

## Clerk

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**From:** Ian Mackie <Ian.Mackie@waverley.gov.uk>  
**Sent:** 28 November 2023 18:30  
**Subject:** News Release: High Court dismisses Local Plan challenge  
**Attachments:** Approved Judgment - House v Waverley BC and Anor[11].pdf

# News Release

## Issued by Waverley Borough Council

Date: Tuesday 28 November 2023

### High Court dismisses Local Plan challenge

Waverley Borough Council and The Secretary of State for Levelling Up, Housing and Communities have successfully defended a High Court challenge, which called for a statutory review of the adoption of Waverley's Local Plan Part 2.

Waverley Borough Council's Local Plan Part 2 was found 'sound' by an independent Planning Inspector and adopted in March this year but a formal legal challenge was launched by two residents of Milford.

A hearing was held at the High Court on 7 and 8 November 2023, at which the claimants asserted that the Planning Inspector appointed by the Secretary of State failed to consider whether it was sound to restrict the scope of the Waverley Local Plan Part 2 to be a "daughter document" to the Waverley Local Plan Part 1.

The claimants also contended that the Government's Planning Inspector misinterpreted the Local Plan Part 1, and that his conclusion that there was a reasonable prospect of varying or discharging a restrictive covenant was irrational.

On 28 November 2023, Judge Mrs Justice Lang DBE dismissed the claim for a statutory review of the Waverley Local Plan Part 2 on all three grounds.

In delivering her judgement, Mrs Justice Lang DBE stated that the Planning Inspector had considered the status and scope of the Waverley Local Plan Part 2 at length during public examination and that the matter had been adequately addressed in the Inspector's Report.

As the claimants were unsuccessful on all grounds of challenge, they will be liable for Waverley Borough Council's legal costs. The council was represented by Wayne Beglan and Jack Barber of Cornerstone Barristers.

Councillor Paul Follows, Leader of Waverley Borough Council, said:

"As the local planning authority, it is our job to ensure there are enough new homes to support future growth aspirations, and we must make difficult decisions about where this much needed new housing should be built.

"It is impossible for everyone to agree on the most suitable locations, but it's important to respect the legal processes that underpin our national planning laws.

"Appropriate legal challenges are a central mechanism for upholding justice and ensuring accountability, but they can also be used as a tool to disrupt and delay important work.

"Using 'hypercritical scrutiny', as the judge has described it in this case, of an Inspector's Report is not helpful. Our officers have been required to invest a great deal of time supporting the Planning Inspector

and defending our position in this case, time which would be much better spent serving our local communities.”

Councillor Liz Townsend, Waverley Borough Council Portfolio Holder for Planning and Economic Development, added:

“Our Local Plan Part 1 and Local Plan Part 2 have both been found ‘sound’ by an Independent Planning Inspector.

“The Claimant did not challenge anything Waverley Borough Council has done, the focus was purely on processes the Independent Inspector followed and the decisions he made when considering our Local Plan Part 2.

“We supported the Planning Inspector throughout this case and I’m pleased that the Judge has dismissed the challenge on all grounds. We can now focus on implementing the adopted Local Plan, which boosts the supply of new housing locally and helps protect the borough from speculative development and secure the necessary infrastructure to support growth.”

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