

REPORT TO SHEVINGTON PARISH COUNCIL POLICY COMMITTEE
7TH APRIL 2016.

JUDGEMENT OF COURT OF APPEAL ON RELEVANT POLICIES FOR THE
SUPPLY OF HOUSING

A Court of Appeal decision clarifying the meaning of “relevant policies for the supply of housing” in the National Policy Planning Framework (NPPF) could have far-reaching implications for green belt development.

The judgment, broadens the definition of the “**relevant policies**” expression in paragraph 49 of the NPPF: so that it can be taken to refer to all policies that “create” or “constrain” land for housing development - including green belt designation. Paragraph 49 states that *“Housing applications should be considered in the context of the presumption in favour of sustainable development. **Relevant policies** for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

Where a local authority cannot demonstrate an up-to-date five-year housing supply, then these other “**relevant policies**” also cannot be considered as being up to date. It then becomes a matter for the “decision maker” to determine the weight that should be given to these policies when deciding on applications – but on the understanding that the “**presumption in favour of sustainable development**”, outlined in paragraph 14 of the NPPF, would now apply.

In their judgment, the three Justices said their interpretation of paragraph 49 recognised that *“the concept [of relevant policies] extends to plan policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the Green Belt, general protection of the countryside, conserving the landscape of areas of Outstanding Natural Beauty and National Parks, the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.”* They went on: *“It reflects the reality that policies may serve to form the supply of housing land either by creating it or constraining it – that policies of both kinds make the supply what it is.”*

The combined appeal related to two cases in the areas of Suffolk Coastal District Council and Cheshire East Borough Council. When considered in the High Court the Councils’ case for refusing housing development was upheld. One of the developers then took the case to the Court of Appeal on the basis that there had been several contradictory High Court judgements on the interpretation of paragraph 49.

Members may be aware that last year Wigan lost a case against housing development in Standish because it was judged that they did not have a five year supply of deliverable housing units. Following the Court of Appeal’s judgement a local authority would have to consider whether Green Belt and other policies were constraining the supply of

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housing land. In some cases this could lead to an earlier review of Green Belt boundaries.

Although permission to appeal to the Supreme Court (formerly the House of Lords) was refused, it may well be considered by them due to the significance of this judgement.

[The judgment in cases C1/2015/0583 and C1/2015/0894 can be read in full on the Landmark Chambers website \[pdf\]](#)

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