

Top Ten Secretary of State planning decisions over the past year



Matthew Fraser

Overview of the last 12 months – some stats

- **17** decisions on recovered appeals / called-in applications between 15 April 2019 and 15 April 2020 involving some element of housing development.
- **10 out of 17** granted planning permission (59%)
- In **11 out of 17**, Secretary of State agreed with his Inspector (65%)

The effect of conflict with the development plan

- Of the 11 cases where there was overall conflict with the development plan, only 4 were allowed (36%).
- Of the 6 cases where the proposal accorded with the development plan, all 6 were allowed (100%).

The effect of a 5-year housing land supply

- Of those 11 cases with a 5-year housing land supply (“5YHLS”), 6 were allowed (55%).
- Of those 6 cases without a 5YHLS, 4 were allowed (67%).

The effect of the “tilted balance”

- The “tilted balance” is where the proposal should be granted permission unless the harms significantly and demonstrably outweigh the benefits: NPPF 11(d)(ii).
- Of those 4 cases where the tilted balance applied, 3 were allowed (75%).
- Of those 13 cases where the tilted balance did not apply, 7 were allowed (54%).

Number 1

**Land at North and South of Fritch Way, Pods Brook Road,
Braintree, Essex (13.6.19)**

- 1,600 homes
- Conflict with development plan
- No 5YHLS
- Less than substantial heritage harm outweighed by public benefits
- Tilted balance applied.

- Permission refused.
- Harms significantly and demonstrably outweigh the benefits.

Number 2

**Land at Chiswick Roundabout, Junction of Gunnersbury
Avenue Great West Road, London (19.7.19)**

- The “Chiswick Curve” – part 32, part 25 storey residential towerblock
- Inspector enthusiastic about the design
- Inspector concluded that the public benefits would outweigh the heritage impact, inc. to Kew Gardens World Heritage site
- Recommended approval

- Permission refused.
- NPPF 196 balance struck differently.
- Challenge in the High Court dismissed: *Starbones Ltd v SSHCLG* [2020] EWHC 526 (Admin) (10 March 2020).

Number 3

Pale Lane Farm, Pale Lane Fleet Hampshire (5.11.19)

- 700 homes, primary school, local centre
- Application submitted in November 2016 – policy context:
 - old plan
 - no emerging plan
 - no neighbourhood plan.
- 3 years later, the appeal decision is made ...

- Permission refused despite “most important policies” being out of date.
- Changes since application:
 - Emerging Local Plan at advanced stage with no allocation of site
 - Made Neighbourhood Plan with no allocation of site
 - 9.2 years housing land supply
- Prematurity objection upheld
- Significant adverse landscape and visual impacts
- Public benefits do not outweigh heritage harm.

Number 4

Land to the West of Burley-in-Wharfdale at Sun Lane and Ilkley Road (5.11.19)

- 500 home extension to Burley-in-Wharfdale
- HLS less than 2 years
- No AONB harm, no significant visual impact, no ecological impact
- Biodiversity net gain
- Public benefits outweigh heritage harm.
- Provision of new school, no medical service shortage, no flood risk, no severe traffic impact.

- Permission refused.
- Green Belt – Very Special Circumstances test not met.
- Clear reason for refusal.

Number 5

**Land at former Westferry Printworks site, 235 Westferry Road,
London (14.1.20)**

- Comprehensive mixed use development in Tower Hamlets – including 1,524 homes.
- Fallback position: 722 homes
- Issue of impact on character and appearance of the area due to scale, height, massing
- Affordable housing policy conflict – only providing 21%

- Permission granted.
- Significant weight to affordable housing despite policy conflict
- Significant weight to market housing despite 5YHLS
- Moderate weight to social and economic benefits
- Less than substantial heritage harm outweighed by public benefits.

Number 6

**North London Business Park, Oakleigh Road South, London
(22.1.20)**

- Hybrid scheme:
 - full planning application for 376 residential units in five blocks reaching eight storeys, secondary school and sports facilities,
 - outline application for up to 824 additional residential units in buildings ranging from two to eleven storeys, with up to around 5k square metres of non-residential floorspace and associated development.
- Impact of elements over 7 storeys high on character and appearance.

- Permission granted
- Acceptable in scale, massing, design
- Significant weight to conflict with local plan due to not being allocated for tall buildings
- 5YHLS depended on the scheme
- Full costs awarded, and decision took over a year from inquiry

Number 7

Land at Fiddington, Ashchurch near Tewkesbury (22.1.20)

- 850 homes, school, local centre
- Relatively recently rejected for an allocation in the 2017 Core Strategy
- Usually a bad sign ...

- Permission granted
- Non-allocation due to highways issue now resolved
- No damage to plan-led system
- Serious HLS shortfall, and little progress to LP review
- Landscape policy-compliant, no highway impact
- Policy-compliant affordable housing provision

Number 8

**Land at former car parks, Tesco Store, Conington Road,
Lewisham, London (22.1.20)**

Three buildings, 8, 14 and 34 storeys in height, to provide 365 homes, as well as non-resi floorspace.

Key issue was whether affordable housing provision of just over 20% was policy-compliant.

- Permission granted
- AH more than could be viably provided – “very considerable weight” given to this
- No pressing case for late stage review due to single-phase development.
- Public benefits outweighed less than substantial harm.

Number 9

Land off Station Road, Long Melford, Suffolk (1.4.20)

- 150 homes with public open space in open countryside outside the village settlement boundary of Long Melford.
- Inquiry: no 5HYLS.
- Post-inquiry: 5YHLS
- Policy requirement to demonstrate “local housing need” and “exceptional circumstances” for development outside settlement boundaries

- Permission granted
- Local housing need could be demonstrated
- Settlement boundary out-of-date
- “exceptional circumstances” requirement inconsistent with the NPPF
- Limited landscape harm, moderate weight to economic benefits
- Material considerations outweighed development plan conflict

Number 10

**97 (and land adjacent to) Barbrook Lane, Tiptree, Colchester
(7.4.20)**

- Up to 200 homes (inc. 30% affordable), and safeguarded land for school expansion, on undeveloped land outside the settlement boundary.
- Prematurity objection

- Permission granted
- Prematurity objection rejected
- HLS = 4.7 years
- No wider landscape impacts, no highway issues, no ecological issues
- Tilted balance engaged.

Thank you for listening

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