



East Midlands
Councils

“Appeals”

15th January 2026



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Head of Planning
South Derbyshire District Council



Planning Appeals: A Housebuilders View!

East Midlands Councils CPD, 15th January 2026

Helen Dawkins, Area Planning Director – East and South Midlands

Miller Homes Ltd

Miller Homes was established in 1934 and is one of the UK's largest, privately owned national housebuilders.

Our purpose is to 'create great places where people and planet prosper'.



What do we think about Appeals?



- Necessary – but inefficient
- Delays
- Uncertainty
- Expensive

Why do we submit Appeals?

- Delivery targets to meet
- Delays in statutory consultee responses
- Landowner frustrations
- Political interferences



What would we prefer to do?



- Work collaboratively with LPA's
- Build good relationships/reputations with local residents
- Meet our housing delivery targets

- 'Loser Pays' System

Thank you.
Any questions?



Land Off Titford Road

Planning Appeal following refusal of permission

15 January 2026





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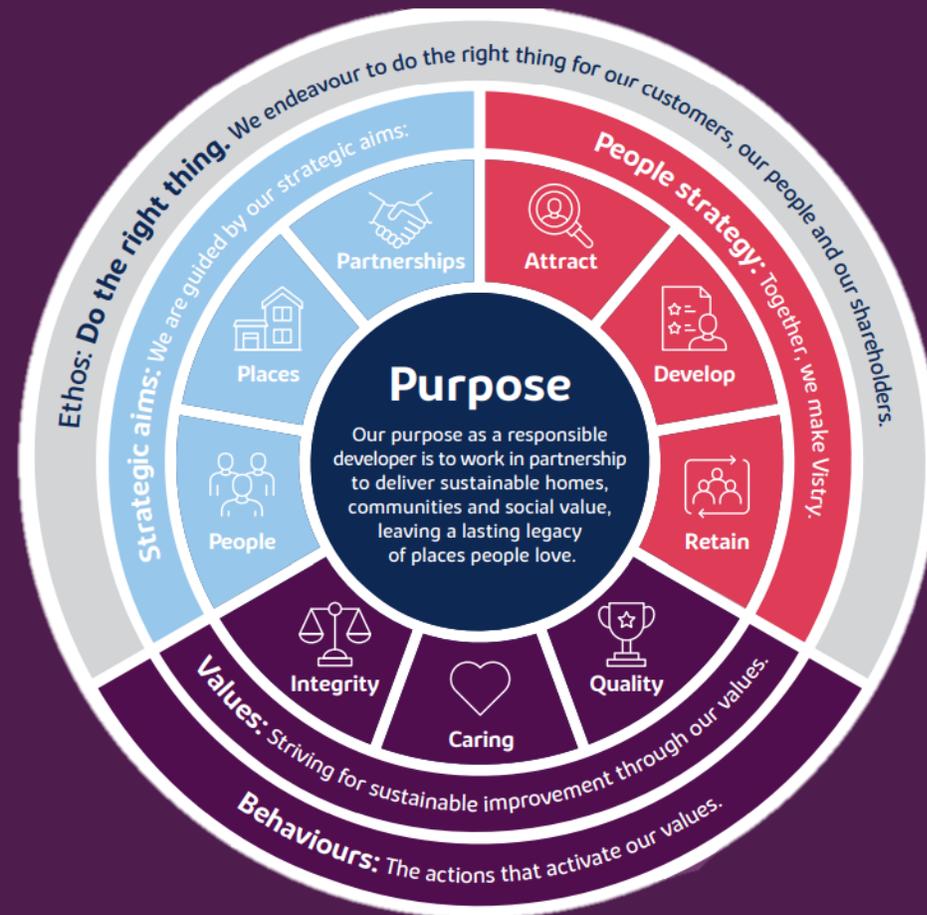
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Introduction to Vistry

Vistry Group

- Bovis, Linden, Countryside
- Market leader – mixed tenure
- Partnerships business
- Local Authorities, Government, housing associations, PRS providers

Sites ranging from 50 units to 2500+ mixed tenure/mixed use schemes.



