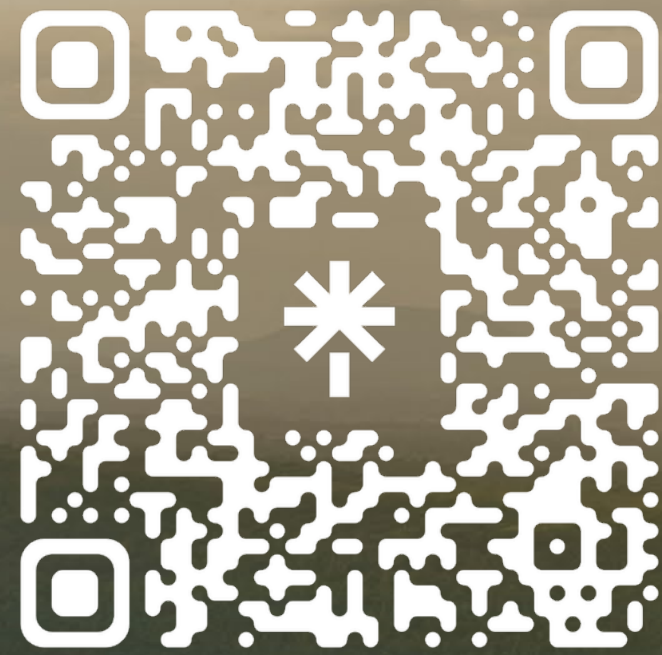




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Planning and Infrastructure

Seminar 2026

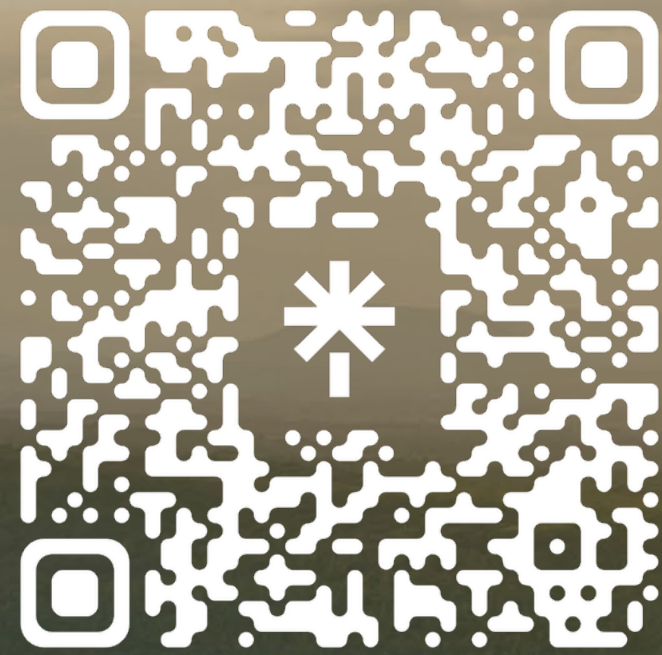
9.15am – 12.15pm • Tuesday 3 March





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Thomas Hill KC



Peter Village KC

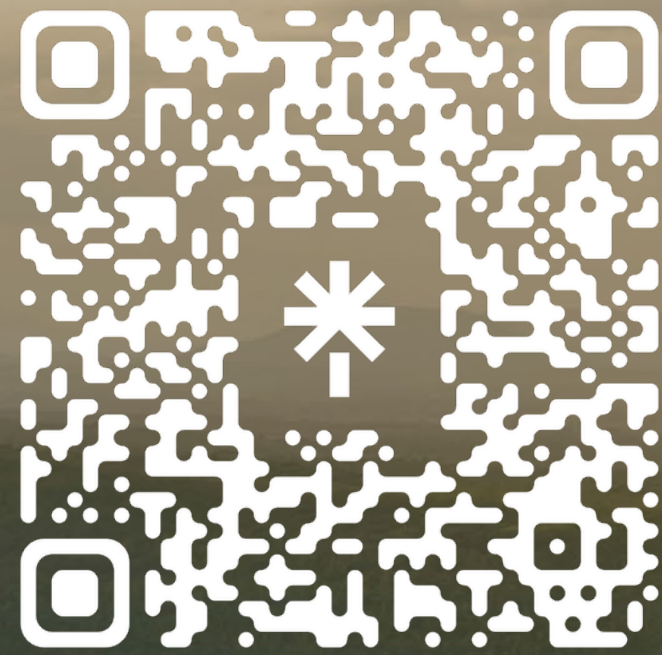


Opening Remarks



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Christopher Moss



Celia Reynolds



Case Law Update

CASES

- *Greenfields (IOW) Ltd v Isle of Wight Council* [2025] EWCA Civ 488
- *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government* [2026] EWHC 51
- *R (oao Save Wimbledon Park Ltd) v Mayor of London* [2025] EWHC 1856
- *Keep Chiswell Green v Secretary of State for Housing, Communities and Local Government and Ors* [2025] EWCA Civ 958
- *CG Fry & Son Limited v Secretary of State for Housing, Communities and Local Government* [2025] UKSC 35
- *Wrotham Parish Council v Secretary of State for Housing, Communities and Local Government & Ors* [2026] EWHC 165 (Admin)

GREENFIELDS (IOW) LTD V ISLE OF WIGHT COUNCIL
[2025] EWCA CIV 488

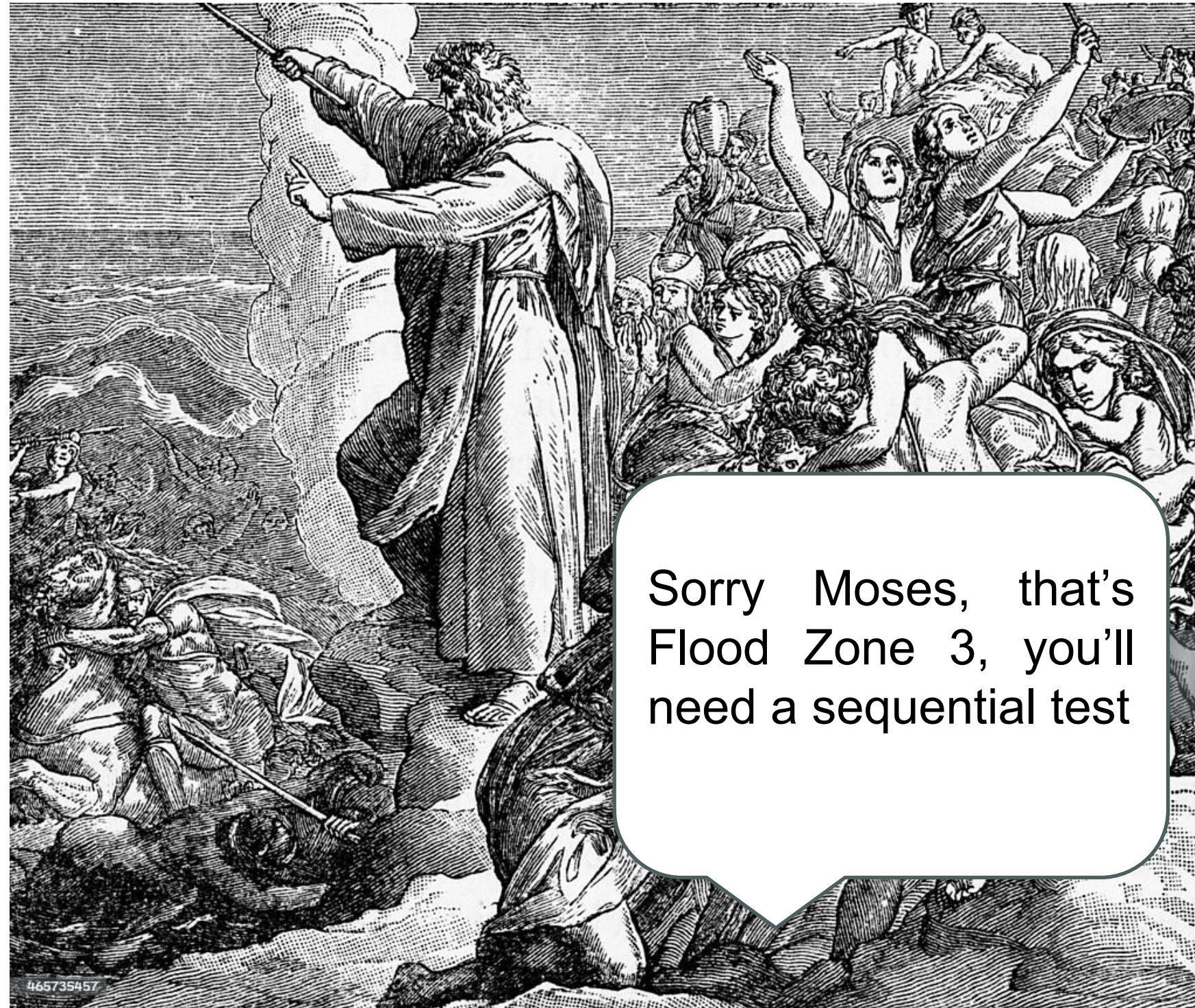
- Failure of the Council to publish the draft or final section 106 planning permission prior to the grant of planning permission.
- Judicial review brought on basis of the alleged breach of Article 40(3) TCP (Development Management Procedure) England Order 2015
- The Council argued:
 - Inclusion of the Heads of Terms in the Officer's Report amounted to substantial compliance with that obligation;
 - No evidence the Appellant had ever requested the section 106 agreement, no prejudice;
 - Applying s. 31, SCA 1981, it is highly likely that the outcome would not have been substantially different

GREENFIELDS (IOW) LTD V ISLE OF WIGHT COUNCIL *[2025] EWCA CIV 488*

- The purpose of s. 40(3)(b) was to enable members of the public to know the terms of a proposed or agreed planning obligation and to enable them to comment on it. The planning authority had failed to comply with that obligation.
- It was not Parliament's intention that breach of any failure to comply with s. 40(3)(b) would always result in the invalidity of the decision taken. It was necessary to evaluate the consequences of non-compliance in each case.
- The overwhelming likelihood was that the appellant would have commented on the s.106 agreement before planning permission was granted.
- The evidence fell far short of demonstrating that the court could be satisfied that the outcome would not have been substantially different.

