

**STATEMENT BY
HORSHAM DISTRICT AND
CRAWLEY BOROUGH COUNCILS**

ISSUE

What are the housing supply implications of the 9 July 2008 and 15 October 2008 High Court Judgements concerning the North East Sector? Does this affect the basis of the Core Strategies for the allocation of this site or its timetable?

**HORSHAM DISTRICT AND CRAWLEY BOROUGH LOCAL
DEVELOPMENT FRAMEWORKS**

**WEST OF BEWBUSH JOINT AREA ACTION PLAN DEVELOPMENT
PLAN DOCUMENT**

JANUARY 2009



1. Introduction

- 1.1 As a consequence of two High Court Judgements in 2008 regarding the North East Sector the Inspector has asked the Councils to address the following questions to inform the West of Bewbush Joint Area Action Plan Examination.
- 1.2 *What are the housing supply implications of the 9 July 2008 and 15 October 2008 High Court Judgements concerning the North East Sector? Does this affect the basis of the Core Strategies for the allocation of this site or its timetable?*
- 1.3 Before addressing these questions this statement sets out the background and the key elements of the High Court Judgements.

2. North East Sector Background

- 2.1 The North East Sector was identified in the West Sussex Structure Plan 1993 as a suitable location for an additional new neighbourhood for Crawley and land was allocated in the Local Plan of 2000 for the development of up to 2700 dwellings and other uses. A planning application for the new neighbourhood was submitted in 1998, but as the Government was intending to bring forward a White Paper on the Future of Air Transport it issued an Article 14 Direction in March 1999 preventing the Council from granting planning permission without the Secretary of State's approval.
- 2.2 The eventual White Paper, issued in December 2003, retained the option of developing a second (wide-spaced) runway at Gatwick to be exercised after 2019 if it proves impossible to pursue the nationally-preferred option of a third runway at Heathrow, or a second runway at Gatwick can be delivered on its own merits. In May 2007 the Secretary of State dismissed an appeal against non-determination of the 1998 planning application for the North East Sector on the grounds that if the development were to proceed (a) the configuration of any new runway might have to be altered, which could reduce the ultimate capacity for the airport and (b) aircraft using a second runway would result in noise levels within the new housing area well beyond those likely to cause community annoyance and significantly in excess of 60dB which PPG24 recommends as a desirable upper limit for major noise sensitive development. In addition the Secretary of State considered that circumstances in May 2007 presented no immediate need to release the site to meet housing need judged against provision at Structure Plan rates in the period to 2012.
- 2.3 As a consequence of the above the following paragraph was included in Crawley Borough Council's adopted Core Strategy to provide guidance regarding the availability of the North East Sector for residential development.
- 2.4 *A final decision whether or not a second runway will be needed at Gatwick may be several years away. However, in the meantime there will soon be an increasingly pressing need to identify more housing land in Crawley to meet the higher, long-term annual growth requirements set out in the draft South East Plan to 2026. An early review of the Local Development Framework will therefore be undertaken. Notwithstanding this, in view of Crawley's sub regional role, it is important to retain the option for development at the North East Sector to commence as soon as may be possible if and when this is not prevented by reasons related to national policy safeguarding land for a second runway at Gatwick. The North East Sector is therefore identified and safeguarded as a strategic housing development opportunity to come forward if (and as soon as) this becomes possible (paragraph 11.3 of Crawley Borough Council's adopted Core Strategy).*

3. North East Sector Inquiry High Court Judgement – 9th July 2008

Background

- 3.1 The 1900 dwelling scheme (submitted in 1998) was subject to an Inquiry at the end of 2006. Crawley Borough Council contended the grant of planning permission at the Inquiry. The decision was recovered by the Secretary of State and in May 2007 the Secretary of State refused planning permission for the scheme. The development consortium consequently sought a High Court challenge of the Secretary of State's decision.

Judgement

- 3.2 The consortium pursued several grounds of challenge, but the critical matter was sub regional (Gatwick Diamond) housing land supply. The consortium argued that the Inquiry Inspector and consequently the Secretary of State had given insufficient regard to the sub regional housing shortfall in concluding that planning permission should not be granted. The Judge agreed that insufficient regard had been given to sub regional housing land supply and quashed the refusal of planning permission.

