



Neutral Citation Number: [2024] EWHC 1166 (Admin)

Case No: AC-2023-LON-001993

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**  
**PLANNING COURT**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 16/05/2024

Before :

**THE HON. MR JUSTICE HOLGATE**

Between :

Bewley Homes plc

**Claimant**

- and -

The Secretary of State for Levelling Up, Housing and  
Communities

**First  
Defendant**

- and -

Waverley Borough Council

**Second  
Defendant**

Lord Banner KC and Matthew Henderson (instructed by Pennington Manches Cooper  
LLP) for the Claimant  
Ned Westaway (instructed by Government Legal Department) for the First Defendant  
Emma Dring (instructed by Waverley Borough Council) for the Second Defendant

Hearing date: 12 March 2024

**Approved Judgment**

This judgment was handed down remotely at 11.00am on 16 May 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

THE HON. MR JUSTICE HOLGATE

## Mr Justice Holgate:

### Introduction

1. This is a claim by Bewley Homes plc (“Bewley”) for statutory review under s.288 of the Town and County Planning Act 1990 (“TCPA 1990”) of the decision of an Inspector in a decision letter dated 19 May 2023 (“the DL”) acting on behalf of the first defendant, the Secretary of State for Levelling Up, Housing and Communities, in which he dismissed the claimant’s appeal against the decision dated 23 August 2022 of the second defendant, Waverley Borough Council (“WBC”), refusing Bewley’s application for planning permission. Bewley sought outline planning permission for up to 140 dwellings at Lower Weybourne Lane, Badshot Lea, Farnham. The application reserved all matters except access. On 2 November 2023 the court granted permission to apply for statutory review, limited to ground 3.
2. Two earlier proposals by Bewley for 140 dwellings on the same site had also been dismissed on appeal. On 29 March 2018 the Secretary of State dismissed an appeal against WBC’s refusal of detailed planning permission (“the 2018 DL”). On 21 June 2021 an Inspector dismissed an appeal (“the 2021 DL”) against WBC’s refusal to grant an application for outline permission not materially different from the proposal the subject of the decision dated 19 May 2023.

### The National Planning Policy Framework

3. This claim is concerned with policies in the National Planning Policy Framework published on 20 July 2021 (“NPPF 2021”) dealing with economic growth and productivity<sup>1</sup>. Paragraph 8 sets out the three overarching objectives of sustainable development, which are “interdependent and *need* to be pursued in mutually supportive ways,” “so that opportunities can be taken to secure net gains” across each one. The three objectives are economic, social and environmental. The first one reads:

“a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;”

This objective is taken up again in chapter 6

4. Chapter 6 is entitled “building a strong, competitive economy.” Bewley’s legal challenge is particularly concerned with para.81 which deals with planning policies and decisions. But it is also necessary to refer to para.82 (on planning policies) and para.83 (also on planning policies and decisions).
5. Paragraphs 81 to 83 of NPPF 2021 read as follows:

“81. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.

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<sup>1</sup> The relevant policies in NPPF 2021 are not materially different from those contained in the present NPPF published on 20 December 2023.

Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation<sup>42</sup>, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

82. Planning policies should:

- a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;
- b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;
- c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and
- d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.

83. Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.”

6. Footnote 42, referred to in para.81, states:

“The Government’s Industrial Strategy sets out a vision to drive productivity improvements across the UK, identifies a number of Grand Challenges facing all nations, and sets out a delivery programme to make the UK a leader in four of these: artificial intelligence and big data; clean growth; future mobility; and catering for an ageing society. HM Government (2017) Industrial Strategy: Building a Britain fit for the future.”

7. Paragraphs 84 and 85 are policies for “supporting a prosperous rural economy”:

“84. Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

85. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well related to existing settlements, should be encouraged where suitable opportunities exist.”

