

michelmores

An aerial photograph of a rural landscape. A river flows from the top right towards the bottom right. A road runs parallel to the river, curving through the center. The landscape is divided into various green fields and patches of trees. In the bottom right, there is a small cluster of buildings and a red tennis court.

Planning Bulletin

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Judge blocks use of hotel for housing asylum seekers without planning consent

The High Court has granted Epping Forest District Council's request for an interim injunction to block asylum seekers from being accommodated in the Bell Hotel in Epping High Street without any planning permission. The application was lodged against the Bell Hotel's owners, Somani Hotels Limited. According to the judgment, the government has been using the hotel to accommodate asylum seekers while their claims are processed.

According to the council, the interim injunction requires that by 16:00 on 12 September 2025 and until the final judgment of the council's claim that Somani Hotels must not use or permit the use of the hotel for accommodating asylum seekers unless planning permission is granted for this purpose. The injunction also contains a declaration that the use of the Bell Hotel for asylum seekers is 'not a permitted use of the hotel for planning purposes.'

Mr Justice Eyre stated in his judgment that Somani Hotels did not apply for a material change of use and had therefore 'sidestepped the public scrutiny and explanation which would otherwise have taken place if an application for planning permission or for a certificate of lawful use had been made.' Hotels are categorised under class C1 under the Town and Country Planning (Use Classes) Order 1987.

In that the Home Office may appeal the injunction it is not clear whether this judgement is the final answer to question of whether accommodating asylum seekers in hotels amounted to a material change of use such that it requires planning approval.

You can read more [here](#).

Source: Planning



High Court dismisses an Equality Act based claim against inspector's decision to uphold demolition of six unlawfully built homes

In January, a planning inspector dismissed Quarry Mews Ltd's appeal against an enforcement notice issued by Oxford City Council in January 2022. In the decision letter the inspector extended the time allowed for compliance with the notice.

The alleged breach of planning control as set out in the notice related to the erection of six one-bedroom dwellings in a three-storey terrace, alterations to the existing access and formation of nine car parking spaces on the land.

The notice required the demolition of the building and car parking spaces and the removal of the materials which arose from such demolition.

Appeal decisions can be challenged in the high court under a statutory judicial review process. Quarry Mews decided to commence such a challenge.

Quarry Mews Ltd argued that the inspector at the appeal erred in law in failing to comply with the Public Sector Equality Duty (PSED) imposed by section 149 of the Equality Act 2010 and in that the Council and then the Inspector failed to have regard to the need to safeguard and promote the welfare of the children who were apparently living in the homes when the enforcement notice was issued. They also argued the inspector 'erred in law in reducing the weight to the environmental benefit of not demolishing the appeal development on the basis that this argument could be repeated in other appeals.'

With regards to the first ground of appeal, Judge Jarman said there was no doubt that the inspector was subject to PSED noting in particular that the case law held that the PSED implies a duty of reasonable enquiry with a view to understanding the potential impact of a proposed decision on people with the protected characteristics.

Judge Jarman noted that the inspector 'required answers to whether occupants of the appeal dwellings were served with a copy of the notice, and were notified of the appeal and the hearing.' This 'brought forth letters from occupants one of which referred to the fact that they had a child since moving in.'

Judge Jarman added that, 'given that the dwellings had only one bedroom, it is not surprising that there was no further evidence of children occupying them.' While the inspector had referred to 'children' living in the homes in his decision letter, the judge said that 'letters from the occupants referred to only one small child occupying one of the appeal dwellings.'

Judge Jarman acknowledged that counsel for the appellant accepted that the inspector 'had complied with the PSED when considering whether to extend time for compliance, but submits that it was a material consideration in the planning balance whether to grant planning permission and there is no indication that that material consideration was taken into account in that exercise.

However, Judge Jarman held that the inspector had given proper regard to his PSED when considering the planning balance when the decision letter is read as a whole.

In the appeal decision letter, the inspector said their 'attention has been drawn to the environmental benefit of not demolishing the appeal development, with disruption, pollution and a waste of resources and energy that demolition may entail.' But they added that 'this argument could be too easily repeated, to defeat the whole point of enforcement notices and encourage unauthorised development. So I give this argument limited weight in my decision.'

Judge Jarman stated that the inspector had weighed up the costs and benefits and confirmed that the inspector's conclusion that the environmental benefits of not demolishing the property did not outweigh the costs was a conclusion he was entitled to come to.

You can read more [here](#).

