

NORTON ST PHILIP PARISH COUNCIL

MENDIP DISTRICT OF THE COUNTY OF SOMERSET

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PRESS RELEASE

JUDICIAL REVIEW UPHOLDS NORTON ST PHILIP CHALLENGE TO MENDIP LOCAL PLAN PART II

My fellow councillors and I are absolutely delighted that the High Court has found in the Parish Council's favour in the Statutory Review into the adoption by Mendip District Council of Local Plan Part II.

In the judgment of 16th December 2022 the Hon. Justice Holgate – the leading planning judge for England - found that the two main grounds of appeal by Norton St Philip Parish Council against the decision by Mendip District Council to adopt its Local Plan must be upheld.

The Judge summarised the basis for upholding those grounds as follows:

Ground 1 – Misinterpretation of the LPP1 by considering that it required an additional 505 dwellings to be allocated in the north-east of the district through LPP2; or, at the very least, set a 'strategic expectation' that required primary consideration to be given to allocations within this location.

Regarding Ground 1 Mr Justice Holgate stated that '*I am left in no doubt that the inspector who examined LPP2 misinterpreted LPP1*' and '*in my judgment the legal errors I have identified above are sufficient for this claim to be allowed under ground 1*'. Also, '*At no stage did MDC disagree with the inspector's interpretation of LPP1 or of the 2014 report.... For this additional reason, MDC's decision to adopt LPP2 with the five policy allocations under challenge was unlawful*'.

Ground 2 – In breach of regulation 12 (2) (2) of the 2004 regulations, failure to consider any reasonable alternatives to allocating the additional 505 dwellings within the north-east of the District through the sustainability appraisal.

Regarding Ground 2 Mr Justice Holgate stated that, '*MDC misinterpreted LPP1 and the 2014 report. That self-misdirection applied from the stage when the inspector issued draft MM5 and his Interim Note through to the adoption of LPP2. It is clear that that error of law materially influenced MDC's decision not to consider in the SEA process sites outside the north/north-east of the District. Accordingly, that decision was unlawful*'.

The Judge made clear his view that Mendip DC could have sought further justification from the Inspector for his proposed approach and that had the Inspector's view '*remained unchanged, MDC could have considered applying for judicial review to seek an urgent ruling from the High Court on the correct interpretation of LPP1. Instead, it accepted the Inspector's incorrect interpretation of LPP1*'.

For these reasons, the High Court has ordered that the allocated housing sites in Norton St Philip, Beckington and next to Midsomer Norton and Radstock are now deleted from LPP2 and do not form part of the adopted development plan for the area. The rest of LPP2 remains unaffected.

Challenging the Inspector's flawed approach to the local housing policies has not only occupied a huge amount of time and money for the Parish Council for more than 3 years but has also contributed to holding up the Neighbourhood Plan for the parish for a similar amount of time. A plan which, having passed Examination, would allocate a site within the village for development and which provides for Exception Sites for starter homes all with clear local support from the parish. This is without taking into account the additional time and cost to Mendip District Council.

Bringing a Statutory Review against our own District Council has been no small undertaking for our Parish Council, especially as the Secretary of State and two major housing developers were interested parties in the case, but the Judge's decision indicates the consistent approach which we have taken throughout the LPP2 examination process and the court proceedings.

This action could not have been brought by the Parish Council unless it had the consistent backing of its residents who understood the importance of the Parish Council launching this legal challenge against the District Council's decision. I wish to thank them for their unstinting support.

We are also greatly indebted to our legal advisor, Tobias Shaw Paul of DLP Piper LLP, who has represented us at the second LPP2 hearings and at the Judicial Review. His professional expertise has been invaluable.

NSP PC now wishes to concentrate on working with the District Council and the new Unitary Authority in progressing the draft Neighbourhood Plan to referendum and looks forward to collaborating with them on that process.

Cllr Ian Hasell
Chairman
Norton St Philip Parish Council