GLADMAN DEVELOPMENTS LTD V SSHCLG [2026]

EWHC 51



GLADMAN DEVELOPMENTS LTD V SSHCLG [2026]

EWHC 51

- Two linked appeals at Bailrigg Lane, Lancaster, including a proposal for up to 644 homes.
- Most of the site within Flood Zone 1, small area in Zones 2 and 3
- Inspector considered a Sequential Test was required, none was provided
- Inspector also accepted:
 - the development as proposed would not be at unacceptable risk of flooding;
 - the drainage strategy and associated works could deliver flood risk betterment, including reduced downstream flows; and
 - all other reasons for refusal had been resolved, leaving flood risk as the sole determinative issue.
- Appeals dismissed – failure to undertake a sequential test amounted to an overriding policy conflict

GLADMAN DEVELOPMENTS LTD V SSHCLG [2026]

EWHC 51

- Lieven J

- The Inspector had unlawfully treated the absence of a Sequential Test as fatal without carrying out a lawful and meaningful planning balance under s70(2) TCPA 1990 and s38(6) PCPA 2004

- [47]:

- *“There is no explanation as to why that departure outweighs the other material considerations, as would be required by s.70(2) TCPA and s.38(6) PCPA. There is no balancing of that departure from the Development Plan, with the other policies such as on the delivery of housing, which accord with the Development Plan. There is no explanation as to why it amounts to a “clear reason” on the facts of the particular case. As I read DL98 the Inspector’s approach is that once she has found something which is capable of being a “clear reason” she then thinks that she does not need to balance the other factors. That is a clear error of law.”*

R (OAO SAVE WIMBLEDON PARK LTD) V MAYOR OF LONDON [2025] EWHC 1856



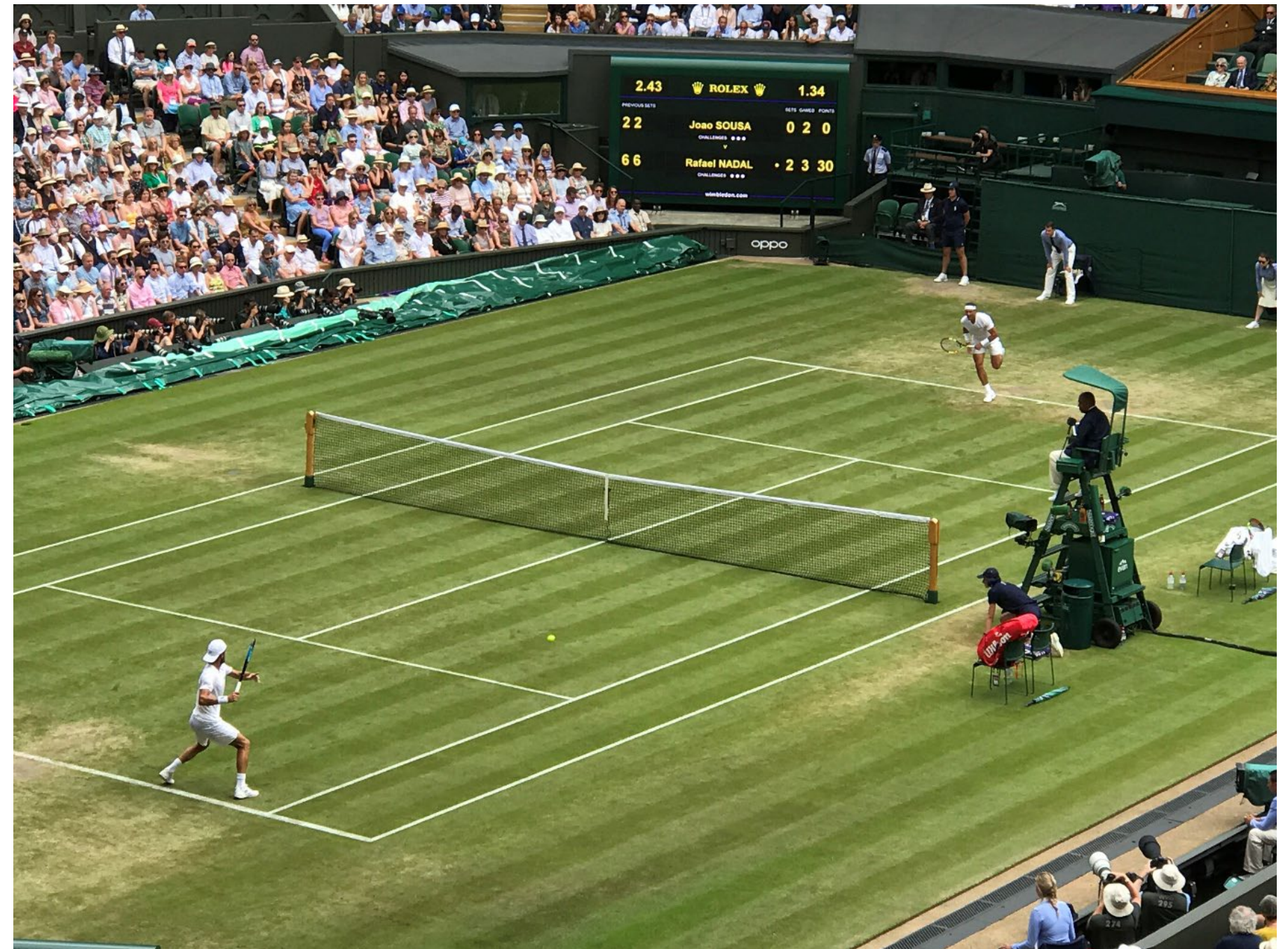
R (OAO SAVE WIMBLEDON PARK LTD) V MAYOR OF LONDON [2025] EWHC 1856

Restraints on Development

- (1) Possible statutory trust requiring land to be kept available for public recreational use
- (2) Existing restrictive covenants requiring it be kept open/ free from development.

Grounds

- (1) The deliverability of the scheme as a material consideration
- (2) Whether there had been deliberate neglect/ damage to the heritage asset



R (OAO SAVE WIMBLEDON PARK LTD) V MAYOR OF LONDON [2025] EWHC 1856



- **G1:** It would not ordinarily be a material consideration to the determination of a planning application that the applicant would, if granted PP, need to overcome legal obstacles to implement the development.
- Officers had rationally directed themselves that deliverability *could be* a material consideration, but that it was not a relevant consideration here. The implementation was not time sensitive.
- **G2:** No evidence of deliberate neglect or damage to the registered park and garden.

KEEP CHISWELL GREEN V SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT AND ORS [2025] EWCA CIV 958



- Applications for 2 residential developments in Chiswell Green, Hertfordshire
- Both refused by LPA
- Inquiry held in April – May 2023
- After closure of the inquiry but before the SoS' decision, the LPA published a green belt review
- None of the parties to the inquiry, including the Appellant, provided the Inspector with a copy of the review
- Inspector recommended approval, SoS accepted recommendation

KEEP CHISWELL GREEN V SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT AND ORS [2025] EWCA CIV 958



- Keep Chiswell Green applied for statutory review of the decision
- Principal ground of challenge was that the SoS had unlawfully failed to have regard to a mandatory material consideration - the Green Belt Review
- First instance, Lang J dismissed the claim:
 - the Claimant was not entitled to rely upon new evidence and grounds which it had not placed before the inspector or the Secretary of State
 - In any event, the review was not a mandatory material consideration

KEEP CHISWELL GREEN V SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT AND ORS [2025] EWCA CIV 958



- On appeal – Lewis LJ
 - Lang J wrong to find there was a “procedural bar” to considering the green belt review [76]
 - The relevant question was whether the new evidence was a material consideration that should obviously have been taken into account [78]
 - In assessing this it may be highly relevant if a party knew about the matter but decided to withhold it [72]
 - Nonetheless, the green belt review was not obviously material to the decision [83]-[89]
 - The main issue had been whether harm to the green belt had been outweighed, the review did not address this
 - The conclusions had not yet been adopted

CG FRY & SON LIMITED V SECRETARY OF STATE FOR HOUSING COMMUNITIES AND LOCAL GOVERNMENT

[2025] UKSC 35



- **2015:** Outline PP granted for major res. development in 8 phases
 - **2020:** NE raises excessive nutrients concerns
 - **2021:** LPA declines to discharge conditions.
- (1) Is an “appropriate assessment” required before an LPA discharges conditions?
- (2) The impact of subsequent policy changes on the grant of PP

CG FRY & SON LIMITED V SECRETARY OF STATE FOR HOUSING COMMUNITIES AND LOCAL GOVERNMENT

[2025] UKSC 35



- What does a developer get from the grant of outline planning permission?
- What powers do LPAs have after the grant of PP?
- When are assessments under the Habitats Regs required?

