</p>
<b>Digital Planning</b>	<p>References are made to “the development of new planning software for councils and digital agencies” to bring “the system into the 21st century”, and “the PropTech Engagement fund, launched in October 2021, will help increase community participation in shaping and regenerating places, bringing greater democracy to placemaking” (p. 227).</p>
<b>Plan-making</b>	<p>Refers to a need to have Local Plans adopted, as only 39% of local authorities have adopted a plan within the last five years: “Local Plans will be made simpler and shorter, and improved data that underpins plans will ensure that they are transparent, understandable and take into account the environment that will be developed” (p. 227).</p>
<b>Transport Infrastructure</b>	<p>The “mission” for Transport Infrastructure states: “By 2030, local public transport connectivity across the country will be significantly</p>

	<p>closer to the standards of London, with improved services, simpler fares and integrated ticketing” (p. xvii).</p> <p>The Government states that it has begun to “make progress towards spreading opportunity around the country since 2019”, with the: “five-year consolidated transport settlements amounting to £5.7bn in eight city regions outside London, £5bn of funding for buses and active travel over this Parliament; and £96bn for the Integrated Rail Plan delivering faster, more frequent and more reliable journeys across the North of England and the Midlands” (p. xii).</p> <p>“Transport infrastructure is an important form of physical capital because it reduces “distances” between places and provides people, firms and workers with increased market access”, as expansive transport infrastructure such as that in London and the South East “unlocks access to more jobs” (p. 71).</p> <p>Box 3.8 provides an example of transport-led regeneration, being the HS2 link to Birmingham. Other examples of transport upgrades and funding features elsewhere in the document.</p>
<p><b>Regeneration</b></p>	<p>The Government states it will: “[...] regenerate 20 towns and cities by assembling and remediating brownfield land and working with the private sector to bring about transformational developments combining housing, retail and business in sustainable, walkable, beautiful new neighbourhoods”; supported by the Office for Place to “pioneer design and beauty, promoting better architectural aesthetics to ensure they enhance existing settlements, gladden the eye and lift the heart” (p. xxiv).</p> <p>Wolverhampton and Sheffield will begin the Government’s policy programme of transformational regeneration (see Box 3.14 on page 209 for details).</p> <p>The Government will explore “what further measures can make high streets and town centres the thriving hearts of communities again, including ways to incentivise landlords to fill vacant units” (p. xxiv).</p> <p>The white paper further states: “Since 2019, the UK Government has supported places to revitalise town centres, retain community assets</p>

	<p>and grow their economies through programmes like the £4.8bn Levelling Up Fund, the £900m Getting Building Fund, the £400m Brownfield Housing Fund in England, the £150m UK-wide Community Ownership Fund, and the £3.6bn Towns Fund” (p. 207).</p>
<b>Localism</b>	<p>It states that the coalition Government’s decision to replace Regional Development Agencies after 2010 with Local Enterprise Partnerships to drive economic growth in the regions was part of a wider shift towards localism. The Localism Act 2011 is said to have empowered communities at a more local level, by “introducing initiatives such as community rights and neighbourhood planning” (p. 107).</p> <p>The section on ‘Planning’ on page 216 states:</p> <p>“Councils and communities will create new local design codes to shape streets as residents wish; widen the accessibility of neighbourhood planning, encouraging more accessible hybrid models for planning committees in England; and look to pilot greater empowerment of communities to shape regeneration and development plans. The ability to have a meaningful say on individual planning applications will be retained and improved through new digital technologies”.</p> <p>It also states that the Government “is giving communities in England more powers to develop a shared vision of the future of their area”, making available “over £34.5m of support for Neighbourhood Planning in 2018 to 2022, enabling communities to shape the places in which they live, decide the location of new homes, employment, shops and services, as well as protection for green spaces and heritage assets” (p. 225).</p> <p>A strong planning system is said to be “vital to level up communities across the country and to give them a say in how their land is used and where beautiful, sustainable houses are built” (p. 227).</p>
<b>Digital infrastructure</b>	<p>References are made to the development of digital infrastructure and connectivity in efforts to ensure business continuity and innovation, close spatial disparities and reduce isolation (pp. 74, 148</p>



	<p>&amp; 183), in relation to the UK Government's National Infrastructure Strategy (2020) and use of public investment.</p>
<p><b>Environmental protection</b></p>	<p>The Environment Act 2021, mandating an Environmental Improvement Plan of at least 15 years and the requirement for the UK Government to set legally binding long-term environmental targets for England to secure "long-lasting improvement in the natural environment", the transition to "Net Zero emissions" and examples of related projects on mitigating and adapting to climate change feature in various sections of the white paper, with the UK Government citing the "Ten Point Plan for a Green Industrial Revolution" (2020) and "£26bn of public capital investment for the green industrial revolution and transition to Net Zero" amongst its measures (pp. xiii, 51, 52, 115, 116, 119, 126, 140, 168, 169, 173, 175, 228, 241, 253, 257, 265, 268, 274, 285 &amp; 289).</p> <p>Content on the Government's "25 Year Environment Plan" can found on pages 115 and 116.</p>