**A summary of the Inspector’s decision letter in 2023.**

- 8. The Inspector decided that there were two main issues:
  - (i) The effect of the proposal on the character and appearance of the area;
  - (ii) Any implications of housing supply or delivery for the determination of the application.
- 9. The Inspector summarised development plan policies at DL 17 to DL 29. The development plan comprised the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (“LP1”), adopted on 20 February 2018, the Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (“LP2”), adopted on 21 March 2023, and the Farnham Neighbourhood Plan made on 3 April 2020 (“FNP”). LP1, LP2 and FNP cover the period to 2032.
- 10. Policy ALH1 of LP1 sets out the number of additional homes to be provided in the plan period (DL 18).
- 11. The spatial strategy in Policy SP2 of LP1 seeks to maintain Waverley’s character whilst ensuring development needs are met in a sustainable manner. So, major development on land of the highest amenity and land value, such as the AONB, is to be avoided. Development is to be focused on the four main settlements, which include Farnham (DL 19). Paragraph 5.16 of LP1 recognises that some development by the

peripheral expansion of settlements will be necessary. It was common ground that the development of the appeal site, adjacent to the boundary of a main settlement, did not conflict with SP2 (DL 21).

12. It was also agreed that the site and immediately surrounding area do not constitute a “valued landscape” (para. 174a of NPPF 2021) (DL 22).
13. Under Policy RE1 of LP1 the site falls within the area designated as “Countryside beyond the Green Belt” in which the intrinsic character and beauty of the countryside is to be safeguarded (DL 23).
14. In the FNP the site falls outside the built-up area boundary. Under Policy FNP 10 priority is given to protecting the countryside from inappropriate development; proposals will only be permitted that enhance the landscape value of the countryside (DL 25).
15. The appeal site is located within a gap between Badshot Lea and Weybourne. Policy FNP 11 requires proposals on sites outside the built-up area to be assessed *inter alia* for their potential impact upon the visual setting and landscape features of the site and its surroundings. Proposals that fail to demonstrate that such impacts can satisfactorily be addressed or which “clearly lead to the increased coalescence of settlements” will not be supported. Paragraph 5.96 of the FNP highlights the objective of retaining the separate identities of Badshot Lea and Weybourne and the separation provided by *inter alia* the single field gap on Lower Weybourne Lane which breaks the built-up frontage of the two settlements. The Plan states that although the remaining gap is not of high landscape value, it has an important role in separating areas of Farnham that are considered to be distinct (DL 26 to DL 27).
16. It was common ground that the proposal would conflict with Policy RE1 of LP1 and Policy FNP 11 of the Neighbourhood Plan (DL 28).
17. The Inspector made a detailed assessment of the effect of the proposal on the character and appearance of the area at DL 30 to DL 62. Although the surroundings of the site are “not deeply rural”, the site “clearly evokes some sense of rurality.” The areas of open land to the north and south share similar characteristics (DL 35). He noted neighbouring urban development (DL 36) but considered Bewley to have understated the rural character of the site itself (DL 39). He judged that the proposed development would result in a fundamental change in the character of that site. It would create a new urban edge to Badshot Lea and there would be an increase in urbanisation (DL 42). While the Inspector acknowledged the potential for mitigation, he considered that the proposal would conflict with Policy RE1 of LP1 and Policy FNP 10 of the Neighbourhood Plan. The development would be inappropriate in the countryside and would not enhance its landscape value ([DL 47]).
18. The Inspector dealt with the effect of the proposal on settlement character at DL 49 to DL 61. Taking into account the limited extent of the gap between the two settlements and the scale of the development, the increase in coalescence would be extensive (DL 56), or “clear” so as to conflict with FNP 11 of the Neighbourhood Plan (DL 61).
19. The Inspector addressed housing land supply and delivery at DL 63 to DL 70. The housing requirement for the Borough is 779 new dwellings a year. The housing land

supply over the 5-year period from February 2023 to February 2028 was between 3.53 and 4.28 years, rather than the supply required by the NPPF of at least 5 years (DL 63 to DL 64). The shortfall has persisted for a considerable period. Even taking into account LP2, there was little concrete evidence that WBC had a credible strategy that would address the housing land supply issues of the Borough (DL 66). There is also an acute need for affordable housing in the Borough. The proposal would deliver 40% of the dwellings as affordable, a significant contribution (DL 69). The proposal would have a positive effect on the supply of housing land (DL 70).