Current Position

- 3.3 As a consequence of the Secretary of State's refusal of planning permission being quashed the proposal has been returned to the Secretary of State for re-determination. The Secretary of State sought representations from the parties regarding how to proceed with the re-determination and in light of representations the Secretary of State in December 2008 decided to reopen the Inquiry. There is no date set for the Inquiry.

4. Core Strategy High Court Judgement – 15th October 2008

Background

- 4.1 The Crawley Borough Council submitted its Core Strategy to the Secretary of State in May 2006. The Examination into the 'soundness' of the Core Strategy was undertaken in February and March 2007.
- 4.2 Crawley Borough Council in September 2007 endorsed the Core Strategy for adoption, including a number of binding changes recommended by the Inspector for inclusion in the Core Strategy.
- 4.3 In November 2007 Crawley Borough Council adopted the Core Strategy.
- 4.4 In January 2008 the development consortium submitted a challenge to the Core Strategy to the High Court.
- 4.5 The challenge sought to quash two elements of the adopted Core Strategy. Firstly, the consortium were seeking to quash the North East Sector chapter development principle and objective that residential development should not occur in an area subject to either existing, or possible aircraft noise above 60 dBA. Secondly, the consortium were seeking to quash paragraph 2.7 of the Core Strategy, which states that development of the North East Sector is precluded until a definitive decision regarding the requirement of a second runway at Gatwick is made by the Government.

Judgement

- 4.6 The Judge found in favour of the consortium for both elements of the Core Strategy that were being sought to be quashed.

Current Position

- 4.7 As a consequence of the judgement Crawley Borough Council were issued with a quashing order from the Court confirming formally the judgement.
- 4.8 Crawley Borough Council has now published a revised adopted Core Strategy with the quashed elements deleted.

5. What are the housing supply implications of the 9 July 2008 and 15 October 2008 High Court Judgements concerning the North East Sector?

- 5.1 At this stage, there are no housing supply implications for the West of Bewbush Joint Area Action Plan arising from the High Court Judgements.
- 5.2 It is important to acknowledge that West of Bewbush forms part of Horsham District Council's housing supply, as per West Sussex Structure Plan (2004) Policy LOC1 and Horsham District Council Core Strategy Policy CP6. Therefore, development of West of Bewbush will not contribute to Crawley Borough meeting its residential development requirement. Conversely, if development of the North East Sector were to occur the development would contribute to Crawley Borough's residential development requirement.
- 5.3 The North East Sector will be subject to a second Inquiry, which will determine whether the 1998 scheme should gain planning permission in the context of local and sub regional housing supply, Government airport decisions and a number of other key considerations. The outcome of this Inquiry will be taken account of fully in Crawley Borough Council's Core Strategy review, which is underway.
- 5.4 Should planning permission be granted Crawley Borough Council will include the North East Sector in its housing supply to 2026, the period of the South East Plan, which the Core Strategy review will be in general conformity with.
- 5.5 Should planning permission be refused for the North East Sector Crawley Borough Council through its Core Strategy review will have to examine all options and alternatives for accommodating its South East Plan residential development requirement, which as outlined in the adopted Core Strategy may include sites beyond the Borough boundary. In responding to the South East Plan Crawley Borough Council has consistently stated that it will be exceptionally challenging for the Borough to meet its residential requirement within the Borough boundary without the North East Sector being developed prior to 2026.
- 5.6 The 9 July 2008 High Court Judgement has resulted in a second Inquiry into the 1998 scheme. The outcome of this second inquiry will have to inform Crawley Borough Council's Core Strategy review, particularly in terms of how Crawley Borough meets its South East Plan residential development requirement. Therefore, the re-opening of the Inquiry and the 9 July 2008 High Court Judgement has no implications on housing land supply in terms of the West of Bewbush Joint Area Action Plan.

5.7 The 15 October 2008 judgement will have to inform Crawley Borough Council's Core Strategy review, but does not have housing supply implications of the West of Bewbush Joint Area Action Plan.

6. Does this affect the basis of the Core Strategies for the allocation of this site or its timetable?

6.1 It is considered that the High Court Judgements do not prejudice the allocation of West of Bewbush in the JAAP, which has been formulated off the back of the West and North West of Crawley Area of Study having been identified in the Councils' Core Strategies. It could be argued that its requirement is compounded in the sub regional context in light of the continued uncertainty regarding the availability of the North East Sector and clear requirement for housing supply 'at Crawley'.

6.2 The High Court Judgements have no implications for the timetable for development of West of Bewbush.