

### **CD9.1: Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government (2013)**

A proposed development which involved exploratory drilling in the green belt was "mineral extraction" for the purposes of the National Planning Policy Framework paragraph 90 and the relevant local development plan policy. The case was subsequently heard in the Court of Appeal and it was held that mineral extraction within the green belt would not be inappropriate provided that the openness of the green belt was preserved.

Relating to the appropriateness of mineral extraction in the green belt with regard to the NPPF, in particular paragraphs 89 and 90.

Specific reference is made to paragraphs 65 and 66 (BAL1/1 paragraph 6.14 and BAL7/1 paragraph 4.32). This case is affirmed by both the Court of Appeal and Supreme Court – see CD9.4

### **CD9.2: Turner v Secretary of State for Communities and Local Government (2016)**

Visual impact could be taken into account in assessing, for the purpose of the National Planning Policy Framework paragraph 89, bullet point 6, the extent to which a proposed development had an impact on the openness of the green belt.

Relating to openness and the factors which may be considered in individual cases when considering the effect of development on the openness of the green belt.

Specific reference is made to paragraph 14 (BAL7/1 paragraph 4.30) – but see further the Supreme Court consideration of this case at CD9.4

### **CD9.3: SoS decision on the appeal of RJD Ltd and Gowling WLG Trust Corporation Limited against the decision of Hertfordshire County Council & Report to the Secretary of State for Housing, Communities and Local Government by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI an Inspector appointed by the Secretary of State (2019) (Bengeo Quarry)**

Relating to ancillary infrastructure to support mineral extraction and the threshold for appropriate/inappropriate development in the green belt.

Specific reference is made to paragraph 18 of the decision letter (BAL1/1 paragraph 6.16 and BAL7/1 paragraph 4.43).

### **CD9.4: R. (on the application of Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council (2020)**

A local planning authority had correctly understood the meaning of the word "openness" as expressed in the National Planning Policy Framework paragraph 90 when granting planning permission for the extension of a quarry in the green belt. The visual impact of the proposed development was not a necessary part of the openness assessment.

The openness proviso did not apply to mineral development under PPG2 para 3.8 (§11). The NPPF did not intend to mark a significant change of approach (§12).

The High Court and Court of Appeal judgments in *Europa Oil* were approved: §26-28.

As to the effect of development on the openness of the green belt and the definition of openness in this context, it is a matter of judgement, not legal principle: §25.

**CD 9.4A Lodge House** The Secretary of State expressed his view on the correct interpretation of PPG2 in the context of minerals development, concluding that surface mines are not inappropriate and that there is no openness proviso in national policy.

See further BAL1/1 paragraph 6.13 and BAL7/1 paragraph 4.22.

**CD9.5 Wychavon DC v SSCLG [2008]** (Court of Appeal; Carnwath LJ, which whom the Master of the Rolls and Wilson LJ agreed)

Inappropriate development; definitional harm, very special circumstances. PPG2 paragraphs 3.1 and 3.2.

There is no rigid division between the questions posed in the policy presumption against inappropriate development and very special circumstances: §25; 26.

**CD9.6: Kemnal Manor Memorial Gardens Limited v First Secretary of State (2005)**

A planning inspector had not erred in deciding that a proposed development of a green belt site into a cemetery and crematorium was an inappropriate development and that there were no very special circumstances outweighing the presumption that the proposed development was inappropriate. It was sufficient that a part of the development was inappropriate development. See para 34.

This case is provided by the Appellant pursuant to its duty to draw the tribunal's attention to relevant authorities.

**CD9.7 Redhill Aerodrome**

NPPF had not intended to change the underlying purpose of GB policy contained in PPG2. All benefits and harms may go into the VSC balance: §§ 17, 31-37.

**CD9.8 Compton Parish Council**

All benefits and harms may be considered cumulatively when assessing exceptional circumstances, particularly at §72

**CD9.9 Timmins**

Inappropriate development in NPPF 2012, and a closed list (see the headnote). Noting that the equivalent paragraph in NPPF 2018 was amended to reverse the position as held in *Timmins* – no longer a closed list.

**CD9.10 Inquiry Procedure Rules**

Included in case reference is needed during the Inquiry.