20. The Inspector addressed the overall planning balance at DL 81 to DL 106. The Inspector summarised his conclusions on the proposal's harm to the character and appearance of the area and the settlements. He explained why he considered that the scheme was incompatible with environmental objectives and policies of the FNP and would seriously undermine the credibility of that plan. He gave "considerable weight" to the clear conflict with the FNP (DL 85 to DL 87). Although the Inspector accepted that at a strategic level the proposal would assist in meeting the Borough's housing needs in a sustainable manner, he considered that because of the harm and conflict with the FNP, the proposal did not accord with the development plan as a whole, for the purposes of s.38(6) of the Planning and Compulsory Purchase Act 2004 (DL 88).
21. Given that the housing land supply was less than 5 years, the presumption in para. 11(d) of NPPF 2021 applied unless the adverse impacts of the development would significantly and demonstrably outweigh its benefits (DL 89).
22. The Inspector accepted that the provision of 140 homes, including affordable housing, would bring significant benefits (DL 90).
23. The Inspector dealt with the economic benefits of the proposal arising from the work to construct the houses and expenditure in the local economy by occupiers of those homes at DL 93 to DL 95, which are the subject of this challenge:

"93. Short term benefits from construction and longer term benefits from spend in the local economy are hard to attribute to individual developments of this scale, and I see nothing of detail in the evidence that tries to do so. I attribute moderate weight to these matters as benefits of the proposal.

94. Paragraph 81 of the Framework regarding placing significant weight on the need to support economic growth does not increase the weight further, given the principal focus it has on business investment, expansion, and adaption.

95. Notwithstanding the moderate weight attached to the benefits described above, collectively they add weight in favour of the scheme. My attention has been drawn to appeal decisions that consider similar benefits. I have paid regard to these decisions acknowledging also that such judgements turn on their own circumstances and that, whilst it is desirable to decide like cases in a similar way, a small number of decisions following one approach is not always determinative of an issue."

Bewley’s complaint focuses on the Inspector’s judgment that only “moderate weight” should be given to those economic benefits, rather than the “significant weight” which, it is said, para. 81 of NPPF 2021 prescribes.

24. At DL 99 the Inspector said that the benefits of the scheme are “weighty,” mainly because of the proposed housing, particularly affordable housing. At DL 100 to 102 he explained why he did not consider that the weight to be given to FNP policies should be reduced. He said that the proposal would seriously undermine the FNP and its strategy for balancing housing growth with environmental objectives (DL 103). Viewed overall, the Inspector considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits so that the presumption in favour of granting permission in para. 11(d) of NPPF 2021 did not apply (DL 104).
25. Applying s.38(6) of the 2004 Act, the Inspector said that in the absence of material considerations indicating otherwise, the appeal should be determined in accordance with the development plan and so planning permission should be refused (DL 106).

### **Legal principles.**

26. The legal principles governing review by the courts of decisions in planning appeals are well established (see e.g. *St. Modwen Developments Limited v Secretary of State for Communities and Local Government* [2018] PTSR 746 at [6] – [7]).
27. The principles on the interpretation and application of planning policy are also well established (*Tesco Stores Limited v Dundee City Council* [2012] PTSR 983; *Hopkins Homes Limited v Secretary of State for Communities and Local Government* [2017] 1 WLR 1865; *Canterbury City Council v Secretary of State for Communities and Local Government* [2019] PTSR 81 at [23]; *Mead Realisations Limited v Secretary of State for Levelling Up, Housing and Communities* [2024] EWHC 279 (Admin) at [72] to [82]).

### **The grounds of challenge.**

28. Lord Banner KC and Mr. Matthew Henderson advance two grounds on behalf of Bewley.
29. Under ground 1 they submit that in DL 93 to DL 94 the Inspector misinterpreted para. 81 of NPPF 2021 in two respects. First, he erred in stating that the “principal focus” of that policy is on “business investment, expansion and adaption.” Instead, they say that para. 81 of NPPF 2021 is dealing with all economic benefits of any proposed development, including residential development.
30. Second, they submit that the Inspector erred by giving only moderate weight to the economic benefits of the proposed development in this case. Instead, on a proper interpretation, para. 81 of NPPF 2021 requires “significant weight” to be given to the economic benefits of any development. They referred to the policy as a “blanket assignment” of that degree of weight to economic benefits in any case (para. 29(b) of skeleton), or a “uniform prescription” of “significant weight” for the economic benefits of any proposed development.

