

TO HM INSPECTOR

DERBYSHIRE DALES DISTRICT COUNCIL  
LOCAL PLAN INQUIRY.

DERBYSHIRE COUNTY COUNCIL - HIGHWAYS  
TRANSPORT AND INFRASTRUCTURE

CONSULTATION - DERBYSHIRE DALES LOCAL PLAN

(1) EFFECT OF LIKELY INCREASE IN TRAFFIC  
ARISING FROM IMPLEMENTATION OF LOCAL PLAN

PLEASE SEE PAGE 5 FIRST PARAGRAPH

... "AND AS THE TRANSPORT STUDY SUGGESTS  
THE TRANSPORT NETWORK IN MATLOCK AND ASHBORNE

WOULD GIVE RISE TO INCREASED LEVELS OF  
CONGESTION, IN VIEW OF THIS DDCC SHOULD

GIVE CONSIDERATION TO THE POTENTIAL  
REBALANCING OF THE PROPOSED DISTRIBUTION

OF HOUSING ACROSS THE THREE MARKET TOWNS"

(2) THE REPORTED CASE ON "SEVERE" AS  
APPLIED TO IMPACT OF DEVELOPMENT

IS

LAND AT KIDNAPPERS LANE

LECKHAMPTON CHELTENHAM

APP/B1605/W/14/3001717

CASE REFERENCE

BOVIS HOMES LTD + MILLER HOMES LTD V SSC LC

(CO/3029/2016)

2nd SEPTEMBER 2016

COMMENT ATTACHED

F.A. BURGESS

... GROUP

# Residual cumulative impacts of development

Thursday, 08 September 2016 00:00



**The High Court recently rejected a challenge to refusal of planning permission for 650 homes in Cheltenham. The ruling is important on the issue of residual cumulative impacts of development, writes Ashley Bowes.**

Mr Justice Holgate has refused Bovis Homes and Miller Homes permission to proceed to challenge the decision of the Secretary of State to withhold planning permission for 650 new homes in Cheltenham, finding the claim to be "unarguable".

The challenge was of particular note for its analysis of paragraph 32 of the National Planning Policy Framework, which provides that development should be prevented if the "residual cumulative impacts of development are severe".

The Inspector had concluded at IR,225 that:

*"Whilst I can agree therefore that the development should not need to solve all existing unrelated transport problems, the existing or future "in any event" situation on the highway network, is not an unrelated problem which evaluation of the proposed development ignore. It is a related problem which is highly pertinent to the evaluation of the current appeal proposal"*

*Present circumstances  
a future circuit could be  
a whole*

He went on to have regard to the guidance in DfT Circular 02/2013, paragraph 9 which provides:

*"Development proposals are likely to be acceptable if they can be accommodated within the existing capacity of a section (link or junction) of the strategic road network, or they do not increase demand for use of a section that is already operating at over-capacity levels, taking account of any travel plan, traffic management and/or capacity enhancement measures that may be agreed ..."*

Mr Justice Holgate was not persuaded that the Inspector and Secretary of State arguably erred in law by taking into account of the existing highway situation when resolving the paragraph 32 NPPF questions. In particular, the Judge noted that it would be open to a decision taker to rationally conclude that a given development could wash its own face in highway impact terms, but due to existing over capacity, the residual cumulative impacts of the development could be severe.

*Whilst the decision that the claim is not arguable does not create binding authority on the meaning of para.32 NPPF, it does provide an interesting insight into the breadth of discretion open to a decision taker when resolving whether the residential cumulative impacts of development are severe.*

**Ashley Bowes is a barrister at Cornerstone Barristers. He acted for the successful Interested Parties (Leckhampton with Warden Parish Council and Leckhampton Green Land Action Group Ltd, instructed by Richard Stein at Leigh Day) before the High Court, and on behalf of Leckhampton Green Land Action Group Ltd before the planning inquiry.**

## Notes

Appeal decision letter reference: LAND AT KIDNAPPERS LANE, LECKHAMPTON, CHELTENHAM APP/B1605NW/14/3001717

Case reference: Bovis Homes Ltd & Miller Homes Ltd v SSCLG (CO/3029/2016) (2 September 2016).