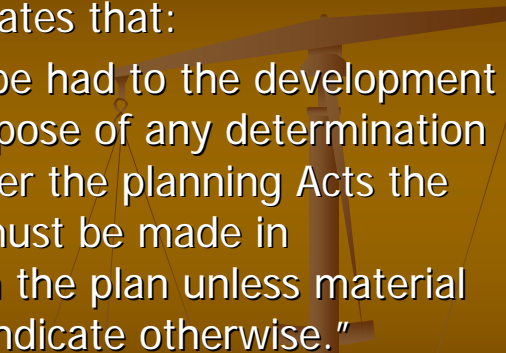


MATERIAL CONSIDERATIONS

A faint, stylized image of a pair of scales of justice is visible in the background of the slide, positioned behind the title text.

Section 38 of the Planning and Compulsory Purchase Act 2004

- Section 38(6) states that:
"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 
- A faint, stylized image of a pair of scales of justice is visible in the background of the slide, positioned behind the text.

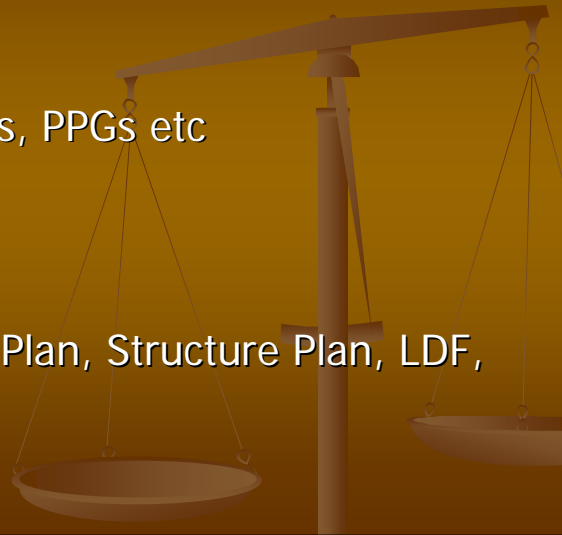
“Other material considerations”

■ POLICY

-National – PPSs, PPGs etc

-Regional - RSS

-Local - Local Plan, Structure Plan, LDF, SPDs



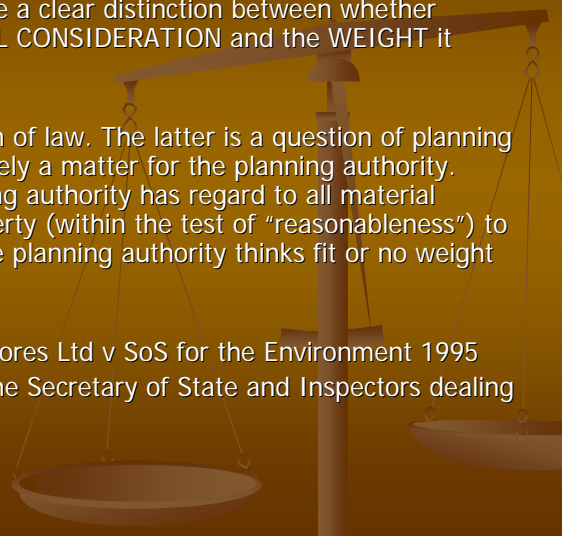
“Material considerations” and “Weight”

- The law has always made a clear distinction between whether something is a MATERIAL CONSIDERATION and the WEIGHT it should be given.

“The former is a question of law. The latter is a question of planning judgement which is entirely a matter for the planning authority. Provided that the planning authority has regard to all material considerations it is at liberty (within the test of “reasonableness”) to give whatever weight the planning authority thinks fit or no weight at all....”

Lord Hoffman – Tesco Stores Ltd v SoS for the Environment 1995

NB This also applies to the Secretary of State and Inspectors dealing with appeals



“Other material considerations”

- POLICY
 - National – PPSs, PPGs etc
 - Regional - RSS
 - Local - Local Plan, Structure Plan, LDF, SPDs
- Views of consultees
- Factors on the ground

Some factors “On the ground”

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">■ MATERIAL- Visual Impact- Privacy/Overbearing- Daylight/Sunlight- Noise, smell etc- Access/Traffic- Health and Safety- Ecology- Crime including fear of crime- Economic impact- Planning History- Related decisions- Cumulative impact- <i>Personal Factors (rarely)</i> | <ul style="list-style-type: none">■ NOT MATERIAL- The applicant- Land ownership- Private rights (eg access)- Restrictive covenants- Property value- Competition- Loss of View- “better” site or “better uses”- Change from a previous scheme- What will they do next |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|