

Appendix AG7

Summary of relevant Secretary of State and Inspector
Appeal Decisions

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- 7.1 Brief summaries of appeal decisions relevant to the appeal are summarised below. The full decisions are included as Core Documents.

Appeal Decision: Land adjacent to Cornerways, High Street, Twyning, Tewkesbury (13 July 2015) – CD2.7.6, p.17, [63]

- 7.2 The appeal was in respect of a proposed development for 58 dwellings with 36% (policy compliant) affordable housing provision (21 units) in Tewkesbury Borough Council administrative area.

- 7.3 In allowing the appeal the Inspector commented at paragraph 63 of their report that:

“Mr Smith agreed that the delivery of 21 affordable dwellings is a social benefit of the proposal to which it was appropriate to give substantial weight. There is a great deal of unchallenged evidence before the Inquiry to demonstrate that there is a housing crisis in this country that manifests itself in this Borough in terms of an acute shortage of affordable housing. Table 7.16 of the Strategic Housing Market Assessment [SHMA] Update [CDA17] identifies that the net annual need for affordable housing in Tewkesbury is 587 dwellings. This is more than twice the equivalent figure for the neighbouring District of Wychavon, despite the fact that Tewkesbury’s population is little more than two thirds of that in Wychavon. The Inspector in the Wychavon appeal found that the provision of affordable housing in that case: “...is a clear material consideration of significant weight that mitigates in favour of the site being granted planning permission”; the Secretary of State agreed. Given the much larger quantum of identified need in Tewkesbury and the magnitude of the accumulated shortfall in affordable housing delivery, it would be appropriate to attribute very substantial weight to this important benefit of the proposal” (my emphasis).

- 7.4 In allowing the appeal, the Inspector gave weight to the scheme’s significance in meeting the needs of different groups in the Borough. The Inspector highlighted, at paragraph 65, this need which was *“underlined by the stark figure that this scheme*

alone would result in a 100% increase in shared ownership properties in the Parish of Twyning, as well as a 27% increase in social rented properties”.

Appeal Decision: Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London (14 June 2019) – CD2.7.2, p.7-8, [32-35]

- 7.5 The appeal related to a proposal for 151 residential units on a site in the London Borough of Bromley of which 36% (above policy requirements) i.e., 54 units, were to be provided as affordable units. In determining the appeal, the Inspector states that ministerial speeches and Government commissioned reports stretching back several years set out in ‘stark relief’ the scale of the housing crisis.
- 7.6 The Inspector then (at paragraph 32) cited the former Secretary of State at MHCLG (James Brokenshire) where he said that the consequences of the housing crisis are that “...*ordinary families, young people starting out in life and many others struggling to secure that most basic of human needs – a place to call their own – and being denied the opportunities that come with it*”
- 7.7 The inspector went on to conclude at paragraph 35 that “**very substantial weight** attaches to the contribution of this scheme to the provision of market housing and **particularly the pressing need for affordable housing**” (my emphasis).

Appeal Decision: Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath (14 June 2021) – CD5.1, p.12 & 17, [54 & 78]

- 7.8 In discussing the above policy compliant provision (45%) of affordable housing (45 units split between two authorities) on the Green Belt site and the weight that should be attributed to the affordable housing element, the Inspector articulates at paragraph 54 that:

*“The persistent under delivery of affordable housing in both local authority areas presents a critical situation. Taking into account the extremely acute affordable housing position in both SADC and WHBC, I attach **very substantial weight** to the delivery of up to 45 affordable homes in this location in favour of the proposals.”* (my emphasis)

- 7.9 Notably, when drawing their conclusions at paragraph 78, the Inspector asserts:

“The proposals would cause harm by reason of inappropriateness and harm to openness. Both of these attract substantial weight. I have also attached moderate weight to harm to the character and appearance of the area.

However, these appeals involves two local authority areas, both of which have acute housing delivery shortages and acute affordable housing need. The proposals would make a contribution towards addressing these needs in the form of market, self build and affordable housing in both WHBC and SADC. I have attached very substantial weight to the provision of both market housing and affordable housing" (my emphasis).

Appeal Decision: Land at Maitland Lodge, Southend Road, Billericay (11 November 2022) – CD5.6, p.7-8, [32-33]

- 11.1 A Green Belt site proposal for 47 dwellings, including 16 affordable housing units (above policy at 45% provision) at Maitland Lodge, Billericay was allowed at appeal in November 2022.
- 11.2 Giving evidence at the appeal TKP demonstrated a shortfall of almost 2,500 homes and a net delivery of affordable housing of just five dwellings per annum over the past seven years. The Inspector described affordable housing delivery in Basildon as “abysmal” with an “acute and persistent” shortfall. The Inspector recognised that the delivery shortfall represents a significant conflict with the NPPF, specifying that:

“Each of the 2,494 affordable homes that should have been built, but have not, represent a missed opportunity to help alleviate the housing concerns of individuals and families. The situation represents a significant conflict with the economic and social overarching objectives set out in paragraph 8 of the Framework.”