*CG FRY & SON LIMITED V SECRETARY OF STATE FOR
HOUSING COMMUNITIES AND LOCAL GOVERNMENT*
[2025] UKSC 35

- **[53-57]** The language of reg 63 is deliberately broad and the words “or other authorisation” naturally cover a decision to give approval for reserved matters or to discharge conditions.

“It is clear that the protective purpose of the Habitats Regulations and the precautionary principle would be defeated, rather than promoted and respected, if the Regulations are read as precluding any opportunity for an appropriate assessment to be carried out at a later stage in a multi-stage planning process, such as that in issue in the present proceedings, where the planning authority has for any reason (eg by oversight, misinterpretation of the law or being ignorant of relevant science or misunderstanding that science) failed to carry one out at the stage of assessing whether to grant outline planning permission.”

*CG FRY & SON LIMITED V SECRETARY OF STATE FOR
HOUSING COMMUNITIES AND LOCAL GOVERNMENT*
[2025] UKSC 35

- Once planning permission is granted there is a fundamental change in the legal position. The developer has acquired rights to develop land in accordance with the permission.
- The meaning of any conditions and the extent of developer's rights is determined at the time of grant of the outline permission.
- Any further sub-conditions imposed at the stage of reserved matters approvals must fall within the scope of the main conditions.
- The local authority does not have a general power of refusal in order to further some other purpose or policy, or revisit matters which had already been approved in principle at the outline stage.

WROTHAM PARISH COUNCIL V SECRETARY OF STATE FOR
HOUSING, COMMUNITIES AND LOCAL GOVERNMENT & ORS
[2026] EWHC 165 (ADMIN)



- Outline planning permission granted on appeal for the construction of a 24-hour truck stop within the Kent green belt and near to the Kent Downs National Landscape (KDNL)
- Inspector found "*limited and localised harm to the setting of the KDNL and no harm to the special characteristics of the views*"
- The Inspector concluded that the site was located on grey belt land.

WROTHAM PARISH COUNCIL V SECRETARY OF STATE FOR
HOUSING, COMMUNITIES AND LOCAL GOVERNMENT & ORS
[2026] EWHC 165 (ADMIN)



- Claimant sought statutory review of the grant of OPP
- Ground 1 was that the Inspector misinterpreted the definition of Grey Belt by focusing on whether footnote 7 policies would provide a strong reason for refusing the specific development under consideration
- The Claimant argued that “refusing or restricting development” refers to “land” generally, and not to land only specifically affected by “the” development.

WROTHAM PARISH COUNCIL V SECRETARY OF STATE FOR
HOUSING, COMMUNITIES AND LOCAL GOVERNMENT & ORS
[2026] EWHC 165 (ADMIN)



- Lieven J rejected this argument
- The Claimant's interpretation was a "highly linguistic analysis"
- Policy should not be interpreted as a statute or contract
- The Claimant's interpretation would be contrary to the purpose of the introduction of Grey Belt land
- Decision taking focusses on the application in question
- It would be an "odd and difficult" exercise to assess the impact of hypothetical developments on FN7 policies

QUESTIONS?



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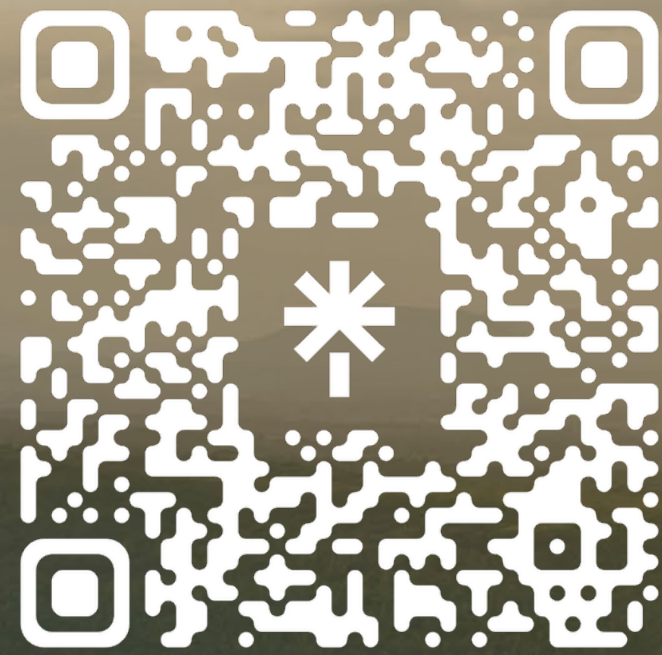
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Daniel Kozellko

The Planning and Infrastructure Act: A Legal Landmark?



BACKGROUND

Press release

Landmark Planning and Infrastructure Bill becomes law

The government's landmark Planning and Infrastructure Bill has received Royal Assent today.

From: [Ministry of Housing, Communities and Local Government](#), [The Rt Hon Steve Reed OBE MP](#), [Emma Hardy MP](#) and [The Rt Hon Rachel Reeves MP](#)

Published 18 December 2025



- Planning and Infrastructure Bill receives Royal Assent today, slashing delays and costs to get homes and critical infrastructure built faster
- Sweeping measures will accelerate reservoirs and prioritise electricity connections to drive growth, create high-paying jobs, and bolster homegrown clean energy
- New law at the heart of government plans to build 1.5 million homes and meet 150 decisions target on major infrastructure

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS: NPSS

- National Policy Statements must now be the subject of a “full review” every 5 years (s.1).
 - Historically, lethargic approach to review: e.g. NPS EN-1 (2011, 2023, 2025); NNNPS (2015, 2024).
 - Significant for nuclear: NPS EN-6 remains in its original 2011 version.
- Certain amendment to the NPSs are now easier to make: e.g. to reflect changes in other Government policy or to respond to court judgments (s.2).
- The Planning Act 2008 now extends to dams, reservoirs and other water works constructed by persons appointed by water undertakers (s.3).

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS: DCOS

- The statutory framework for bringing forward a DCO application will be relaxed (ss.5-7):
 - Removal of the statutory consultation process; guidance will fill the gap.
 - A power to accept applications with “corrective steps” rather than to refuse as not “satisfactory”. Covers (i) supplemental info; (ii) clarification; and (iii) limited changes.
- The legal framework to challenge DCO decisions has been streamlined (s.13).
 - A requirement that there only be an oral permission hearing on a JR. In advance of the Act becoming law this was implemented in CPR PD 54D para 3.7.
 - When the Court certifies a JR as “totally without merit” there is no right of appeal against that decision.

ELECTRICITY INFRASTRUCTURE

- Introduces a power to modify electricity licences and connection agreements for a fixed 3-year period (ss.14-17).
- Imposes an obligation on the Independent System Operator and Planner to have regard to strategic plans designated by the Secretary of State (s.18).
- Imposes a duty on the GEMA to produce a scheme to encourage the development and use of long duration electricity storage installations (s.26).
- Introduces “benefits for homes near electricity transmission projects” (s.27).

PLANNING DECISIONS

- Passes a power to LPAs to set their own planning fees (s.51), albeit with a power for the Secretary of State to add a surcharge to fees (s.52).
- Scope for regulations to require training of members of LPAs (s.53).
- Scope for a national scheme of delegation through regulations setting out specific requirements for delegation of functions, including to a sub-committee or (importantly) an officer (s.54).
- Extension of permissions to take into account legal challenges (s.56).

SPATIAL DEVELOPMENT STRATEGIES

- Section 58 provides for the reintroduction of regional planning through spatial strategies. Including, where there is not an appropriate body, strategic planning boards.
- The plan is to provide for strategic policies in relation to the strategy area, which are of “strategic importance”. Expressly includes infrastructure and housing (of all kinds including affordable housing).
- Awaiting regulations in 2026 with a consultation ongoing on areas. Plans not expected until 2028-2029.

ENVIRONMENTAL DELIVERY PLANS 1

- Part 3 of the PIA 2025. Plans prepared by Natural England and made by the Secretary of State which address planning effects on “environmental features” at a strategic level.
- The plans will:
 - Set out a type of development and an area to which the plan applies.
 - Identify the environmental features likely to be affected by that type of development.
 - Set out strategic conservation measures NE will take to protect those features.
 - Plan a “nature restoration levy” which developers may pay to address the effects.
 - Set out what obligations are discharged, disapplied or modified as a result of making the levy payment.

