



NEWS

South West planning news, September 2018

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National news

West of England Joint Spatial Plan examination hearings delayed

The hearing sessions for the West of England's Joint Spatial Plan (JSP) have been delayed, to allow for preparation and consultation on additional evidence.

The Inspectors' initial review of the JSP has raised new questions, given: the recent EU Habitats Regulations Assessment (HRA) judgment in 'People Over Wind'; the Sustainability Appraisal underpinning the 'Strategic Development Locations'; and additional matters relating to the duty to co-operate, affordable housing, infrastructure and employment.

An additional round of consultation on the new evidence is due to take place in November this year. At this stage, a formal timetable for the hearings has not been agreed. The Council has however indicated that sessions will take place in two rounds, from May 2019 onwards.

The JSP was originally submitted for examination this April.

[West of England Combined Authority, West of England Joint Spatial Plan](#)

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Quote of the month



Our current programme supports 23 places that will deliver over 200,000 homes by the middle of the century. This prospectus is an important further step. We want to champion ambitious councils who see garden communities as central to their plans [...] And we want to support the partnerships – between central and local government, and local government and the private sector – that will be key to delivering those plans.

Communities Secretary James Brokenshire MP introducing the Garden Communities Prospectus, August 2018

Local news

Cotswolds Local Plan now adopted and CIL in effect from 1 April next year

The Cotswolds District Local Plan 2011-2031 and Community Infrastructure Levy (CIL) Charging Schedule were adopted by the Council on 3 August 2018.

The Levy will come into effect from 1 April 2019 and will introduce charges for residential and retail development.

Cotswold District Council, Council agrees adoption of the Local Plan and Community Infrastructure Levy, 3 August 2018

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Wiltshire Housing Site Allocations DPD submitted for examination

Wiltshire Council's Housing Sites Development Plan Document (DPD) has been submitted for examination.

The document revises settlement boundaries and allocates new sites for housing.

The hearing sessions programme has not yet been announced.

[Wiltshire Council, Housing Sites DPD examination](#)

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How should five-year housing land supply shortfall be defined?

In *Hallam Land Management Ltd. v Secretary of State for Communities and Local Government and Eastleigh Borough Council*, heard in the Court of Appeal, Lindblom LJ stated the central question as being:

'In deciding an appeal against the refusal of planning permission for housing development, how far does the decision-maker have to go in calculating the extent of any shortfall in the five-year supply of housing land?'

The Secretary of State (SoS) for Communities and Local Government (CLG) had, in line with his Inspector in a decision letter dated 9 November 2016, dismissed a s78 appeal for various types of new homes in Hamble. The decision had been challenged unsuccessfully in the High Court by the appellant, where the judge had rejected all four of the appellant's grounds of appeal.

With different housing land supply figures being put forward by the various appeal parties at different times, it was not clear from the SoS' decision whether he had fixed on a precise figure for the housing land supply. Nor was it clear whether he had reached any concluded view on the scale of the 'acknowledged shortfall' – he referred to 'the limited shortfall in housing land supply', while the Inspector had written of a 'material shortfall'. This approach did not err in law of itself, as the Communities Secretary was entitled to conclude that no more precision was required in the knowledge that the level of housing land supply fell within a range below five years. But other inspectors' conclusions on housing land supply in two very recent decisions - and their consequences for the weight to be given to local plan policies -

'clearly were material considerations in this appeal'. Both decisions had characterised the shortfall as 'significant', more in line with 'material', than 'limited'.

Lindblom LJ concluded:

'[The] SoS did not come to grips with the inspectors' conclusions on housing land supply in those two very recent appeal decisions.'

The SoS will now re-determine the s78 appeal.

Hallam Land Management Ltd. © Secretary of State for Communities and Local Government and Eastleigh Borough Council

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New programme for funding garden communities

On 15 August, Communities Secretary James Brokenshire announced a new programme for assisting with progressing garden communities.

Parties having the support of local authorities for 'new garden communities at scale' can apply for a place on the Programme.

According to the accompanying Prospectus, proposals for new Garden Towns (with more than 10,000 homes) will be prioritised but MHCLG will also consider proposals for Garden Villages (having 1,500-10,000 homes) 'which are particularly strong in other aspects'.

Winning bids can choose to receive/ benefit from: resource funding; delivery advice (e.g. on creating development corporations) and support; cross-government brokerage; and peer learning and networking opportunities.

The period for submitting proposals ends on 9 November.

[MHCLG, James Brokenshire plans increase in garden towns](#)

[MHCLG, Garden Communities: prospectus](#)

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New social housing green paper makes planning regime-related design proposals

On 14 August, the Ministry for Housing, Communities and Local Government (MHCLG) published the long-awaited social housing green paper entitled, 'A new deal for social housing'. The development sector is urged in the Green Paper to 'pull together and radically increase the number of homes built every year'. The Government's

vision therefore includes:

- helping local authorities to build, by allowing them to borrow, possibly introducing new flexibilities for spending Right to Buy receipts, and by not requiring a payment for vacant, higher value council homes. These and other possible measures exemplify how the Government is seeking to address local authorities not building enough Right to Buy replacements to match sales - each home sold is not being replaced on a one-for-one basis;
- achieving additional supply through community land trusts and local housing companies;
- investigating how to provide longer term certainty to help housing associations build more; and
- helping those in affordable home ownership schemes to progress more easily to owning outright.

While the Green Paper's focus is not specifically on planning, one of its five principles (that of 'tackling stigma and celebrating thriving communities') refers directly to promoting good design. It is stated in the context of this principle that the Government wants 'to ensure that good design is applied regardless of tenure'. The revised National Planning Policy Framework (NPPF) is highlighted as showing how the Government is 'committed to ensuring the planning system can deliver high quality buildings and places'. New national Planning Practice Guidance (PPG) is announced as due later this year - it will apply NPPF policies for plan-making and decision-taking specifically to social housing, particularly regarding:

- Secured by Design;
- Encouraging healthy and active communities;
- Designing new affordable homes to the same quality as other tenures, and to be well-integrated within developments; and
- Reflecting changing needs (such as an ageing population, or higher density family housing).

The role - and extra funding (announced in 2017) - of neighbourhood planning in helping communities to develop the skills for effective participation is also highlighted.

[MHCLG, James Brokenshire launches a new deal for social housing residents](#)

[MHCLG, Social housing green paper: a 'new deal' for social housing](#)

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The Lichfields perspective



We are already seeing the recent People Over Wind ECJ ruling having an impact on the development sector, with it being one of the reasons for the delay in the JSP examination. The effect of this ruling is 'one to watch' - it could start to have wider implications for other assessment regimes, including environmental impact assessment, with the need to be very clear on how mitigation is taken into account at screening.

Andrew Cockett, Senior Director and Head of the Bristol Office

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