

**Challenge to  
Solihull  
Local Plan**

**DLP BRIEFING NOTE 188**

Prepared by  
**DLP Planning Ltd**

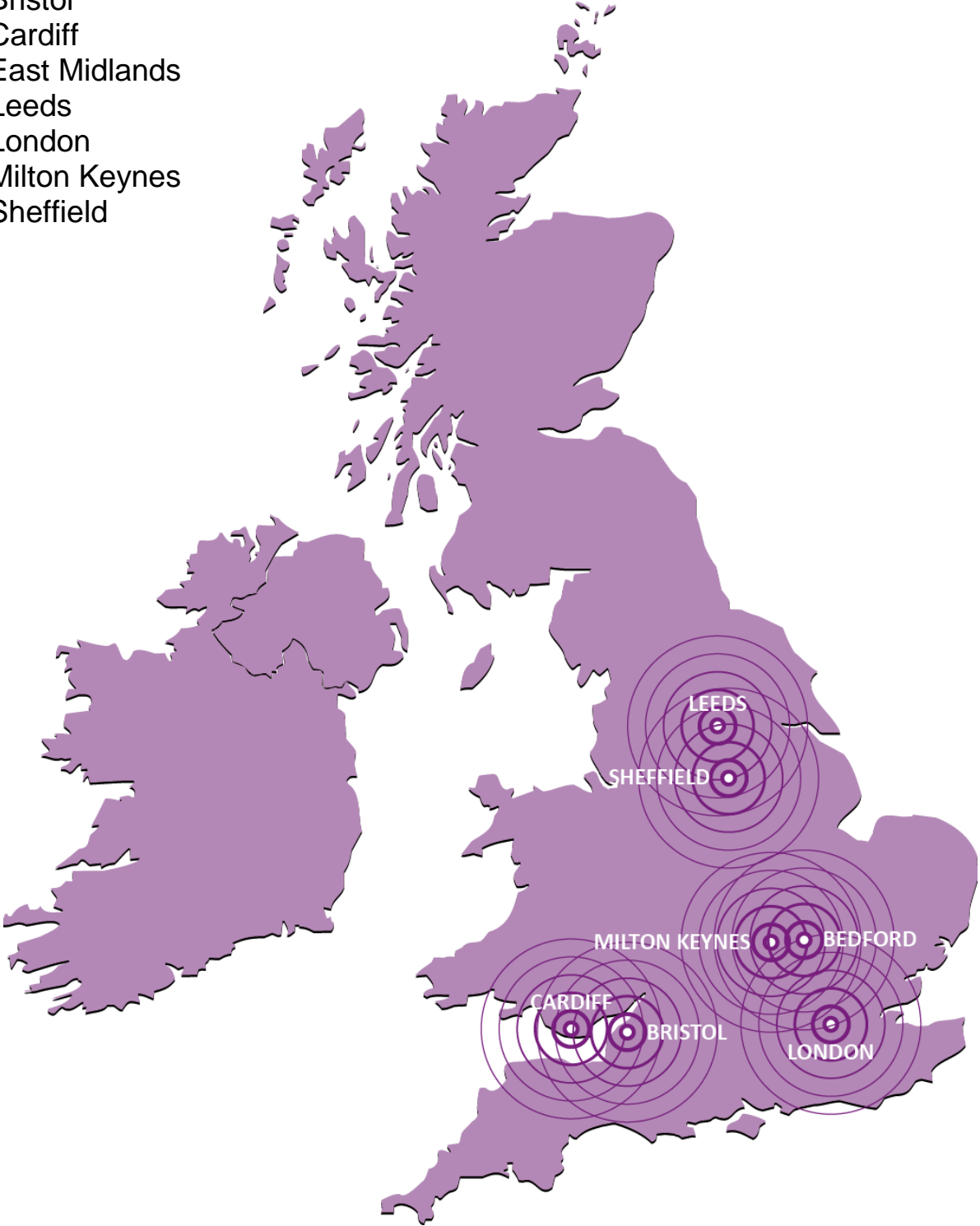
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The Court of Appeal has upheld an earlier High Court decision challenging the Solihull Local Plan. That challenge was brought in April 2014 by developers Gallagher Estates and Lioncourt Homes.

As ruled earlier this year, the High Court stated the Inspector's approach to the policy requirements of the Framework in relation to housing provision in the Local Plan had neither been correct or lawful. The Judge concluded that the Inspector had failed to identify the exceptional circumstances to justify modifying the Green Belt.

Gallagher Estates Limited and Lioncourt Homes Limited had jointly challenged the Solihull Local Plan, which was adopted in December 2013 following Examination and publication of the Inspector's Report. Both developers had proposed residential developments on sites which were added to the Green Belt in the Solihull Local Plan

The High Court Judge said that the full housing need required in Solihull had not been objectively assessed, as required by policy. The judge also said that the approach taken by the Inspector in relation to Green Belt boundaries was wrong in law, as far as they concerned the developers' two sites. Rather, the Local Plan Inspector had "*performed an exercise of simply balancing the various current policy factors, and, using his planning judgment, concluding that it was unlikely that either of these two sites would, under current policies, likely to be found suitable for development*".

Solihull MBC was subsequently granted permission to appeal the High Court decision but the Court of Appeal has now found and agreed that the Local Plan Inspector failed to identify exceptional circumstances to justify modifying Green Belt boundaries.

Furthermore, the Court of Appeal's judgment confirms that when authorities are preparing their Local Plans for Examination, a two-step approach must be undertaken.

1. The objectively assessed housing need must be identified,
2. A local authority can consider whether other Framework policies require a lower housing target to be set.


This represents a change from the approach under previous planning policy, which Court of Appeal Judge, Lord Justice Laws said "*was essentially the striking of a balance*".

It is clear from this decision that the preparation of Local Plan's cannot rely on the evidence they have prepared prior to the Framework coming into force and confirms the importance of undertaking an up to date assessment of housing need: Paragraph 47 of the Framework requires it.

#### **DLP Planning Ltd – Strategic Planning Research Unit**

Whether supporting a proposed allocation, or promoting an alternative allocation in an emerging Development Plan, it is essential that the case is supported by a robust assessment of the level of housing need for the plan period as demonstrated by the Appeal Court decision. The Framework requires that the overall level of need is assessed prior to any policy decisions regarding the impact of meeting that need in full. The Strategic Planning Research Unit is experienced at critically examining the evidence base for Local Plans and testing the assumptions prior to producing their own independent objective assessment of housing need.

A comprehensive review of demographic and associated evidence provided by the Strategic Planning Research Unit (SPRU), to provide an objective assessment of housing need, is an essential piece of evidence to demonstrate proposals are required to meeting an existing need. The output of this work can also provide guidance to the appropriate level of housing provision for calculating the five year land supply.



The SPRU has a proven track record of producing and presenting evidence on objectively assessed housing need and the economic benefit of housing development both at planning appeals and in Local Plan Examinations.

Members of the SPRU have experience of presenting their findings at Local Plan examinations and utilising the evidence base to argue for the appropriate level of housing within a district and the distribution of that housing.

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