

## GUILDFORD LOCAL PLAN: WEST HORSLEY

### SOME RECENT LEGAL JUDGMENTS INTERPRETATING THE 2012 NATIONAL PLANNING POLICY FRAMEWORK (NPPF) ON GREEN BELT DEVELOPMENT

1. [Fordent Holdings Ltd v Secretary of State for Communities and Local Government & Anor \[2013\] EWHC 2844 \(Admin\) \(26 September 2013\)](#)

Appeal dismissed against a refusal to approve a change-of-use application for a new campsite and associated buildings within the Green Belt. Restrictive interpretation of NPPF, declaring Green Belt development “inappropriate” except under “very special circumstances” or unless the proposed development falls within the “closed lists” of exceptions set out in paras 87-90 “read together”, which (like para 81) do not include “material changes of use”.

2. [D B Schenker Rail \(UK\) Ltd & Anor v Leeds City Council \[2013\] EWHC 2865 \(Admin\) \(24 September 2013\)](#)

A challenge (only partly successful) to a 15-year Natural Resources & Waste Local Plan. Paras 8-16, citing earlier law and other cases, address how an Inspector should check that the Plan is “sound” under the NPPF. Potentially useful definitions include that Plans should meet “*objectively assessed development and infrastructure requirements*”, and be *proportionate*, the *best alternative* available as well as *sustainable*.

3. [Wildie, R \(on the application of\) v Wakefield Metropolitan District Council & Anor \[2013\] EWHC 2769 \(Admin\) \(13 September 2013\)](#)

Permission for judicial review granted to a claim that a minor change of land use in the Green Belt failed to take account of the NPPF’s “very special circumstances” limitation. Paras 23-30 cite precedents for defining the latter widely in terms of balance of benefit v. harm (rather than the rarity of the circumstances occurring or the absolute/relative degree of harm involved). The judge found the claim arguable but not conclusive.

4. [Hunston Properties Ltd v Secretary of State for Communities and Local Government \[2013\] EWHC 2678 \(Admin\) \(05 September 2013\)](#)

Complex discussion of NPPF/Green Belt interpretation. Para 30 suggests an assessment of housing need should *precede* any judgement about the balance of benefit/harm caused by development in the Green Belt.

5. [Cherkley Campaign Ltd, R \(on the application of\) v Longshot Cherkley Court Ltd \[2013\] EWHC 2582 \(Admin\) \(22 August 2013\)](#)

A lucid and trenchant judgment against Mole Valley Council for confusing (public-interest) “need” with (private-interest) demand for a new luxury golf course development (and with its mere viability as a project): indeed, the two interests are declared “antithetical”. The project fell within the Surrey Hills AGLV and partly within the AONB. The Council is deemed perverse and irrational for failing to demonstrate “special circumstances” under the NPPF (and their own 2000 Local Plan and 2009

Core Strategy policies) for harming the Green Belt and for failing in their responsibility for “conserving and enhancing the existing landscape”. The judgment is prefaced by a key quotation: *"The planning system is created as an instrument of government, as a means of restricting private land use rights in the interests of the community as a whole."* (Sir Malcolm Grant, *Urban Planning Law*, 1982 edition, p. 6).

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