

**PANDA HOUSE - COMMERCIAL ROAD - TOWER HAMLETS**

APP/E5900/W/20/3250665: 628 - 634

20/01/2020

1. This note is provided following the release of the Housing Delivery Test (HDT) Results (2020) on 19/01/2021. The implications of this, which weren't understood before or during the Inquiry, is the presumption in favour of sustainable development now applies with regard to the determination of this appeal.
2. In regards to housing applications, policies are deemed to be 'out of date' for the purposes of NPPF paragraph 11 (d) where the Local Planning Authority (LPA) is unable to demonstrate a five years supply of deliverable housing sites or, where the HDT indicates that the delivery of housing has been substantially below (less than 75%) the housing requirement over the previous three years.
3. Tower Hamlets delivery over the last three years has fallen short by 2,896 units and as such, this represents a HDT result of 74% thus triggering the presumption in favour.
4. On this basis, as confirmed by the NPPF paragraph 11 (d), where there are no relevant development plan policies, or the policies which are most important for determining the application are 'out of date', permission should be granted unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework, taken as a whole.
5. In regards to paragraph 11(d)(i), footnote 6, on the Council's own case, the only policies in the NPPF that protect areas or assets of particular importance which could provide a clear reason for refusing the development proposed are heritage assets.
6. If the clear reason is not found, given that most important policies for determining the appeal are out-of-date, in accordance with the NPPF para 11(d)(ii), planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies taken as a whole. For the purposes of this appeal the following policies are considered out of date; S.H1, D.H2 and D.H7 as they constrain housing delivery.
7. The appeal proposals are now therefore being determined under the above test and the pressing need for housing delivery.
8. On this basis, it is the Appellant's case that there is no harm to the nearby Heritage Asset and Conservation Area and as such, the tilted balance is engaged. However, even if there is a degree of less than substantial harm, under NPPF para 11 (d) (i) this must provide 'clear reason' for refusing the development. Considering the above, the Appellant is strongly of the opinion that this isn't the case and the tilted balance under NPPF para 11 (d) (ii) is still engaged.
9. In this context, the appeal proposals would evidently give rise to many and various significant benefits which together demonstrate sustainable development - please see chapters 10 and 11 of Duncan Parr's proof of evidence. Once reviewed, it is clear these substantial benefits weigh positively against any adverse impacts the appeal proposals are considered to have.
10. In summary, the proposal will not harm, but rather bring significant benefits to the Borough as well as Greater London and support a national objective to provide additional housing in sustainable locations. The planning

balance therefore also firmly lies in favour of the grant of planning permission when assessed against the policies within the NPPF taken as a whole. The appeal should be allowed and planning permission granted.