31. Under ground 2 counsel submit that the Inspector failed to comply with a duty to give reasons for departing from previous appeal decisions of other Inspectors on the same issue which agreed with Bewley's interpretation of para. 81 of the NPPF 2021 (see *North Wiltshire District Council v Secretary of State for the Environment* (1992) 65 P & CR 137, 145). In the present case the Inspector merely said that those decisions turned on their own circumstances and "a small number of decisions following one approach is not always determinative of an issue." (DL 95). It is submitted that these observations could not explain why the Inspector decided to take a different approach to para. 81 of NPPF 2021. "The direction in that paragraph [to give "significant weight"] applies in all circumstances where economic benefits are identified" (para. 34 of skeleton).

### **The case before the Inspector**

32. Mr. David Neame, MRTPI a planning consultant, gave evidence on behalf of Bewley at the inquiry. He did not advance an economic case in any detail. Instead, towards the end of his proof he gave his opinion on how the planning balance should be struck. Table 9 gave a "summary of key planning benefits from the appeal scheme." He said that there were 12 such benefits. The last two were:

"Short-term economic benefits from construction.

Long-term economic benefits from additional spend in the local area arising from new residents of the development."

33. Mr. Neame said that "substantial weight" should be given to each of those benefits. A footnote to that comment stated: "these benefits are afforded substantial weight in accordance with Paragraph 81 of the Framework 2021." He also relied upon two planning appeal decisions as being relevant: Rectory Farm, Yatton, Bristol decision letter dated 15 June 2022 and Clappers Lane, Earnley decision letter dated 19 August 2022. That was all. There was no computation of the net additional spend in the area attributable to new residents or of the value of the economic benefit to the area arising from the construction work. Such calculations can be, and sometimes are, made.
34. The Rectory Farm decision involved a proposal for 100 dwellings. In relation to para. 81 of NPPF 2021 the Inspector said this at para. 150 of his decision:

"150. It is also noteworthy that paragraph 81 of the NPPF does not direct that significant weight should be placed on a particular contribution towards economic growth or productivity no matter how large or small. This does not mean that it allows for less weight to be applied to different contributions. That would be a clear misreading of the paragraph. The NPPF is unequivocal in telling decision makers what weight to apply. The weight to be applied is prescribed and the same; but it is being applied to a bigger or smaller benefit. Just as when great weight is applied to heritage harm, the weight is the same but the level of harm to which it is applied may not be."

35. The implication of this passage is that the *outcome* of applying a uniform level of “significant weight” to economic benefit will differ according to whether that benefit is large or small. In other words, how much significance that benefit will have in the planning balance is a matter of degree. That is not how Bewley’s written submissions read in its skeleton before this court. Rather, the approach in that decision letter bears some similarity to Lord Banner’s answer to a question from the court during oral submissions (see [51] below).
36. The Clappers Lane appeal was also concerned with a proposal for 100 dwellings. In para. 95 of his decision letter the Inspector said this:
- “95. There would be economic benefits through construction employment, and through expenditure by future occupants in the area. Paragraph 81 of the Framework indicates that significant weight should be placed on the need to support economic growth and productivity. The appellant has given an indication of the significant input into the local economy that the development would make. Therefore, even though the economic benefits associated with the construction would only be short term and most residential development would result in additional expenditure in the local area, I have given significant weight to the resulting support to economic growth and productivity from the development.”
37. Two points should be noted about that passage. First, the appellant in that case, unlike Bewley, appears to have given some evidence about what the input into the local economy was likely to be. Second, this example illustrates a difficulty often encountered when participants in planning appeals quote passages from other decision letters. The reasoning in those decisions may be more succinct than would otherwise be the case, because the law accepts that a decision letter need only be addressed to the parties in that case who are familiar with the materials in that appeal and the issues they raised. There is no suggestion that those materials were put before the Inspector in our case.
38. In support of ground 2, Lord Banner relied upon para. 43 of Bewley’s closing submissions to the Inspector:
- “43. Mr Woods accepted that the economic benefits of the appeal scheme, both through construction and through increased local spend by residents, would contribute to supporting economic growth and productivity. This is something to which NPPF para. 81 directs “significant weight” be given. Mr Woods accepted in XX that if you were to determine the appeal consistently with the Rectory Farm and Clappers Lane, you would give significant weight (on his scale, i.e. substantial weight on Mr Neame’s scale) to this factor. Those decisions expressly applied NPPF para. 81 in the context of the economic benefits of smaller residential schemes. So too did para. 70(viii) of the Fleet decision (albeit it was NPPF para. 80 at that time. The decisions on which the Council relies on this point do not grapple with NPPF para. 81.”

