Case No: C1/2020/____

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT (THE PLANNING COURT) (LANG J)
[2020] EWHC 1146 (Admin)

THE QUEEN
on the application of LOCHAILORT INVESTMENTS LIMITED

Appellant

-and-

MENDIP DISTRICT COUNCIL

Respondent

-and-

NORTON ST PHILIP PARISH COUNCIL

Interested Party

GROUNDS OF APPEAL

Compelling reason to be heard

1. The Local Green Space ("LGS") Policy 5 of the Norton St Philip Neighbourhood Plan ("NSPNP") fundamentally enlarges the constraint on development in the planning system. It imposes the most restrictive policy ever to have been approved by the Courts in a neighbourhood plan. If this policy is allowed to stand it will encourage development plans all through the country to impose more restrictive policies even than Green Belt. Green Belt designation was described by the Court of Appeal as sterilising land[1] except for a limited category of purposes and causing serious prejudice to a landowner. This LGS policy, sanctioned by Lang J, will have a considerably more sterilising effect on the designated land than a Green Belt designation would. Unlike Green Belt

[1] See *Carpets of Worth Ltd v Wyre Forest DC* (1991) 62 P & CR 334 at 345/6 per Purchas LJ.

policy, there are no categories of appropriate development exempt from it and no very special circumstances test exception.

Ground 1.

2. The judge erred in concluding that Policy 5 of the NSPNP is "consistent"[2] with policies for managing development in the Green Belt. The wording of Policy 5 is irreconcilable with Green Belt policy.

Ground 2.

3. The judge erred in concluding that the Council had given consideration to the policy requirement for designation of a LGS that they are "capable of enduring beyond the end of the plan period"[3] when she accepted that there was "an absence of any specific consideration as to whether these designations were capable of enduring beyond the end of the plan period"[4].

Ground 3.

4. The Judge was wrong to enlarge the presumption that an Inspector appointed by the Secretary of State will have understood the policy framework to a neighbourhood planning inspector who is appointed very differently. In any event the judge was wrong to say this presumption could make lawful failing to make any reference to a key policy requirement for LGS designation in the Respondent's reports, the examiner's report or anywhere in the evidence base. This is especially so when the local plan inspector, who certainly benefits from the presumption, had all the same evidence base before him and concluded that all the LGS designations should be deleted from the emerging Local Plan Part II.

[2] A requirement of paragraph 101 of the National Planning Policy Framework.
[3] Paragraph 99 of the National Planning Policy Framework.
[4] Judgment 163.

Ground 4.

5. The Respondent misunderstood its own strategic development plan policies when it took the Decision that the basic conditions were complied with which included the test that the NP was in general conformity with these strategic policies. The judge was wrong to hold that this error in law did not render the decision unlawful.