

VSC – what needs to be shown: a round-up of recent planning appeals



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VSC appeals: the broad and the narrow view

- Since beginning of 2019 c. 75 English appeals have been determined which consider VSC. 41 allowed (at least in part). Also recent clutch of recovered appeals which offer insight into thinking of SoS.
- Two parts to this talk:
 - A brief summary of three biggest categories of cases where VSC have been shown in 2019/20.
 - A more detailed discussion of three most recent recovered appeals (2 allowed, 1 dismissed):
 - [Land at Moor Lane, York](#)
 - [Oxford Brookes, Wheatley Campus](#)
 - [160 Stanley Road, Cheadle Hulme, Stockport](#)

3 biggest categories of successful VSC cases (19/20)



Specialist housing: travellers & rural workers

- Traveller (12 successful)
 - Common backdrop: failure to plan for sufficient sites + evidence of personal need
 - s.149 PSED and PPTS (2015)
 - Can LPA identify suitable and affordable alternative?
- Rural workers (4 successful)
 - Generally turn on compliance with NPPF 79(a) – is there an “essential need” and is business viable



Infrastructure

- West Midlands SFRI DCO
 - Need case for Black Country and South Staffs established and no suitable alternatives.
 - That national and regional case “outweighs any harm” (DL 68)
 - However amendment allowing more flexibility for warehouse timing rejected to ensure GB harm could not occur without rail connection
- See also A585 Improvement DCO



Community / social benefit

- 2 schools:
 - West Drayton. Portacabin classroom met VSC for Muslim faith school where no other scope for housing students.
 - Stanley Road (to follow). School + housing need
- 110 extra care units at Whitchurch Road, Chester. Substantial weight given to socio-economic case : Units would relieve pressure on community/health facilities.

Land at Moor Lane, York (13 May 2020)

- **Context:** Proposal for 516 residential units + local centre and sports pavilion. 35% affordable housing proposed – above 30% policy requirement.
- York heavily constrained: a “housing crisis”, both for market and AH.
- Inspector and SoS gave **considerable weight** to housing.
 - Moderate excess AH should be given “*disproportionate value*” (IR 365)
 - Ins: “*it might be thought that these cumulative disproportionate benefits would clearly outweigh ... [GB & LV harm] if those were the only two adverse considerations*”.
- **Decision:** VSC not met because Askham Bog SSSI would be harmed. NPPF 175(b) and (c) not met (IR 356-359) (DL 30-32).
- N.B. IR 350: “*benefits which are not disproportionate would be unlikely to contribute to a finding of [VSC]*”; SoS not so sure... at DL 23.

Oxford Brookes, Wheatley Campus (23 April 2020)

- **Context:** Redevelopment of campus and surrounding land for 500 dwellings including 173 AH units. Emerging plan proposed release but limited weight. LPA could should 5YHLS but accepted an “acute” shortage of AH.
- SoS accepted campus PDL – only 14 % of proposed built form inappropriate.
- Proposal removed existing 12 storey tower. Removal of visual benefit to openness.
- **Decision:** VSC made out. SoS gave:
 - **Very substantial weight** to housing in light of AH shortfall
 - **Very substantial weight** to benefits of removal of tower
 - Also gave **significant weight** to economic benefits (DL 36) heritage benefits (DL 37); and reinvestment of proceeds in the education sector (DL 38).

160 Stanley Road, Cheadle Hulme, Stockport (22 April 2020)

- **Context:** Seashell Trust applied for pp. for new special needs school and 325 dwellings. Emerging GMSF proposes release but limited weight.
- **Decision:** SoS endorsed Inspector's consideration of detail of proposal – could not be said that the “Transformation Project” was more than minimum necessary (DL 26) nor that anticipated cost not justified nor could it be met without crossfunding from resi in GB (DL 27). Given **substantial weight**.
- SoS also gave **very significant weight** to housing benefits
 - Only 2.8 years of supply
 - 30% AH offered, with clawback.
- **Moderate weight** to economic benefits & to improvements to community facilities (DL 31)

Take away points

- SoS willing to give very substantial/considerable weight to housing in VSC balance – even where 5YHLS present (see Wheatley Campus).
- AH position carries real weight – even moderate ‘policy plus’ offer can be given “disproportionate” weight (see Inspector in Moor Lane)
- Note Inspector in Moor Lane’s focus on “disproportionate benefits” as the acid test for VSC.
- Some particular aspect of community benefit appears to make a difference:
 - SEN school in Stanley Road
 - Whitchurch Road extra care units
 - Educational reinvestment in Wheatley Campus

Thank you for listening

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