ENVIRONMENTAL DELIVERY PLANS 2

- This is intended to address, at a strategic level, effects on sites and species of the highest priority: SACs, SPAs, Ramsar Sites, and protected species.
- To be made, the Secretary of State must be satisfied that the plan will “contribute to an overall improvement in the conservation status of the identified environmental feature”.
- Importantly, the effect need not be local to the development; improvements may be elsewhere. So, a development may still cause local harm.
- Extends to disapplying Habitats Regulations, WCA 1981, granting licences

ENVIRONMENTAL DELIVERY PLANS 3

Annex A – EDPs for nutrient pollution

Catchment	Type of nutrient pollution
Peak District Dales SAC	Phosphorus
Poole Harbour SPA/Ramsar	Nitrogen
River Avon SAC	Phosphorus
River Axe SAC	Phosphorus
River Camel SAC	Phosphorus
River Clun SAC	Nitrogen and Phosphorus
River Eden SAC	Phosphorus
River Kent SAC	Phosphorus
River Lambourn SAC	Phosphorus
River Lugg SAC	Phosphorus
River Mease SAC	Phosphorus
Solent SAC/SPA/Ramsar (including River Itchen SAC)	Nitrogen (and Phosphorus for the River Itchen SAC)
Somerset Levels & Moors Ramsar	Phosphorus
Stodmarsh SAC/Ramsar	Nitrogen and Phosphorus
Teesmouth & Cleveland Coast SPA/Ramsar	Nitrogen
The Broads SAC/Ramsar (including River Wensum SAC)	Nitrogen and Phosphorus

- Natural England are preparing 16 EDPs for nutrient pollution.
- Also preparing 7 for Great Crested Newts. However, proposed areas currently extend to entire counties.
- Government statements indicate nutrient pollution will be the focus first.
- Query whether Natural England has the capacity to drive this forwards.

THINGS TO WATCH OUT FOR

- Have not addressed here changes to transport infrastructure, development corporations and compulsory purchase.
- The consultation guidance for NSIPs.
- New regulations to achieve EDPs and SDSs.
- The EDPs for nutrient pollution.
- Is the PIA 2025 the landmark? Or is it the incoming NPPF?

ANY QUESTIONS?

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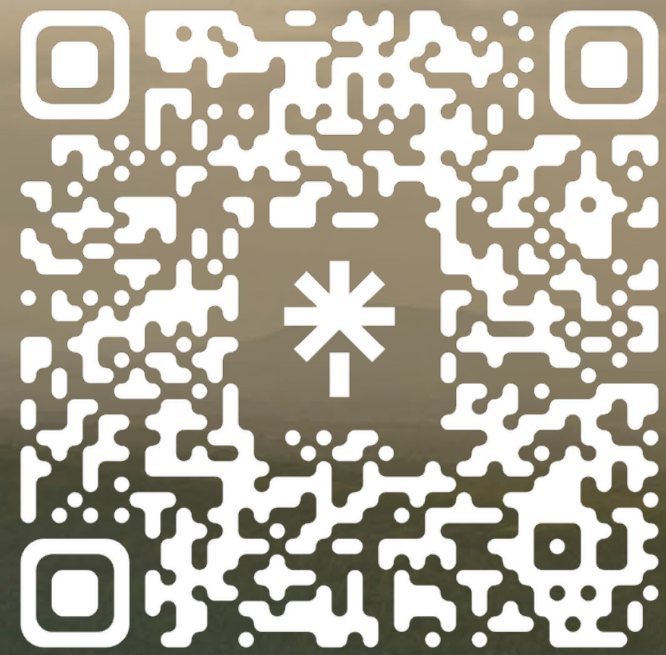
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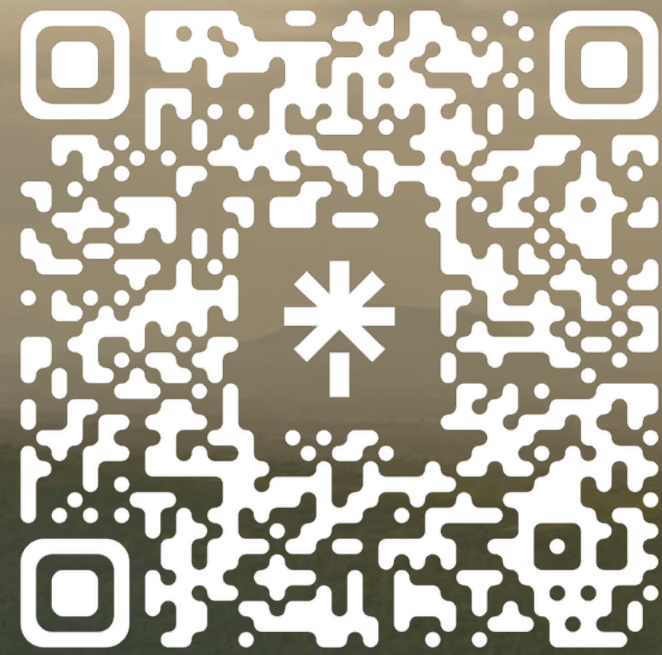
Coffee Break
See you at 11am.





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Celia Colquhoun



Ella Grodzinski



NPPF Updates

NPPF 2024 – NPPF 11 AND FOOTNOTE 7

- NPPF 11 (d) (i)
- *Monkhill - Monkhill Limited v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 7*
- *Wrotham Park - Wrotham Parish Council v Secretary of State for Housing, Communities and Local Government [2026] EWHC 165 (Admin)*

NPPF 11

- As part of the application of PFSD in plan making and decision taking NPPF 11 provides an **exception** at NPPF 11 (b) to meeting "*objectively assessed needs*" or to grant of permission at NPPF 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*".

Exception is

- "*the application of policies in this Framework [set out in Footnote 7] that protect areas or assets of particular importance provides a **strong reason**"
 - for restricting the overall scale, type or distribution of development in the plan area
 - reason for refusing the development proposed;*
- Prior to Dec 2024 this had to be a "clear reason"

FOOTNOTE 7 POLICIES

“... those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change”.

[Para 194 – same protection habitats sites for potential SPAs and possible SACs; listed or proposed Ramsars ; and sites identified, or required, as compensatory measures for adverse effects on habitats sites,

[FN 75 - Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

*MONKHILL LIMITED V SECRETARY OF STATE FOR
HOUSING, COMMUNITIES AND LOCAL GOVERNMENT
[2021]*

- Unsuccessful appeal re up to 29 dwellings in place of several existing buildings on the site, and for the change of use of Longdene House to provide a new dwelling.
- Most of the site was in the Surrey Hills AONB.
- Central issue whether NPPF 172 [now 189 and 190] "*great weight should be given to conserving and enhancing landscape and scenic beauty*" in an AONB and "*[p]lanning permission should be refused for major development*" in AONB "*other than in exceptional circumstances*" can be interpreted as a policy whose application is **capable** of providing "*a clear [now strong] reason for refusing*" planning permission under paragraph 11d)i of the NPPF ie whether FN7 was engaged if not major development

MONKHILL IN THE HIGH COURT – HOLGATE J

- 15 point [39] “meaning and effect” (and 8-point “practical summary” of NPPF 11 [45])
 - 5) *Where there are relevant development plan policies, but the most important for determining the application are out-of-date, planning permission should be granted (subject to section 38(6) [of the Planning and Compulsory Purchase Act 2004] unless either limb (i) or limb (ii) is satisfied;*
 - 6) *Because paragraph 11(d) states that planning permission should be granted unless the requirements of either alternative is met, it follows that if either limb (i) or limb (ii) is satisfied, the presumption in favour of sustainable development ceases to apply. The application of each limb is essentially a matter of planning judgment for the decision-maker;*
 - 7) *Where more than one “Footnote 6” policy is engaged, limb (i) is satisfied, and the presumption in favour of sustainable development overcome, where the individual or cumulative application of those policies produces a clear reason for refusal;*
 - ...
 - 10) *Under limb (i) the test is whether the application of one or more “Footnote 6 policies” provides a clear reason for refusing planning permission. The mere fact that such a policy is engaged is insufficient to satisfy limb (i). Whether or not limb (i) is met depends upon the outcome of applying the relevant “Footnote 6” policies (addressing the issue on paragraph 14 of NPPF 2012 which was ... resolved in [Barwood Strategic Land II LLP v East Staffordshire Borough Council [2017] EWCA Civ 893] at [22(2)]);*

MONKHILL IN THE HIGH COURT – HOLGATE J [CONT]

- 11) *Limb (i) is applied by taking into account only those factors which fall within the ambit of the relevant "Footnote 6" policy. Development plan policies and other policies of the NPPF are not to be taken into account in the application of limb (i) (see Footnote 6). ...*
- 12) *The application of some "Footnote 6" policies (e.g. Green Belt) requires all relevant planning considerations to be weighed in the balance. In those cases because the outcome of that assessment determines whether planning should be granted or refused, there is no justification for applying limb (ii) in addition to limb (i). ... ;*
- 13) *In other cases ..., the relevant "Footnote 6 policy" may not require all relevant considerations to be taken into account. For example, paragraph 196 of the NPPF requires the decision-maker to weigh only "the less than substantial harm" to a heritage asset against the "public benefits" of the proposal. Where the application of such a policy provides a clear reason for refusing planning permission, it is still necessary for the decision-maker to have regard to all other relevant considerations before determining the application or appeal (s. 70(2) of the 1990 Act and s. 38(6) of the 2004 Act). But that exercise must be carried out without applying the tilted balance in limb (ii), because the presumption in favour of granting permission has already been disapplied by the outcome of applying limb (i). That is the consequence of the decision-making structure laid down in paragraph 11(d) of the NPPF;"*

