

Case Name: *Monkhill Ltd v Secretary of State for Housing, Communities And Local Government* [2019] EWHC 1993 (Admin) (24 July 2019)

Full case: [Click Here](#)

Commentary: The High Court has dismissed a legal challenge by a developer, Monkhill Limited ('Claimant'), under section 288 TCPA 1990 to an appeal decision made by the Secretary of State's Inspector on 10 January 2019 refusing to grant planning permission for a hybrid scheme for a site within the Surrey Hills AONB. Importantly, the High Court interpreted the meaning of the "clear reason for refusal" policy in the presumption in favour of sustainable development for decision-taking in para. 11(d)(i) of the revised NPPF.

The legal challenge was brought on a single ground of challenge, which was unsuccessful. In the single ground of challenge, the Claimant submitted that the 1st part of para.172 of the revised NPPF, which provides that 'great weight' should be given to conserving and enhancing landscape and scenic beauty in AONBs, was not, in and of itself, a "clear reason for refusal" policy as it merely specified a degree of weight to give to one particular factor in the planning balance and did not impose a self-contained balancing exercise or policy test. The High Court rejected the Claimant's submissions as overly legalistic and failing to interpret the revised NPPF in the practical and straight forward manner it requires as a policy document. The High Court considered that: (i) in cases where is AONB harm but no countervailing benefits, the effect of giving 'great weight' to what might otherwise be assessed as a relatively modest degree of harm to the AONB might be sufficient as a matter of planning judgment to amount to a clear reason for refusal of planning permission, when, absent the 1st part of para.172 NPPF, that might not be the case; (ii) whereas, in cases where there is AONB harm but also countervailing benefits, it is for the decision maker to balance the benefits of the proposal against the harms, the significance of the harms being increased by the policy requirement in the 1st part of para.172 NPPF to give "great weight" to any AONB harm in the planning balance. Interpreted in this practical and straight forward way, the High Court concluded that the 1st part of para.72 NPPF was capable of being a "clear reason for refusal policy" falling within the "Footnote 6" list of policies in para.11(d)(i) of the revised NPPF.

Comment: This case is very useful clarification of the meaning and effect of the "clear reason for refusal" policy in the presumption in favour of sustainable development for decision-taking in para. 11(d)(i) of the revised NPPF. Very helpfully for practitioners, this case also sets out, at paragraph 39 of the judgment, a detailed 15-stage analysis of the meaning and effect of the presumption in favour of sustainable development for decision-taking in the revised NPPF and, at paragraph 45 of the judgment, sets out a practical summary for decision takers applying the presumption in favour of sustainable development in 8 bullet points.

Case summary prepared by Paul Arnett