- 11.3 The Inspector went on to place very substantial weight on the delivery of the proposed affordable housing at the site, stating:

“The proposed provision of 45% of total units, at 21 homes, is in excess of the policy requirements. However, given the critical situation regarding affordable housing delivery in the Borough, I place very substantial positive weight on all of the proposed affordable homes, not just those over and above policy requirements” (my emphasis).

Appeal Decision: Land between Lodge Lane and Burtons Lane, Little Chalfont, Buckinghamshire (08 March 2023) – CD2.7.5, p.18, [129-131]

- 7.10 An appeal within the Green Belt at Little Chalfont located in Buckinghamshire Council decided in March 2023 (policy compliant affordable housing provision at 40% equivalent to 152 units) supports the view that very substantial weight should be

afforded to the delivery of affordable housing in authorities with a shortfall in affordable housing provision (Paragraph 129):

*“...both the main parties afford the proposed provision of 215 units of market housing and 152 affordable housing, **very substantial weight**” (my emphasis).*

- 7.11 The Inspector also acknowledges the importance of Tetlow King Planning’s affordability evidence which is of particular relevance for this appeal as Hertsmere Borough Council’s lower quartile affordability ratio currently stands at 19.73, the highest in the East of England (Paragraph 131 of the appeal decision):

“For the last 15 years, the median and lower quartile levels of affordability within the District have been considerably higher in Buckinghamshire than the wider south-east. In respect of median house prices and lower quartile prices, the Little Chalfont ward has been significantly higher than for the rest of Buckinghamshire. A similar pattern is found for median private rents, which are higher across Buckinghamshire than the rest of the south-east.”

Appeal Decision: Land Rear of 248 Hart Road, Thundersley, Benfleet (23 May 2023) – CD2.7.8, p.8, [46 & 51]

- 7.12 A May 2023 appeal decision gave very substantial weight to the provision of 44 affordable homes (100% provision) in Castle Point Borough. Paragraph 46 of the appeal decision states that:

“The SoCG also alludes to problems of delivery of affordable homes in the Borough. Moreover, the evidence before me demonstrates only 130 affordable homes were constructed between 2014 and 2022, but this does not include the 56 homes within existing stock transferred through Right to Buy over that period. The net figure of affordable homes built is therefore 74 or nine dwelling per annum, which equates to six percent of all homes built. When this is compared to the need set out above, there is a shortfall of 2564 homes over the period or 326 each year, and only three percent of needs met.” (my emphasis).

- 7.13 The Inspector then goes on to conclude at paragraph 51 that *“Accordingly, for these reasons, I afford very substantial weight to the delivery of 44 affordable homes in this location.”* (my emphasis).

Appeal Decision: Land at Sondes Place Farm, Westcott Road, Dorking (28 November 2023) – CD2.7.7, p.16, [86-89]

- 7.14 A recent appeal decision in Mole Valley District (where I gave affordable housing evidence) endorses the future supply analysis used in Section 8 of my Proof of Evidence and concluded that very substantial weight should be given to the provision of affordable housing (above policy compliant affordable housing provision at 50% equivalent to 72 units):

“To clear the backlog 222 affordable homes would need to be delivered each year for the next five years. The number of affordable homes coming forward looks to be substantially below that level of delivery. This will mean the existing shortfall will only become worse.

The ELP is said by the Council to be grounds for optimism in turning the tide, but even if every single site in the ELP, whether that be with Green Belt sites in or out, delivered 40% affordable homes, the identified need would not be met. So, while there may be an uptick in delivery after the ELP is adopted, it will not be enough to satisfy people who need such housing now. In practice, not every site may deliver affordable homes at 40%, so the picture may not be as positive as the Council suggests.

The consequences of not providing enough affordable homes affect people. Being able to access good housing has a bearing upon everyday life and there are socio-economic effects such as financial security and stability, physical and mental health, decreased social mobility and adverse effects on children’s education and development. In Mole Valley the number of people on the housing register has risen, there are increasing affordability ratios and people are paying significantly over 30% of their income on rent.

The proposal would deliver up to 72 affordable homes with a suitable tenure split, which exceeds the 40% on site provision that Core Strategy Policy CS 4 requires. The s106 agreement secures the provision and tenure split. The affordable homes would make a sizeable contribution to addressing the acute and long-established shortfall which will not be fully addressed in the short term. I give the affordable housing provision very substantial positive weight.”
(my emphasis).

Overview of Secretary of State and Appeal Decisions

- 7.15 The decisions above emphasise the great weight which the Secretary of State has, on various occasions, attached to the provision of affordable housing in the consideration of planning applications.

- 7.16 Inspectors and the Secretary of State have agreed that affordable housing is a very substantial benefit in its own right irrespective of the number of units or whether the affordable housing offer is above, below or meets policy requirements.