MONKHILL IN THE COURT OF APPEAL – LINDBLOM LJ SPT

*“37. The “tilted balance”, or positive presumption, under paragraph 11(d)(ii) is not available in every case where there are “no relevant policies” of the development plan or the “most important policies” in the plan are “out-of-date”. It is deliberately disapplied in the situation provided for in paragraph 11(d)(i), where policies of the NPPF that “protect areas or assets of particular importance”—the footnote 6 policies—are engaged, applied and found to justify planning permission being withheld (see the first instance judgment in *Forest of Dean District Council v Secretary of State for Communities and Local Government* [2016] PTSR 1031, at para 28). Otherwise, the “tilted balance” could work against the protection afforded by those policies and undermine them. This would not only be hostile to the evident objective of the policy in paragraph 11(d)(i). It would also be inimical to the explicit strategy of the NPPF itself for “sustainable development”.*”

MONKHILL – LINDBLOM LJ SPT

- C's argument was that the application of a policy will only be capable of providing a "*clear reason for [refusal]*" if that policy itself provides that permission should, or should normally, be refused unless certain requirements or criteria are met, or if it provides for its own, self-contained balancing exercise.
- [25] Does not "*reflect an accurate understanding of the policies we are considering and the way in which those policies are intended to operate.*"
- [28] *The sense of the word "provides" in paragraph 11d)i is that the application of the policy in question yields a clear reason for refusal – in the decision-maker's view, as a matter of planning judgment (see paragraphs 51 to 53 and 63 of the judgment of Holgate J.). It is not that the policy itself contains some provision expressed in words one might expect to see in a local planning authority's decision notice. And I do not accept that a policy, when applied, can only provide a "clear reason for [refusal]" if it includes its own self-contained criteria or test, failure of which will be, or will normally be, fatal to the proposal"*

GREY BELT DEFINITION AND PPG ON FN77 AND GREY BELT:

- *Grey belt: For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. **'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.***
- *"How should the application of footnote 7 be considered when identifying land as grey belt?*
- *.... In reaching this judgment, **authorities should consider where areas of grey belt would be covered by or affect other designations in footnote 7. Where this is the case, it may only be possible to provisionally identify such land as grey belt in advance of more detailed specific proposals.**" [Paragraph: 006 Reference ID: 64-006-20250225]*

*WROTHAM PARISH COUNCIL V SECRETARY OF STATE FOR
HOUSING, COMMUNITIES AND LOCAL GOVERNMENT
[2026] EWHC 165 (ADMIN)*

- Successful planning appeal by Moto Hospitality - secure 24-hour truck stop facility for up to 197 HGVs and new access off A20.
- Green Belt and Kent Downs National Landscape ('KDNL') – 16 acres of farmland – heritage asset .
- NPPF 189 *“great weight to conserving and enhancing landscape and scenic beauty”* of NL [FN 7]; GB and 2 x heritage assets
- Challenge not to Inspector's conclusion that site passed (a)(b) (d)'Grey Belt' test but to the application of FN7 and NPPF 11-

WROTHAM PARISH COUNCIL

- Lieven J:
- *“45. The Claimant submits that the words of the Grey Belt definition focus entirely on the land and not on the particular development applied for...*
- *62. ... a highly linguistic analysis, which **essentially turns on the fact that the word "the" is not included at the end of the Grey Belt definition...** interpretation of policy is a matter for the Court, it should not be interpreted as if it were a statute or a contract.*
- *63. ... not convinced that the textual analysis points in the Claimant's favour. It is clear from the definition section of the NPPF that the Grey Belt concept applies to both plan-making and decision-taking... Decision-taking necessarily focuses on the application, and a decision-maker has a binary choice to either grant or refuse, albeit granting will include conditions. In decision-making a "strong reason for refusing... development" would naturally be expected to depend on what development was being applied for, rather than making a hypothetical assessment of the impact of any or all developments that could possibly come forward. Equally, the reference to "restricting development" is one that naturally falls within a plan-making process, where there might be a strong reason to restrict future development, or limit the forms of appropriate development on the site. That is going to be a site or land-based analysis for policy-making purposes. It will generally depend on the policymaker considering a range of different potential development types in order to decide whether and to what extent policy should "restrict" them.*

WROTHAM PARISH COUNCIL

Lieven J

64. *Without considering the **policy purpose** of the introduction of the Grey Belt, it would in my view be an odd and difficult exercise for a development control decision-maker to be trying to assess the impact of hypothetical developments on footnote 7 policies. For development control purposes the acceptability or otherwise of that impact will fundamentally turn on the impact of the development applied for. This is particularly clear with heritage and habitats impacts, where some developments might have minimal impact, while others provide a strong reason for refusal. It would be odd to require an LPA or Inspector to undertake that kind of hypothetical exercise....*
65. *The SoS's interpretation is strongly supported by the policy purpose of the introduction of the Grey Belt. That purpose, as set out in NPPF paragraph 155, is to **allow the release of Green Belt land where it does not strongly contribute to the purposes of the Green Belt**; and where there is no strong reason for refusal by reference to the important policy safeguards in footnote 7. It is obviously intended to lead to the release of some additional Green Belt land to meet development needs. It is a further exception to Green Belt policy, but that is not a reason to interpret the policy in a restrictive manner. The interpretative principle is to **consider the words in context and with regard to the policy purpose.***

OVER TO ELLA!

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2025 CONSULTATION DRAFT NPPF



Ministry of Housing,
Communities &
Local Government

National Planning Policy Framework **Plan-making and national decision-making policies**

December 2025

OVERVIEW: AIMS

- Consultation document sets out 'three principal objectives':
 - **Ensure national planning policy is accessible and understandable** for everyone who uses it;
 - **Establish a comprehensive suite of national policies on general planning matters which will apply across the country**, to avoid these matters being repeated or deviated from in locally-produced plans – in so doing helping to speed up their preparation and preventing an unnecessary increase of different standards that can complicate development; and
 - **Make the policy which it contains more 'rules-based' and certain**, and so more capable of supporting timely and consistent planning – especially in those places where development is most desirable, where national policy should provide for a default “yes” to the principle of development.

OVERVIEW: AIMS

- Consultation document, p.9:

“...to hard-wire a set of clear, more rules-based policies into the Framework. Changes which are designed to make planning policy easier to use, underpin the development of faster and simpler local plans, and be more directive of decision-making in support of both appropriate housing and commercial development...”

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RE-WORKED STRUCTURE OF CHAPTERS

4. Achieving sustainable development

The objective of the policies in this chapter is to meet development needs through sustainable patterns of development, including by maximising the potential for growth on suitable land within settlements, enabling development which will support the rural economy, rural communities and the provision of infrastructure, and limiting development away from settlements to help safeguard the intrinsic character and beauty of the countryside.

Plan-making policies

S1: Positive plan-making

1. The development plan should plan positively for future growth and change by:
 - a. Seeking to meet the development needs of their area as a minimum. For spatial development strategies, and for local plans where a spatial development strategy is not in place²², this means providing for objectively assessed needs for housing and other uses (including supporting infrastructure), as well as any needs that cannot be met within neighbouring areas, unless:
 - i. the application of the policies in this Framework that protect areas or assets of particular importance²³ provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or
 - ii. any adverse impacts of doing so would substantially outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
 - b. Providing for new development, and improvement of the environment, in a way which promotes a sustainable pattern of growth and seeks to mitigate climate change and adapt to its effects.

S2: Producing a spatial strategy

1. The development plan should set out a spatial strategy setting clear expectations for the location of development and where land should be protected or enhanced for specific purposes, by identifying at an appropriate scale:
 -
 -
 -

National decision-making policies

S3: Presumption in favour of sustainable development

1. Decisions on development proposals should apply a presumption in favour of sustainable development. This means:
 - a. Policy S4 in this Framework should be applied when considering development proposals within settlements;
 - b. Outside settlements, policy S5 should be applied; and
 - c. In all locations, development proposals that accord with an up-to-date development plan and also the decision-making policies in this Framework should be approved without delay.

