

# National Policy: Status and Interpretation

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**Landmark Chambers**  
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# Topics

- Nature of national planning policy
- Interpretation of (national) planning policy
- Previous interpretations of the NPPF
- The NPPF in numbers

- NPPF described as a “rule book” by SoS
- Still (only) a material consideration under s.38(6) PCPA
- DP is the starting-point
- Weight is a matter for decision-makers, even in the context of the development plan; no systematic primacy to be accorded to the development plan (*West Berks* [2016] 1 WLR 3923)

# But what is National Planning Policy?

- The making of national planning policy is the “business of the Secretary of State” (*Alconbury* [2003] 2 AC 295)
- Lindblom J in *Cala Homes* [2011] 1 P&CR 22 – power does not come from statute
- *West Berks* – the power comes from the prerogative
- *Hopkins Homes* [2017] 1 WLR 1865 – power comes from the Planning Acts (expressly or by implication)

# Limitation on National Planning Policy

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- Cannot make policy inconsistent with s.38(6); TCPA s.70(2)
- Cannot introduce matters which are not proper planning considerations (*West Berks*)
- *McCarthy and Stone* [2018] EWHC 1202 (Admin) – conflict with DP does not mean that national policy unlawful

## Interpreting the NPPF

- Interpretation is a matter for the courts (*Hunston Developments Ltd* [2014] JPL 599)
- However, courts stress the distinction between interpretation and application (*Hopkins Homes Ltd*)
- Sense impatience with interpretation arguments: *Barwood Strategic Land II* [2018] PTSR 88; *Mansell v Tonbridge & Malling BC* [2018] JPL 176
- But... *Samuel Smith* [2018] EWCA Civ 489...
- Role of the PPG in interpreting the NPPF?

# Adopting Previous Interpretation?

- Come up in relation to PPG2 and the Green Belt (e.g. *Redhill Aerodrome* [2015] PTSR 274)
- Overall indication is that the courts are likely to follow the previous interpretation of national policy
- But must remember interpreting the new NPPF, not the old (*Turner v SSCLG* [2017] 2 P&CR 1; *Warners Retail (Moreton) Ltd v Cotswold DC* [2016] EWCA 606)
- Take into account the previous interpretation
- Assume SSHCLG aware of previous interpretations

# NPPF Cases in Numbers

- Decisions up to the Supreme Court in *Hopkins Homes*
- 169 decisions: 141 in HC; 27 in CA, 1 in SC
- Which judges interpreted the NPPF?
- Who brought cases which interpreted the NPPF?
- Who appealed decisions regarding the NPPF?
- Who defended cases interpreting the NPPF?



# Court of Appeal Judges

Judge	Number of Substantive Cases Heard	Judge	Number of Substantive Cases Heard
Lindblom LJ	10	Vos J	1
Stephen Richards LJ	6	Gloster J	1
Sales LJ	6	Davis LJ	1
Floyd LJ	5	Beatson LJ	1
Lewison LJ	5	Maurice Kay LJ	1
Patten LJ	4	Ryder LJ	1
Tomlinson LJ	4	Black LJ	1
Sullivan LJ	3	David Richards LJ	1
Kitchen LJ	3	Treacy LJ	1
Sir David Keene	3	Longmore LJ	1
Laws LJ	3	Arden LJ	1
Lord Dyson MR	2	Moore-Bick LJ	1
Jackson LJ	2	Briggs LJ	1
King LJ	2	McFarlane LJ	1
Underhill LJ	2	Hamblen LJ	1
Sir James Munby PFD	1	Mitting J	1
Simon LJ	1		

# High Court Judges

Puisne Judge	Number of Substantive Cases Heard	Puisne Judge	Number of Substantive Cases Heard
Lang J	13	Green J	3
Hickinbottom J	12	Coulson J	2
Lindblom J	11	Foskett J	2
Ouseley J	11	Sales J	2
Gilbart J	8	Laing J	1
Holgate J	7	Kenneth Parker J	1
Patterson J	6	Turner J	1
Lewis J	6	Stuart-Smith J	1
Collins J	6	Males J	1
Supperstone J	5	Cranston J	1
Dove J	5	Wyn Williams J	1
Stewart J	4	Haddon-Cave J	1
Jay J	3		

# Circuit Judges

Circuit Judge	Number of Substantive Cases Heard	Circuit Judge	Number of Substantive Cases Heard
HHJ Waksman QC	3	HHJ Cooke	2
HHJ Belcher	3	HHJ Behrens	1
HHJ Pelling QC	2	HHJ Thornton QC	1

# Deputy High Court Judges

Deputy HCJ	Number of Substantive Cases Heard	Deputy HCJ	Number of Substantive Cases Heard
John Howell QC	4	Rhodri Price Lewis QC	1
David Elvin QC	3	Stephen Morris QC	1
Timothy Straker QC	1	Ian Dove QC	1
Charles George QC	1	Robin Purchas QC	1