Vistry Group

Site Context

- Site is situated in urban area of Oldbury,
- Surrounding uses ASDA, School and residential
- Previously vacant land covered in dense vegetation
- Site is in a highly sustainable location, near major road network, well served by public transport and in proximity to local centre and commercial uses.
- Allocated for employment



Vistry Group

Our Proposal

- 60 affordable dwellings
- Vehicular and pedestrian access from Tittford Road
- Pedestrian connectivity improved by new pedestrian footbridge
- The landscaping scheme includes a 10m stand off from the River Tame
- Site designation – employment
- Local Sites Assessment – not designated for nature conservation protection



Planning Application Process

Pre-app & Application

Pre-App

- Scheme initially comprised 62 dwellings but was amended to take address comments on:
 - urban design
 - highways
 - garden sizes, separation distances
 - access carriageway width
 - speed reduction measures
 - parking provision.

Milestone	Date Achieved
Pre-app	May 2023
Application (Validation)	20 December 2023
Determination / Committee	23 February 2024
Appeal Start	01 October 2024
Inspector Site Visit	19 March 2025
Appeal Decision	16 April 2025

Determination

- Council could not demonstrate 5-yhls
- Failure of Housing Delivery Test
- Officer support despite employment allocation (but windfall)
- Significant local objection for ecological reasons, known badger activity, dense vegetation
- EHO concerns around air quality
- Committee overturn

1. Poor Air Quality

- Acknowledged AQMA
- Essentially not for a developer to solve existing AQ issues
- Developer just needs to mitigate their impact

2. Ecology

- Trees do not attenuate noise
- Pre-BNG

3. Strain on Local Infrastructure

- Yes, increase in traffic movements
- Fallback position
- Test in NPPF severe adverse impact



In planning terms, we considered that the decision represented an unreasonable application of policy and a failure to properly apply the planning balance.

- The refusal was contrary to officer advice and unsupported by evidence
- National policy (NPPF) strongly supports sustainable housing delivery where housing supply is failing
- The scheme delivers substantial economic, social and environmental benefits
- All technical concerns had been addressed through amendments and conditions

The appeal identified several fundamental flaws in the Council's approach:

1. Air Quality

National air quality limits were met:

The submitted Air Quality Assessment shows PM2.5 levels well below the current legal limit of 20 µg/m³, and also below future targets.

Wrong benchmarks used:

The Council relied heavily on WHO guideline values, which:

- Are not part of UK planning policy
- Were explicitly rejected by Parliament during the passage of the Environment Act 2021

Misunderstanding of legal responsibility:

The duty to meet Environment Act air quality targets lies with the Secretary of State, not individual local planning authorities or developers.

Incorrect NPPF reference:

Paragraph 108(e) of the NPPF relates to transport and placemaking, not air quality, indicating an error in the decision-making process.

Overall, the Council imposed a higher and unlawful air quality standard that is not required by policy or legislation.

2. Ecology and Pollution

This reason for refusal is internally inconsistent and unsupported by evidence:

- The Council did not dispute the ecological surveys submitted
- The site is not designated and was assessed as not meeting criteria for local protection
- No objection was raised by Environmental Health on noise grounds
- There is no technical evidence that existing vegetation provides meaningful air quality or noise mitigation in this context

3. Highways

The highways reason is particularly weak because:

- The Highway Authority raised no objection
- The Transport Statement demonstrated that impacts would not be severe
- The NPPF sets a very high threshold for refusal on highways grounds

A refusal against explicit highways advice is difficult to defend at appeal without compelling contrary evidence, which is absent here.

Why did we decide to appeal?

Pros:

- * No 5YLS
- Failure of HDT
- Misapplied policy on Air Quality
- Failed to properly weigh benefits of housing delivery
- Failed to properly weigh the harm of the scheme, after mitigation
- Land not publicly accessible
- Resubmission would incur a fee
- Resubmission would be subject to 10% BNG

Cons:

Time delay

Appeals typically take 6–9 months (sometimes longer), delaying delivery of homes and investment.

Costs

- Appeals involve professional fees (planning consultants, legal input, technical witnesses).
- These costs can be significant and need to be considered proportionate to the development.

Relationship with the LPA

This could be jeopardised as a result of the process.