S4: Principle of development within settlements

1. Development proposals within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework.
2. In applying policy S4, the circumstances in which the benefits of approving development are likely to be substantially outweighed by adverse effects include (but are not restricted to) situations where the development proposal would:
 - a. Have an unacceptable impact in relation to:
 - i. the allocation or safeguarding of land for particular uses in the development plan, unless there is no reasonable prospect of an application coming forward for the

KEY POLICY CHANGES

Consultation document, p.14-16

- 1. A permanent presumption in favour of suitably located development.** We want to make clear what forms of development are acceptable in principle in different locations as part of creating a more rules-based approach to development. For urban land, this approach takes forward parts of our 'brownfield passports' work and builds on the December 2024 Framework update, by making development of suitable land in urban areas acceptable by default. As part of this change, we are also proposing a revised presumption in favour of sustainable development, underpinning the way the new policies direct different forms of development to the most appropriate locations – in effect applying a permanent presumption in favour of suitably located development.
- 2. Building homes around stations.** We want to establish 'in principle' support – a "default yes" – for suitable proposals that develop land around rail stations within existing settlements, and around 'well-connected' train stations outside settlements, including on Green Belt land. We are also proposing a minimum density of 40 dwellings per hectare around all stations and 50 dwellings per hectare around 'well-connected' stations – maximising opportunities for sustainable development, making the most of high levels of connectivity, and improving access to jobs and services.
- 3. Driving urban and suburban densification.** We want to get the most use out of land in urban and suburban areas, including through the redevelopment of corner and other low density plots, upward extensions and infill development – including within residential curtilages. These changes will support higher density development in sustainable locations, with good access to services. We are also setting clear expectations that authorities should set minimum densities in well-connected locations, including around train stations and town centres, and support an overall increase in density within settlements.
- 4. Securing a diverse mix of homes.** We want to better support the needs of different groups through the planning system. This includes stronger support for rural social and affordable housing, and setting clearer expectations for accessible housing to meet the needs of older and disabled people. It also means providing more flexibility on the unit mix of housing for market sale, where local requirements have been met for the mix of affordable homes.
- 5. Supporting small and medium sites.** We want to make it easier to bring forward small sites, through clear support for the principle of development in different locations, the policies on building more densely in settlements and strengthened support for mixed tenure development. We are also introducing a category of 'medium development' (see Annex C of this consultation document), linked to a range of policy and regulatory easements, to support a more streamlined and proportionate planning system – including exploring further the potential benefits and drawbacks of enabling developers to discharge social and affordable housing requirements through cash contributions in lieu of direct delivery.
- 6. Streamlining local standards.** We want to promote certainty for applicants and speed up local plan production by limiting quantitative standards in development plans to only those specific issues where local variation is justified. We also want to limit duplication of matters which are covered by the Building Regulations – other than where there is the existing ability to use 'optional technical standards'.
- 7. Boosting local and regional economies.** We want to encourage economic growth by giving substantial weight to the benefits of supporting business growth, and to particular areas and sectors - including those named in the Industrial Strategy, AI Growth Zones, logistics, town centres and agricultural and rural development. We are also interested in views on whether the town centre sequential test should be removed, in order to allow greater flexibility to respond to changing patterns of demand.
- 8. Supporting critical and growth minerals.** We want to ensure that adequate provision is made for their extraction, recognising their economic importance. In parallel, and in view of the government's mission to achieve clean power by 2030, we want to restrict further the extraction of coal.
- 9. Embedding a vision-led approach to transport.** We want to further embed the changes made in December 2024, which signalled the importance of moving away from a 'predict and provide' approach to transport planning that can create unattractive environments dominated by cars.
- 10. Better addressing climate change.** We want to set out how decisions can take a proactive approach to both mitigation and adaptation in relation to climate change, in a way that links to other relevant policies in the draft Framework.
- 12. Taking a more positive approach to the use of heritage assets.** We want a clearer and more positive approach which can better support suitable heritage-related development, replacing the current policies that are difficult to navigate.

BACK TO AIMS

Consultation document, p.10 (emphasis added):

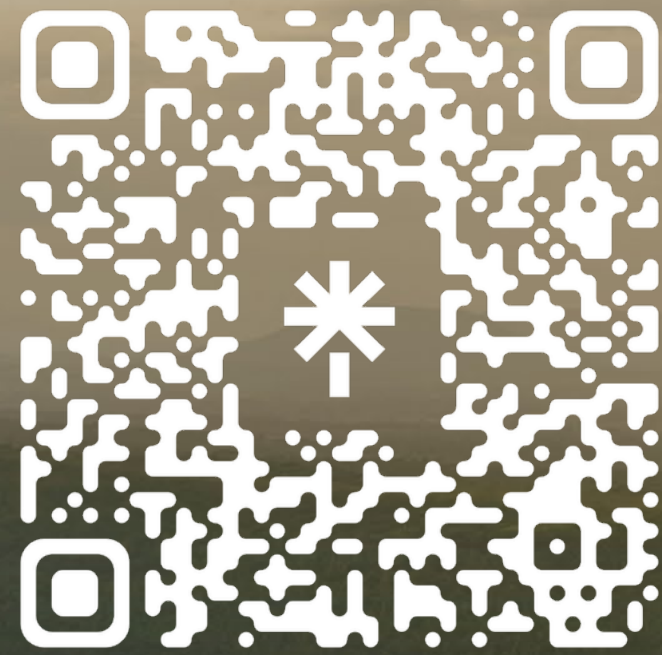
*“Taken together, these reforms represent a truly **seismic regearing** of the system – in support of growth, and through growth of hope and opportunity. We have pursued them at speed because they are a necessary condition for success. But while necessary, reform alone is not sufficient. If we are to achieve our goals, the system we have moved so rapidly to regear **must enter a period of stability over the second half of this Parliament and beyond**. One in which **every actor** – from government to local authorities to applicants – must seize the benefits of change by bringing a **laser like focus to delivery**.”*

THANK YOU!
ANY QUESTIONS?



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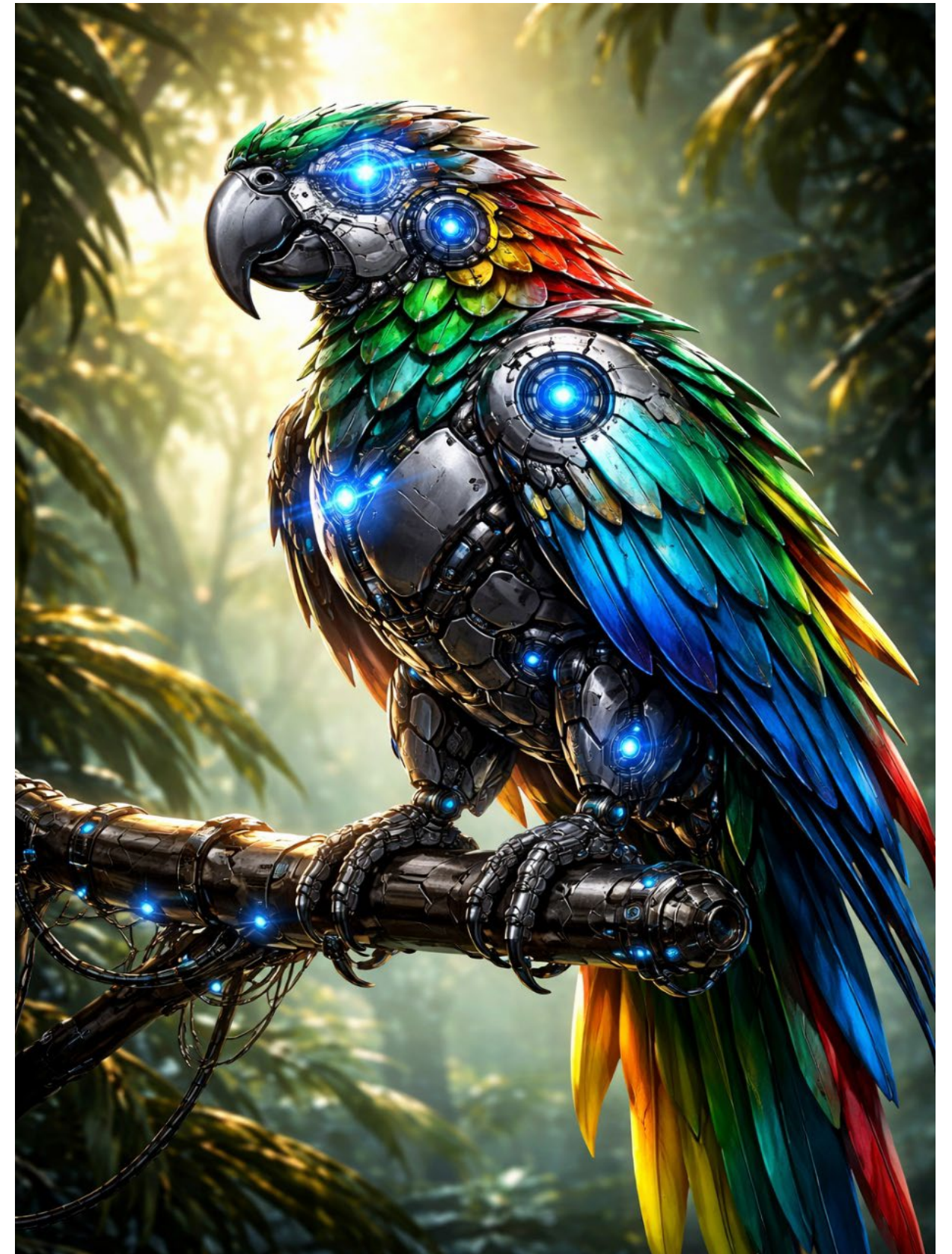
Sam Fowles