Mr. Brian Woods MRTPI gave planning evidence at the inquiry on behalf of WBC.

39. Ms. Emma Dring appeared on behalf of WBC before the public inquiry and before this court. She addressed this issue at para. 36 of her closing submissions:

“Contrary to the Appellant’s argument, there is no national policy imperative to give economic benefits which are incidental to the delivery of housing “significant” weight, irrespective of their scale or duration. On a fair reading paragraph 81 NPPF is a high level statement of policy which is mainly concerned with promoting business/commercial growth and development. If it genuinely required any and all economic benefits to be given significant weight in the planning balance as a matter of course, then that would be generally reflected in appeal decisions (whether or not the point was raised in argument). It is recognised that some Inspectors have accepted the argument that DN [David Neame] advances; that does not mean the argument is correct. Here there is no quantification of the level of economic benefits that would arise to judge their true significance, they should properly be accorded no more than moderate weight.”

40. I note that in his decision on Bewley’s first appeal the Secretary of State decided that the economic benefits of investment in construction and employment and an increase in local household expenditure and demand for services carried “moderate weight” (see para. 25 of DL 2018). The Inspector who determined Bewley’s second appeal reached the same conclusion (paras. 9 and 98 of DL 2021). In that second appeal Mr. Neame also took the view that only “moderate weight” should be given to the economic benefits of developing the appeal site for 140 homes. A reader could be forgiven for wondering whether the present case really does raise a point on the interpretation of the NPPF.

## **Ground 1**

41. It is necessary to interpret para. 81 of NPPF 2021 in the context of the accompanying paragraphs and the Framework as a whole. After general chapters covering sustainable development, plan-making and development control decisions, the following chapters deal with different types of development. Chapter 5 addresses residential development, chapter 7 town centres, chapter 8 development for social and community needs, chapter 9 transport and chapter 10 communications infrastructure. Within that structure chapter 6 deals with “building a strong, competitive economy”.
42. Paragraph 81 contains a series of high-level objectives for both planning policies and decisions. They relate back to the “economic objective” in para. 8 of NPPF 2021 (see [3] above). The first sentence states that the planning system should help create conditions in which businesses can invest, expand and adapt. The second sentence says that the need to support economic growth and productivity has significant

weight, taking into account local business needs. Similarly, the objective in the third sentence is to build on the strengths and counter any weaknesses of *each area*. The fourth sentence emphasises that this is important where the country can be a global leader in driving innovation and in areas with high levels of productivity. Innovation is further explained in footnote 42 by reference to the Government's Industrial Strategy in 2017 which seeks to improve productivity across the UK and to lead in four areas: artificial intelligence and big data, clean growth, future mobility and catering for an aging society. Read as a whole, the emphasis of para.81 is on the encouragement of different forms of economic development.