Also CMG Ockelton, Deputy President of the UTIAC

# Who Brings NPPF Challenges?

Claimant Type	Housing	Traveller
Developer C succeeds	8	1
Developer C fails	15	3
Objector C succeeds	10	-
Objector C fails	25	-
Council C succeeds	5	-
Council C fails	25	2

# Who Brings NPPF Challenges? (2)

Claimant Type	Wind	Crematorium
Developer C succeeds	-	-
Developer C fails	1	-
Objector C succeeds	-	3
Objector C fails	6	-
Council C succeeds	1	-
Council C fails	1	-

# Who Brings NPPF Challenges? (3)

Claimant Type	Minerals	Retail
Developer C succeeds	1	-
Developer C fails	-	-
Objector C succeeds	-	4
Objector C fails	5	5
Council C succeeds	-	-
Council C fails	-	1

# Who Brings NPPF Challenges (4)

Claimant Type	Sports	Other
Developer C succeeds	-	-
Developer C fails	1	2
Objector C succeeds	3	4
Objector C fails	5	7
Council C succeeds	-	-
Council C fails	-	-



# Who Appeals NPPF Cases?

Appellant Type	Housing (total/of which successful)	Traveller (total/of which successful)
Developer Claimant	3/0	0
Council Claimant	3/0	1/0
Objector Claimant	3/0	0
Secretary of State Defendant	2/1	0
Council Defendant	4/0	0
Developer Defendant	2/1	0
Objector Defendant	0	0

# Who Appeals NPPF Cases? (2)

Appellant Type	Wind (total/of which successful)	Crematorium (total/of which successful)
Developer Claimant	0	0
Council Claimant	0	0
Objector Claimant	2/0	1/1
Secretary of State Defendant	0	0
Council Defendant	0	1/0
Developer Defendant	1/1	1/0
Objector Defendant	0	0

# Who Appeals NPPF Cases? (3)

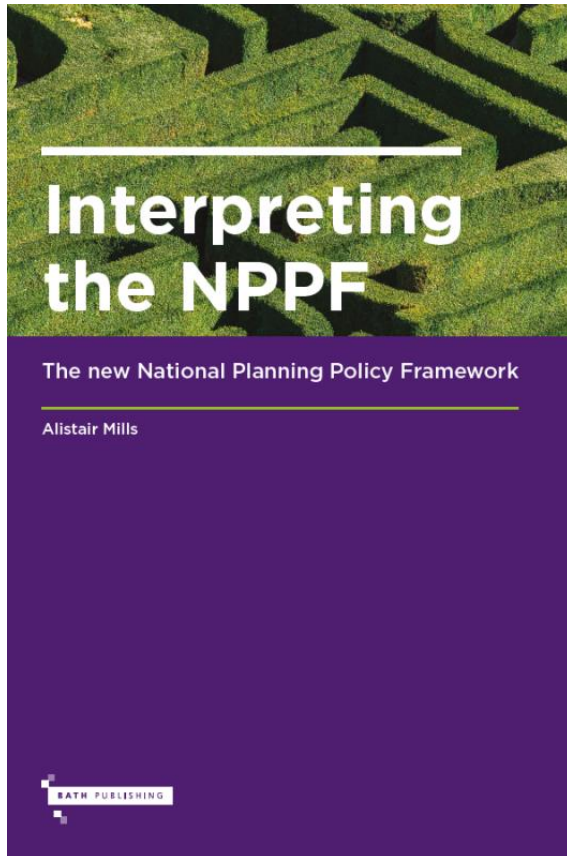
Appellant Type	Minerals (total/of which successful)	Retail (total/of which successful)
Developer Claimant	0	0
Council Claimant	0	1/0
Objector Claimant	0	2/0
Secretary of State Defendant	0	0
Council Defendant	0	0
Developer Defendant	0	0
Objector Defendant	1/0	0

# Who Appeals NPPF Cases? (4)

Appellant Type	Sports (total/of which successful)	Other (total/of which successful)
Developer Claimant	0	0
Council Claimant	0	0
Objector Claimant	2/1	2/0
Secretary of State Defendant	0	1/1
Council Defendant	1/1	1/1
Developer Defendant	1/1	0
Objector Defendant	0	0

# Who Defends NPPF Challenges?

Defendant	Wins	Loses
Secretary of State	64	16
Local Planning Authority	36	24
Mayor of London	1	0



*Interpreting the NPPF: The New  
National Planning Policy Framework*  
Bath Publishing, 2018

<https://bathpublishing.com/products/interpreting-the-nppf-the-new-national-planning-policy-framework>

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