Artificial Intelligence in Planning

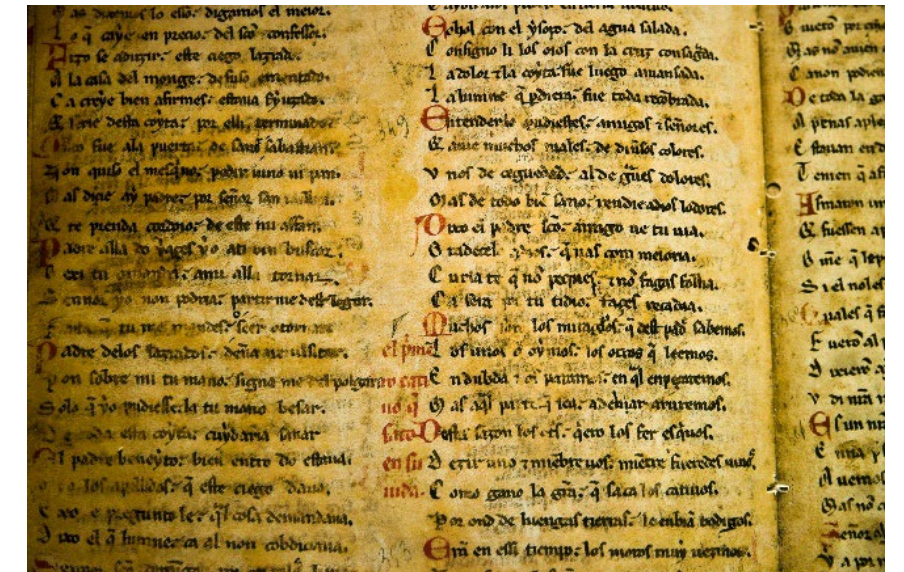
WHAT IS AI?

- Stochastic parrot
 - Probability models - makes decisions by working out how predictable it is.
- Cannot make a decision using reason, or empathy. Humans do not necessarily go with 'what is most likely?'
- Artificial, but not very intelligent.



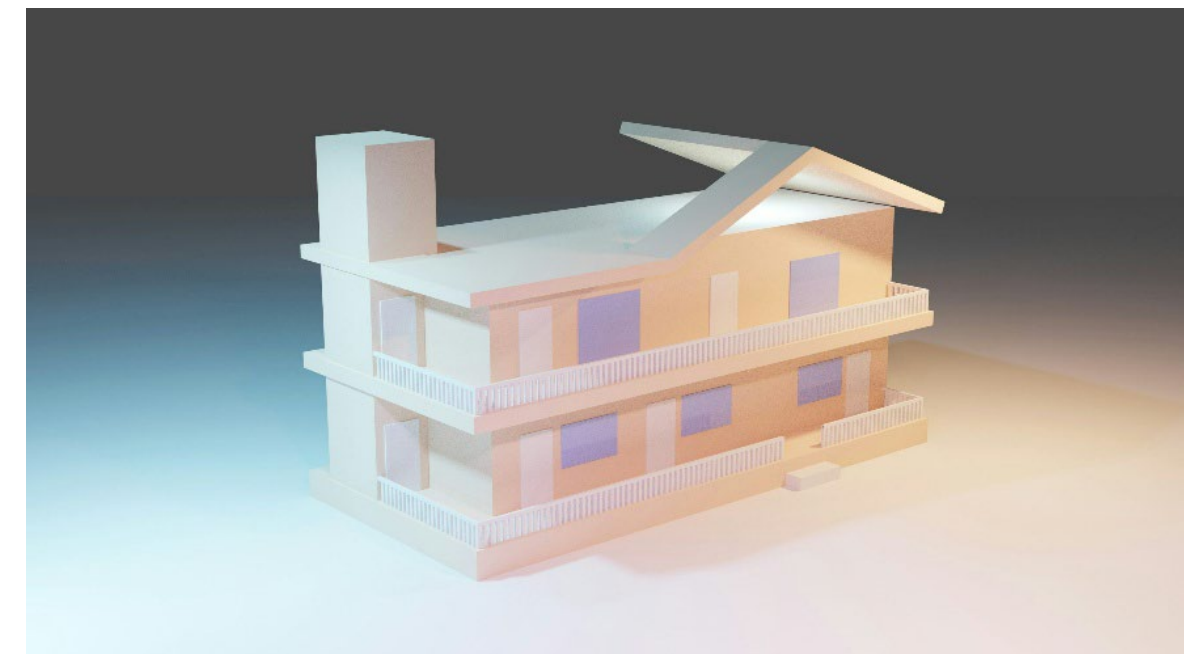
WHY PLANNING NEEDS MODERNISATION

- Rising application volumes and chronic backlogs.
- Inconsistent documentation.
- Public expectations for faster, more transparent decisions.
- Digitisation across planning.



HOW CAN AI BE USED IN PLANNING?

- Digitising documents
 - Standardising and digitising planning
 - Different mediums of documents
 - New AI tools such as *Extract* can convert these into structured, geospatially usable data in minutes, dramatically reducing manual processing time.
- Visualisation
 - Real-time models of neighbourhoods that show the impact of proposed developments on traffic, sunlight, drainage, and heritage.
 - Creating images of proposed planning.
 - Allowing images to interact with new information- e.g. what would something look like if we were to change



HOW CAN AI BE USED IN PLANNING? (CONT.)

- **Summarising data**
 - AI summarising consultation responses and officer reports.
- **Automated checks for completeness and policy alignment**
- **Predictive insights**
 - Identifying trends or predictions as to where and when to expect planning

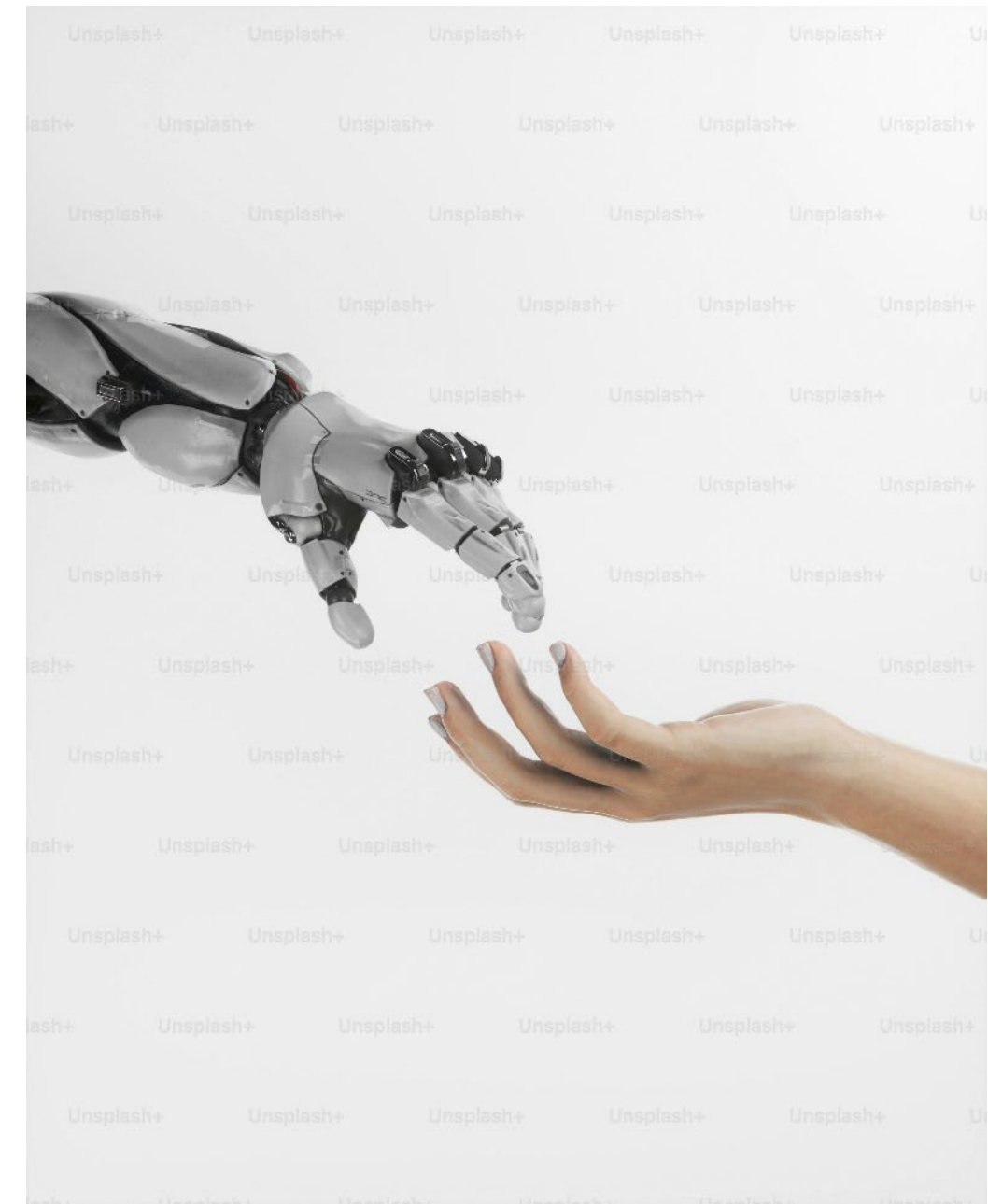
AI TOOLS IN PLANNING

- **Objector** – AI tool used for objecting to planning decisions.
- Similar: **Planning Objection**
- **Extract** – Government AI tool for digitising planning documents.
- **PlanAI**– summarises complex consultation documents
- **Agile Datum** – Alan Turing Institute data study on automatic detection of common mistakes in applications and identification of where the mistakes are.

