

## Development opportunities as council overestimates Housing Land Supply

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An appeal to the Planning Inspectorate hit the headlines recently, when it granted planning permission contrary to the decision of a local authority which believed it had a 5+ year Housing Land Supply ("HLS"). The decision has important implications for everyone interested in how councils justify their housing land supply calculations.

The residents of the medieval village of Woolpit, Suffolk had long fought the application for the erection of 49 dwellings, which had been rejected at first instance by Mid Suffolk District Council ("the Council") in September 2017. The site is located 250m south of the village's conservation area, and the listed Priory Cottage is nearby. The site had not been earmarked for development in the local plan. At the Planning Inspectorate hearing on 28 September 2018, the main issue under consideration was whether the Council was able to demonstrate a five-year HLS sufficient to meet the full objectively assessed need for housing.

The Planning Inspector noted that the Council's strategic policy for housing numbers was more than five years old and had not been reviewed. Accordingly, paragraph 73 of the NPPF 2018 indicates that a council's HSL is to be assessed against the standard method for calculating local housing need. This calculation resulted in a figure of 858 dwellings for small sites. The Council argued that it could demonstrate a HLS of 5.39 years based on the planning permissions it had granted, and simply provided the appellant with a list of the 561 planning permissions it had given.

However, in order for a council to show that they can meet their HLS they must provide evidence that deliverable sites would start to provide housing completions within 5 years. The Planning Inspectorate noted that the Council had "not even come close to discharging the burden", lambasting it for providing information on deliverable sites based on "guesswork".

Furthermore, the requirement under paragraph 73 of the NPPF 2018 requires that a council's HLS must be made up of "specific sites". It was nigh-on impossible for the appellant to review 561 planning permissions and then eliminate defective planning permissions to extrapolate whether or not a sufficient HLS had been reached. The Planning Inspectorate commented that this was an exercise the council should have undertaken itself.

The Planning Inspectorate concluded that the Council had been "overinflating the supply" and that "it is highly likely that the Council's HLS is less than 3.4 years". Consequently the Council could not demonstrate a five year HLS, at which point the NPPF's presumption in favour of sustainable development kicked in.

This case is a prime example of why the presumption in favour of sustainable development can be problematic for councils but can be used to the benefit of

developers, who now have the opportunity to promote more 'windfall' sites for development.

Mid Suffolk Council will not be alone in having placed such reliance on small sites and these councils will now be under intense pressure either to update their local plans or to justify the robustness of their figures and demonstrate a five-year HLS.

The full decision is available from the Planning Inspectorate website under reference APP/W3520/W/18/319492.

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