43. So the "significant weight" referred to in the second sentence of para.81 is to be placed on an *objective*, "the need to support economic growth and productivity". That is the same need as that to which para. 8 of NPPF 2021 refers, specifically in relation to the "economic objective". Paragraph 81 does not indicate what the policies of a local plan on economic development should say. Instead, local plan policies should be formulated with regard to that objective and local business needs. The nature and extent of the need to support economic growth will vary from one area to another. Those matters will be reflected in the formulation of policies in local and neighbourhood plans. The approach in NPPF 2021 respects the principle laid down by the courts that the circumstances of a LPA's area may be relevant in determining the extent to which the objectives of a national policy are applicable (if at all), or the amount of weight they carry, in that area (*Surrey Heath Borough Council v Secretary of State for the Environment* (1987) 53 P & CR 428, 433; *Camden London Borough Council v Secretary of State for the Environment* (1989) 59 P & CR 117; *R (West Berkshire District Council v Secretary of State for Communities and Local Government* [2016] 1 WLR 3923).
44. The fact that para. 81 of NPPF 2021 and other parts of chapter 6 are directed at the making of planning policies as well as decisions helps to demonstrate why Bewley's interpretation is untenable. The meaning of the second sentence of para. 82 of NPPF 2021 does not change when we come to development control decisions. It still refers to an *objective* which has significant weight, but which recognises that the circumstances and needs of the areas of different local planning authorities vary. This reading of para.81 is entirely consistent with the paragraphs which follow.
45. Paragraph 82 of NPPF 2021 deals with planning policies. They should set a strategy to encourage economic growth, having regard to local industrial strategies and *local policies for economic development* and regeneration. They should also set criteria and identify sites for investment to match that strategy and to meet anticipated needs, with flexibility to accommodate needs which could arise in the future but have not yet been anticipated, including new working practices and changes in economic circumstances.
46. Paragraphs 83, 84 and 85 of NPPF 2021 deal with both planning policies and decisions. Paragraph 83 requires the locational requirements of different "sectors" to be addressed, including "knowledge and data-driven creative or high technology industries" and storage and distribution operations. Paragraphs 84 and 85 focus on development for businesses in rural areas, including tourism and leisure, as well as local services and community facilities. Essentially, paragraphs 82 to 85 promote economic growth based upon needs for business or economic development and upon sustainability. This support for economic growth can include a need to provide infrastructure.

47. I therefore agree with Mr. Ned Westaway for the Secretary of State and Ms. Dring that chapter 6 of the NPPF focuses on promoting business and economic development and growth, including diversification in rural areas. It takes into account business needs as well as the needs and characteristics of different areas of the country. This approach permeates all of para. 81 of NPPF 2021.
48. By contrast, it is clear that chapter 6 of NPPF 2021, and para. 81 in particular, do not suggest, whether expressly or by implication, that significant weight should be given to *any* economic benefit flowing from *any* development proposal. If the Secretary of State had intended to lay down a general policy of that kind it would have been easy for him to say so and he would have said it. He did not. The language of NPPF 2021 provides no basis for the Court to imply any such policy. The second sentence refers to the “*need* to support economic growth and productivity”, without suggesting that that need is a constant, or present to the same degree in each and every part of the country, disregarding local or regional circumstances and variations.
49. Mr. David Roberts, the Head of Planning Policy in the Planning Policy Division of the Secretary of State’s Department has helpfully explained the background to para. 81 of NPPF 2021. Paragraph 19 of the original NPPF published on 27 March 2012 had stated:

“The government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

In March 2018 the Government consulted on proposed revisions to the NPPF. The consultation document stated that the text which became paras. 81 to 82 of NPPF 2021 was intended to make more explicit the importance of supporting “business growth and improved productivity in a way that links to key aspects of the Government’s Industrial Strategy.”

50. The claimant’s argument can be tested in a simple way. The economic benefits of proposed developments will vary widely, whether in a local or wider context. Here the benefits relied upon by Bewley were of a general and unquantified nature and typical of the benefits which could be claimed for most residential development throughout the country and, indeed, many other types of development.
51. But some projects involve major and quantified economic benefits for a local area, or for the regional or national economy. It would be absurd to say that those benefits merit only “significant weight”, or that those benefits can attract no more weight than the economic benefits claimed in the present case, or in *any* other case. Lord Banner’s response was that although NPPF 2021 prescribes the same weight to be applied (i.e. “significant”), the level of benefit to which it is applied will be bigger or smaller according to the circumstances of the case, and so the ultimate weighting will vary in the planning balance (see also the Rectory Farm decision at [34] above).
52. That answer revealed the illogicality of Bewley’s argument. On the one hand, it involves accepting that the object of the exercise is to decide how much weight to

place on the economic benefits of development in an overall planning balance. So, for example, if we imagine “significant weight” being applied to a very high level of economic benefits, the decision-maker would be expected to place a correspondingly high degree of weight on that factor in the planning balance, and not just significant weight. But on the other hand, when Lord Banner was asked to explain why that level of economic benefit should not be seen as going *directly* to its weight, he said that it is something different; it is “gravity,” rather than weight. This makes no sense to me. Although a physicist would appreciate the difference between gravity and weight in his area of science, in town and country planning, this use of the word “gravity” is no more than an expression of weight.