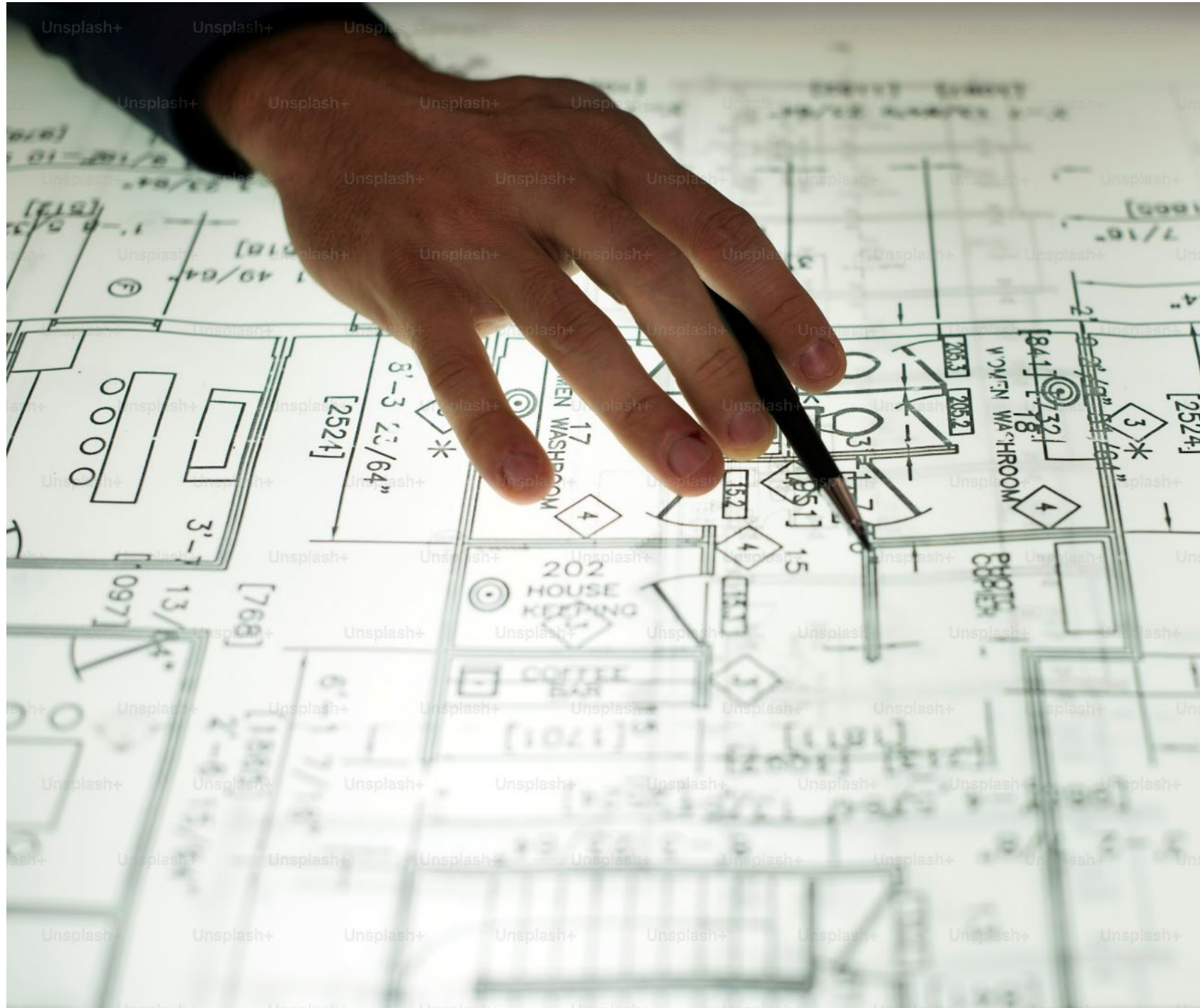


THE BENEFITS OF AI IN PLANNING

- Useful tool for dealing with high volume of information processing and shortfall in resources.
- Uniform system – standardising and digitising , standardising paperwork and maps. Can learn and process large amounts of data in short amount of time.
- Summarising information to benefit all parties
- Creating visualisations for parties



THE BENEFITS OF AI IN PLANNING (CONT.)



- **Analysis of planning data**
 - Can access lengthy sources over all digitised content.
- **Speed and efficiency**
 - Can lead to faster application processing and decisions.
- **Accessibility for applicants and objectors**
 - Clearer guidance, summary of information, and visualisation without need for expert's advice.

THE RISKS OF AI

- AI becoming the decision-maker
- Legal defensibility and accountability
- Must be supervised
 - AI predicts outcomes, even if they are not factually correct. More time may be spent checking than time saved.
 - Recent high court judgment on AI generated legal cases cited in proceedings.
- UK GDPR and satellite litigation



THE RISKS OF AI (CONT.)



- **Bias**
 - Does not necessarily make intelligent decisions or analysis – but probable ones
 - Based on historical data, not logic.
- **Over-reliance**
 - Can create lack of legal and procedural transparency if used to make decisions. Reasoning and logic cannot be scrutinised or explained.
 - Can lead to misuse and overuse by the public

THE FUTURE OF AI IN PLANNING



- Tool NOT decision-maker
 - AI should not be used to make decisions that should be made using professional judgment
 - Supervision of AI generated work
- Reduce in backlog, less strain on resources.
- New regulations for AI in planning
 - Clear boundaries on when and how AI can be used
 - Signposting where AI has been used

QUESTIONS



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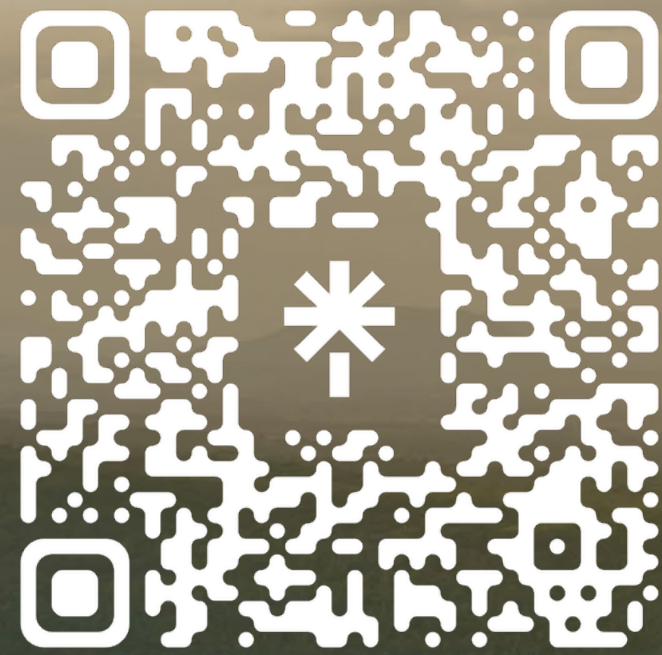
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Thomas Hill KC



Peter Village KC



Celina Colquhoun

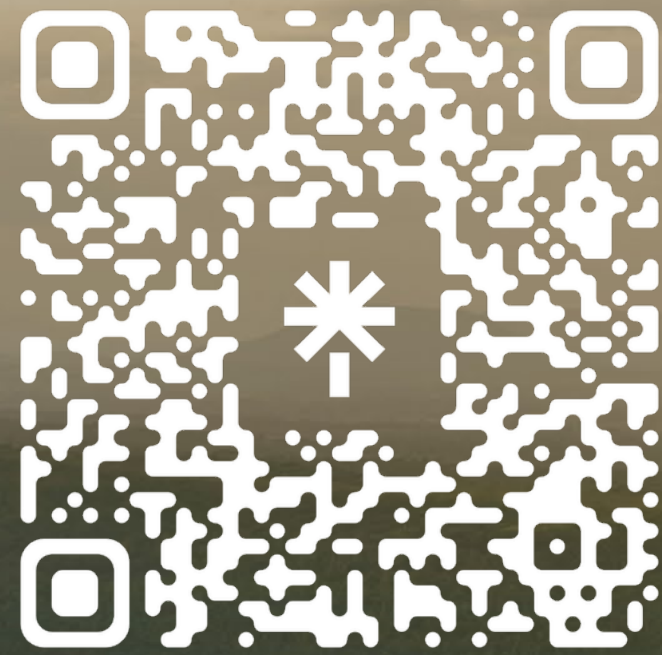


Panel Discussion



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Planning and Infrastructure Seminar 2026

Thank you for attending!

