

Case Name: *Swale Borough Council v Secretary of State for Housing Communities And Local Government & Ors* [2018] EWHC 3402 (Admin) (16 January 2019)

Full case: [Click Here](#)

Commentary: The Council's challenge under s. 288 and appeal under s. 289 of the Town and Country Planning Act 1990 against an Inspector's decision to allow appeals against an enforcement notice and grant temporary planning permission for eight traveller pitches were dismissed.

The government's Planning Policy for Traveller Sites ("PPTS") requires local planning authorities to: "Identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets." and that "If a Local Planning Authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission."

The Council's position before the inspector was that it had fulfilled the whole requirement assessed up to 2031. However, the Inspector concluded that it would be "reasonable and appropriate to take a precautionary approach and disregard the contribution made by [one of the sites relied on by the Council] to meeting the identified need. This leaves a substantial shortfall over the full plan period and, on the balance of probability, in the five year supply, as discussed further below. These are matters which carry significant weight in favour of the appeal".

Even if *Hallam Land Management Ltd v Secretary of State for Communities and Local Government and Eastleigh Borough Council* [2018] EWCA Civ 1808 was applicable to a case on the PPTS, the Inspector's decision was not rendered unlawful following that decision. Following *Hallam*, he was entitled to characterise the shortfall as "substantial" without calculating the precise figures and, unlike in *Hallam*, there was no other material to which the Inspector should have alluded that would demonstrate otherwise.

Case summary prepared by Susannah Herbert