

Case Name: *Hallam Land Management Ltd v Secretary of State for Communities And Local Government & Anor* [2018] EWCA Civ 1808 (31 July 2018)

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Commentary: Appeal was allowed against the refusal of planning permission for housing development where the decision maker had failed to adequately assess the extent of any shortfall in the five-year supply of housing land.

The appeal focused on the questions that since the Council could not demonstrate the requisite five-year supply of housing land under the NPPF, had the Secretary of State established the shortfall with sufficient precision and were his relevant reasons adequate?

It was held that the determination of whether there is a shortfall in the 5-year housing supply was clearly a key issue in this case. For if there is then the "tilted balance" for the purposes of paragraph 14 of the NPPF comes into play.

It was common ground that there was such a shortfall and therefore the judgement should have at least included some appreciation of the extent of the shortfall. That is not to say that the extent of the shortfall will itself be a key consideration. It may or not be: that is itself a planning judgment, to be assessed in the light of the various policies and other relevant considerations. But it ordinarily will be a relevant and material consideration, requiring to be evaluated. The extent of any such shortfall will bear directly on the weight to be given to the benefits or disbenefits of the proposed development.

An exact quantification of the shortfall is not necessarily called for but an evaluation of the "broad magnitude" would have been sufficient.

It was held that there was an insufficient evaluation and lack of engagement with the extent of the shortfall.

Furthermore, the Secretary of State failed to give proper reasons as to why he concluded on the question of housing land supply. In the absence of those reasons, one cannot be sure that the Secretary of State had come to his conclusion lawfully, having regard to all material considerations. It was held that in failing to provide such reasons the Secretary of State erred in law and his decision is liable to be quashed.

For further discussion see *simonicity*