53. In my judgment there is no reason why a decision-maker should not evaluate the weight to be attached to the economic benefits of a development as “very substantial” in one case or “moderate” in another (to borrow the terminology of Mr Neame’s table 9) or even “minor” or “insignificant”. NPPF 2021 does not compel decision-makers to do something absurd, namely to attribute the same level of weight, “significant”, to economic benefits from any proposed development, irrespective of the merits of the economic case, or even where the developer provides no information on the level of those benefits, as happened in Bewley’s appeal (see [63]-[64] below).
54. Bewley’s argument was not improved by another explanation essayed by counsel: the size of the economic benefits of a scheme is the *multiplicand* and “significant weight” is the *multiplier*. However the claimant’s argument is dressed up, multiplication still arrives at a *product*, in this instance the weight to be given to economic benefits in the overall planning balance.
55. It is confusing and inappropriate to suggest, as Bewley does, that a decision-maker must apply “significant weight” to his evaluation of the nature and degree of economic benefit from a proposed development, before he can arrive at a final weighting for that factor in the planning balance. The claimant has failed to recognise that the second sentence of para. 81 of NPPF 2021 simply attaches “significant weight” to the general objective based upon para. 8 of the NPPF, not to the assessment of the particular economic benefits of a development proposal. Having assessed the nature and degree of those benefits, the decision-maker is then entitled to apply his judgment so as to arrive directly at a weighting for that factor in the overall planning balance.
56. There was discussion during oral argument about whether an analogy may be drawn with the control of development affecting listed buildings and their settings. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for such development the decision-maker “must have special regard to the desirability of preserving the building or its setting ....”. The Inspector in the Rectory Farm decision thought that there was such an analogy (see [34] above).
57. The Court of Appeal has interpreted s.66(1) as meaning that “considerable weight” must be given to that “desirability” objective (*The Bath Society v Secretary of State for the Environment* [1991] 1 WLR 1303; *East Northamptonshire District Council v Secretary of State for Communities and Local Government* [2015] 1 WLR at [22] to [28]; and *R (Palmer) v Hertfordshire County Council* [2017] 1 WLR 411 at [5]). But it is necessary to keep in mind that the “desirability” objective in s.66(1) is expressly

concerned with assessing the effects which a particular development would have on a heritage asset, whereas the economic objective in paras. 8 and 81 of NPPF 2021 is broad and much looser. Paragraph 81 does *not* state how the effects of specific development proposals should be assessed.

58. The courts have held that the nature and degree of harm to a listed building or its setting is a matter of judgment for the decision-maker. **Section 66(1) does not require the weight given to the desirability of avoiding that harm to be uniform.** That weight will depend *inter alia* on the extent of the assessed harm and the heritage value of the asset in question (*Palmer* at [5] and *City and Country Bramshill Limited v Secretary of State for Housing, Communities and Local Government* [2021] 1 WLR 5761 at [62]). This is consistent with the guidance in paras. 199 to 202 of NPPF 2021. If a decision-maker works through the relevant parts of the NPPF, he will be taken to have complied with s.66(1) of the 1990 Act, even though he has not expressly referred to it or to the language of “considerable weight”, in the absence of any positive indication to the contrary (*Mordue v Secretary of State for Communities and Local Government* [2016] 1 WLR 2682 at [28]).
59. Given that a statutory obligation in the nature of s.66(1) can be satisfied in that way, the approach taken by the Inspector in this case to para.81 of NPPF 2021 cannot be faulted. The second sentence of that paragraph identifies a policy objective: “the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.” The policy says that significant weight is to be given to that objective. Where a proposed development falls within the scope of that objective, it is for the decision-maker to assess the nature and extent of the economic benefits of that development. When it comes to deciding how much weight to give to those benefits in the application of development plan policies and the overall planning balance, the decision-maker is not required to assign a uniform level of weight, i.e. significant weight. He is able to assign such weight as he considers appropriate, having regard to the nature and extent of those benefits, in the light of any other planning considerations relevant to that assessment.
60. To summarise, I reject Bewley’s submissions (see [29] – [30] above) on how para. 81 of NPPF 2021 is to be interpreted and its criticisms of the approach taken by the Inspector.
61. As to [29] above, no doubt para.81 may be summarised in more than one way. Certainly no possible criticism can be made of DL 94 where the Inspector referred to the principal focus of para. 81 as being on “business investment, expansion and adaption.” He made no error of law.
62. As to [30] above, para. 81 of NPPF 2021 does not contain a “uniform prescription” or “blanket assignment” of “significant weight” to the economic benefits of a development proposal. As I have said, that paragraph is directed at the formulation of local planning policies as well as development control. Supporting economic growth and productivity is a general objective. The exhortation to place significant weight on that objective, whether in a process for formulating and adopting local policies, or in the exercise of development control, does not predicate what weight will ultimately be given to the economic benefits of any particular development proposal which may come forward.