Costing

Type	Estimated Cost	Estimated Timeline	Comment
Inquiry	£200k +	40 weeks	Our preferred option given complex nature of the Air Quality Point
Hearing	£60-70k	26 weeks	Middle ground
Written Reps	£40-50k	22 weeks	Quicker, cheaper but no cross examination available (more junior Inspector)

Vistry
Group





Refreshments

Housing Supply Workshop

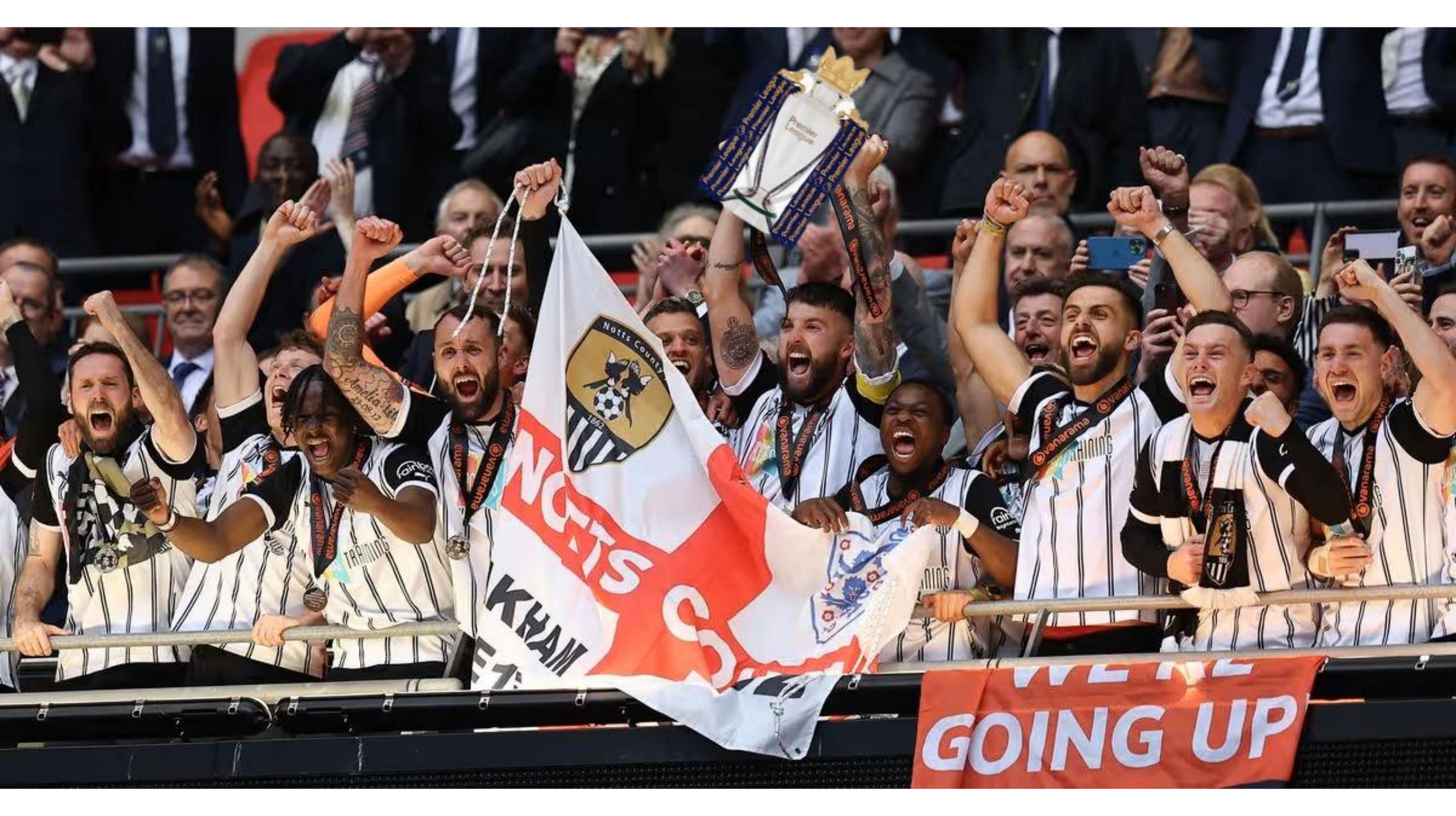
Steffan Saunders and Jess Clarke-Roome











WE'RE
GOING UP









Conclusion

- Main to do list
- Main not to do list
- Final takeaways

Close and Round Up





Lunch