

Case Name: *Tewkesbury Borough Council v Secretary of State for Communities Housing and Local Government & Ors* [2019] EWHC 1775 (Admin) (08 July 2019)

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Commentary: A judicial review application was dismissed by the High Court on the basis that the claim was not justiciable as the Claimant was not a person aggrieved by the substance of the decision.

A planning application for the development of 40 dwellings was refused by Tewkesbury Borough Council. The case went to appeal and recovered by the Secretary of State who agreed with the findings of the inspector that the Council was not able to demonstrate a 5 year housing land supply. Although this carried significant weight, the appeal was dismissed as the development did not accord with the Council's Local Plan.

Tewkesbury Borough Council sought to challenge the decision on the basis that the Secretary of State's interpretation of the housing land supply was incorrect. Planning policy is silent on how a previous over-supply of housing should be treated when undertaking a calculation of housing land supply. On appeal, the inspector dismissed the Council's claim that an over-supply should be "banked" in order to reduce the annualised target in later years of the plan period.

In consideration of the claim, the High Court ruled that the case was not justiciable by way of judicial review in any event as the outcome of the appeal was ultimately favourable to the Claimant, and no exceptional circumstances arose for the court to give special consideration in this case.

Case summary prepared by Town Legal LLP