63. Even on Bewley’s own case in this court (see [51] and [54] above), its challenge to the Inspector’s decision in this case would have to be rejected. The claimant’s evidence before the inquiry on the economic benefits of its development proposal was of a very generalised nature. Indeed, it is difficult to see how it could have been any more generalised (see [32]-[33] above). Bewley did not advance any evidence on the level of the economic benefits that would flow from the residential development so as to define its *multiplicand*, or the *gravity* component, to which “significant weight” could then be applied. The short point is that Bewley did not provide any evidence which would have enabled para.81 NPPF to be applied even on its own interpretation. Ground 1 of this challenge turns out to be completely hollow.
64. So the way in which Bewley chose to present its case in the planning appeal reveals that it was pursuing a different interpretation of para.81 of NPPF 2021. Plainly, the building of any new housing scheme provides work for construction firms and their suppliers. But the same is also true of any development which depends upon the employment of contractors to carry out works. Similarly, the occupation of the houses by residents may generate a net increase in expenditure in local shops and businesses, but that could also be the case, for example, where a new employment development is occupied by employees. In such cases, the real question is what is the nature and level of any consequential economic benefits and their effects on the economy (local or otherwise). In reality what the claimant and others have been trying to argue, sometimes successfully, is that “significant weight” is mandated by the NPPF for any economic benefit, even though *no* evidence is given about the level of that benefit (or its effect in relation to the economy and its requirements), and even if a decision-maker would consider that benefit to be relatively small. This involves an obvious distortion of national policy for which there is no conceivable justification.
65. It appears that the issues raised by ground 1 have been the subject of controversy in a number of planning appeals and that this has led to advocates and experts referring to various appeal decisions at public inquiries and hearings in support of rival positions. This is reminiscent of the “doctrinal controversy” concerning the “tilted balance” which afflicted so many planning appeals until the matter was settled by the Supreme Court in *Hopkins* (see [23] and [81]). This ought not to occur if national policies, particularly those expressed in high level or broad terms, are read in a straightforward manner to mean what they say, and not subjected to forensic manipulation (see e.g. *R (Asda Stores Limited) v Leeds City Council* [2021] PTSR 1382 at [35]).
66. I note that Bewley did not contend that if the Inspector’s understanding of para. 81 of NPPF 2021 was correct, his application of that policy was irrational, that being the test that Bewley would have needed to satisfy. In my judgment, DL 93 and DL 94 could not be criticised as an irrational application of NPPF 2021 properly interpreted.
67. For these reasons ground 1 must be rejected.

## **Ground 2**

68. This ground relates to the decisions of other Inspectors which have interpreted para. 81 of NPPF as directing decision-makers to apply significant weight in the planning balance to all case-specific economic benefits (para. 33 of skeleton). That was the only reason why Bewley submitted that those decisions were relevant and the principle in *North Wiltshire* obliged the Inspector in the present case to deal with them

in the DL. As I have explained under ground 1, that interpretation of para. 81 of NPPF 2021 is incorrect as a matter of law. It follows that ground 2 falls away. The Inspector who decided Bewley's appeal was under no legal obligation to deal with those other appeal decisions because, in so far as they were said to be material, they involved that same error of law.

69. For these reasons ground 2 must be rejected.

### **Conclusion**

70. The claim for statutory review is dismissed.