Source: Planning

Inspector approves 249 homes on allocated site after council refused plan against officer's advice

In November 2024, North East Lincolnshire Council refused to grant planning permission to Cyden Homes despite a recommendation for approval from a planning officer.

The planning permission was for the development of 249 homes on land at Louth Road, New Waltham. In its decision letter, the council stated that the development 'would result in adverse levels of traffic' resulting in local road congestion and air pollution.'

Cyden Homes' appeal was heard before Inspector OS Woodward who noted that the council's local plan allocated up to 300 homes for the site. The Inspector noted that: 'although the council could not confirm this at the [appeal] hearing, it is therefore likely that any modelling undertaken as part of the [local plan] adoption process would have allowed for development on the site for more homes, and therefore vehicular movements, than is now proposed.'

When considering the impact on traffic, the Inspector concluded that: 'although there would be some worsening of traffic congestion, the effect of the proposal would be relatively minor'. The inspector further found there was "no substantiated evidence of any material harm to highway safety.'

In relation to air pollution, the Inspector concluded that: 'existing pollution levels are comfortably below

the air quality objectives set out by the government', and the 'effect of the proposal, including its construction and traffic generation, would be very limited, at less than one per cent.'

The Inspector therefore concluded that the 249 home proposal would not have an unacceptable effect on the local air quality and would comply with this part of the local planning policy.

The Inspector also noted that the 249 homes, including 50 affordable homes were 'significant benefits of the proposal' and given that the council could not demonstrate a five year housing supply he placed significant weight on the proposed affordable housing.

Further, given that there was a local service centre nearby, the Inspector was of the view that there are a good range of services and amenities which can be supplied to the 249 homes.

The appeal was therefore allowed.

You can read more [here](#).

Source: Planning



Council allows 1,250 home scheme despite it providing only half of its local affordable housing requirement

CC Projects, Ashmarden Limited and Hanbury Limited applied to Arun District Council for an outline permission to build 1,250 homes, of which 15% were proposed as affordable, in the village of Barnham in West Sussex. CC Projects, Ashmarden Limited and Hanbury Limited also applied, under the same application for outline permission for a 60-bed care home and up to 1,250 square metres of shops, cafes and community facilities as well as permission for the A29 road to be altered so it provided access to the site.

The land on which the proposed site is to be built is 'mainly flat, arable land bounded by hedge and tree lined edges' and is 'predominantly in agricultural use.'

The site forms part of a 'large allocation' in the Arun District Council's 2018 local plan for a total of 3,000 homes, 2,300 of which would be provided in the plan period to 2031.

Policy AH SP2 in Arun District Council's adopted local plan requires that at least 30 percent of the dwellings on major sites are required to be delivered as affordable housing. However, it was accepted that this would not be viable on this site after a review of evidence provided by Carter Jonas.

Officers therefore concluded that subject to the inclusion of an appropriately drafted upwards only review mechanism within the section 106 agreement, the proposed 15 percent provision would be acceptable and compliant with policy.

When weighing up the costs and benefits, officers noted that there was 'less substantial harm' that would be caused by nearby heritage assets and 'significant benefits' including the provision of new housing, a care home and a primary school. They therefore recommended that planning permission is granted subject to a section 106 agreement being secured.

West Sussex County Council as education authority objected to the scheme on the basis that the requested financial contribution for secondary pupils transport deviated from the agreed standard methodology. However, due to viability concerns, officers proposed a reduced financial contribution of £2.7 million, compared to the £5.1 million the county council had suggested. According to the minutes, this was on the basis that accepting the full contribution would necessitate the reduction of the affordable housing contribution by 2.9 per cent.

Officers further noted that the council's lack of a five year housing supply 'means that the local plan is out of date' under the National Planning Policy Framework's 'presumption in favour of sustainable development.'

The minutes show members unanimously voted to grant permission for the scheme.

Neil Crowther, Group Head of Planning said:

“

The council is required to demonstrate a five-year supply of housing land in order for local planning policies to be afforded full weight in the determination of planning applications.

Currently the supply position in Arun is 3.4 years. The housing requirements for each council are set by government and Arun has one of the highest housing requirements in the country.

Crowther went on to say:

“

[The council has] granted planning permission for 8,000 dwellings that are not yet built. However, the council is unable to show that houses are being built at a rate to keep up with the exceptionally high requirements imposed on Arun.'

'The consequence of this is that local planning policies have reduced weight and the highly permissive 'presumption in favour of sustainable development' (set out in national planning policy) is required to be considered. This site is also part of a strategic allocation in our local plan.'

You can read more [here](#).

Source: Planning

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