

The Approach to the Basic Conditions in Policy and Law



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What are the basic conditions?

- Para 8(2), Sch. 4B, TCPA 1990
- It is appropriate to make the NP, having regard to:
 - a) national policies and guidance;**
 - b) any listed buildings
 - c) any conservation areas
 - d) the achievement of sustainable development
 - e) general conformity with the strategic policies in the local plan**
 - f) EU obligations
 - g) prescribed conditions met/prescribed matters complied with

Case law on the basic conditions

- BDW Trading v Cheshire West [2014] EWHC 1470
 - Limited role of examination of NP = have BCs been met?
 - 8(2)(e) – only requires consideration of whether plan *as a whole* is in general conformity with LP *as a whole*
 - Don't have to consider wider ramifications on delivery of housing
 - Whether plan is *appropriate having regard to* national policy not equal to LP needing to be “consistent with national policy”
 - Don't have to consider whether NP “justified” in para 182 NPPF (now para 35(b)) sense

Case law on the basic conditions

- Woodcock Holdings Ltd v SSCLG [2015] EWHC 1173, [56]-[62]
 - No requirement to consider whether plan is “sound”
 - No need to consider whether the NP is based on a “strategy” to meet OANs or consider reasonable alternatives
- DLA Delivery Ltd v Lewes DC [2017] PTSR 949, [22]-[26]
 - If there are relevant strategic policies in LP → must be in general conform.
 - But don't have to wait for the adoption of a LP/strategic policies
- Lochailort Investments Ltd v Mendip DC [2020] EWHC 1146, [95]-[98]

Policy on the basic conditions

- NPPF: 13, 29, 37
- PPG – Neighbourhood Planning (updated 13/05/20) – paras 065-079
 - Basic conditions statement: 066, 068
 - LPA should provide “constructive comments” on emerging NP: 067
 - Content of draft NP will determine which aspects of national policy are relevant: 070
 - BCs (b) and (c) apply to draft neighbourhood Development Orders or Community Right to Build Orders: 071
 - “sufficient and proportionate evidence” on how the draft NP guides development to sustainable solutions: 072

Policy on the basic conditions

- PPG continued
 - Test for “general conformity”: 074
 - “strategic policies”: see paras 20-21 NPPF and PPG 076
 - Relevant EU obligations = SEA, EIA, Habitats: 078

Thank you for listening

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