

Case Name: *Satnam Millenium Ltd v Secretary of State for Housing, Communities And Local Government* [2019] EWHC 2631 (Admin) (08 October 2019)

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Commentary: The High Court quashed the Secretary of State's decision to dismiss an appeal by Satnam Millennium Limited against Warrington Borough Council's refusal of planning permission for a proposed residential development in Warrington including 1,200 dwellings.

Satnam's challenge to the Secretary of State's decision was on four grounds.

The first ground was that the Secretary of State had misinterpreted and misapplied the "tilted balance" in the National Planning Policy Framework's (NPPF) paragraph 11(d). The "titled balance" applied (in accordance with the NPPF) to the Secretary of State's determination of Satnam's application for planning permission because the Council could not demonstrate a five-year supply of deliverable housing sites. However, the Court held that the Secretary of State's approach to applying the "titled balance" was irrational for (a) not identifying the proposed development's benefits and adverse impacts, before (b) weighing up the benefits and adverse impacts. Critically, the Secretary of State had assumed the development was likely not deliverable, and accordingly not identified and accounted for the relevant benefits as a material consideration, while giving significant weight to adverse impacts – an irrational approach for the purposes of the NPPF's paragraph 11(d).

Satnam's second ground was that the Secretary of State had unlawfully taken into account in his decision making whether the development was likely to be delivered. At issue was how a decision-maker should properly consider deliverability of a site where the applicant for planning permission does not own all the site. The Secretary of State had taken the view that Satnam's housing proposals faced serious deliverability difficulties resulting from the absence of an agreement with Homes England, which owns part of the site, and with the proposed operator of additional bus services and treated those difficulties as a material consideration to be weighed in the balance against the grant of planning permission. However, the Court held that this approach was irrational: the judge, Sir Duncan Ouseley, stated "I cannot discern here what material planning consideration could warrant a refusal of permission on the grounds that the proposal could not be implemented."

On grounds one and two, therefore, the Court quashed the Secretary of State's decision.

The Court did not find in favour of Satnam's grounds three (regarding a alleged error by the inspector in supposedly applying the criminal standard of proof in reporting to the Secretary of State) and four (regarding alleged apparent bias of the inspector at the inquiry). The Court dismissed both grounds three and four for lack of evidence (noting in passing that if a party has a concern as to the conduct of an inspector at an inquiry, the party should generally raise it at the time)."

Town Legal acted for Satnam Millennium

Case summary prepared by Rebecca Craig