

LONDON BOROUGH OF RICHMOND UPON THAMES ADOPTION OF THE LOCAL PLAN – UPDATE ON LEGAL CHALLENGES

There have been two applications to the High Court for a statutory review (under s.113 of the Planning and Compulsory Purchase Act 2004) in respect of the adoption of the Local Plan.

One is in relation to the proposed **Other Open Land of Townscape Importance (OOLTI) boundary at St Michael's Convent (SA17)**. This application was brought by the owner, Beechcroft Developments Limited.

The Inspector's Report referenced amendments to the boundary of the OOLTI designation on the site (paragraph 140) but inadvertently failed to reflect this as a clear recommendation in the proposed main modifications. The adopted version of the Local Plan therefore does not reflect (and could not have reflected) the recommended modification to the OOLTI boundary on the site.

The parties agreed that this mistake amounts to a material error of law, including a failure to recommend all the main modifications needed to ensure the plan is sound. The Council, the Planning Inspectorate and the developer agreed that the developer's application to the Court should be allowed and the next steps in correcting the error were agreed in settlement of the proceedings. Beechcroft Developments Ltd sought to quash the OOLTI designation south of the footpath.

Following the agreement a Court Order (dated 20 December 2018) quashed the designation as Other Open Land of Townscape Importance (OOLTI) of the St Michael's Convent site (part of site allocation SA 17) in the Local Plan in respect of the southern part of the garden (south of, and including, the footpath running approximately west to east across the said garden). The Court Order requires the Council to publish this change as a proposed Main Modification to the submitted version of the Local Plan for public consultation, for a period of no less than six weeks. This consultation was undertaken 17 January to 1 March 2019.

Following the consultation the relevant documents, including the responses received, were sent to the Planning Inspectorate on 3 May 2019. The Planning Inspectorate has appointed Inspector Paul Griffiths BSc (Hons) BArch IHBC to consider whether or not to recommend a Main Modification to the OOLTI designation on the site, having regard to any consultation responses as well as the previous Inspector's conclusions on this issue.

The other statutory challenge is in relation to the **proposed Local Green Space designation at Udney Park Playing Fields**, brought by Mark Jopling (a member of the Friends of Udney Park Playing Fields).

The Inspector who conducted the original Examination in Public of the Council's Local Plan made clear in his final report that he did not consider the Local Green Space designation adequately justified. The challenge referred to above was in respect of an alleged lack of clarification in the proposed Main Modifications consultation (and accompanying sustainability appraisal) in respect of this.

The Council did not oppose the Claim but Quantum Teddington LLP (the developer) as a party to the proceedings being cited as an Interested Party resisted the claim. The Planning Court gave Mr Jopling leave to proceed with this statutory challenge and there was a court hearing on 16th and 17th January 2019, with the judgement issued on 8 February 2019 setting out the basis on which the challenge was successful.

A Court Order (dated 8 February 2019) reflecting the judgment quashed paragraph 5.2.8 in the Local Plan. This Court Order requires the Council to publish the Inspector's proposed change to paragraph 5.2.8 in the Publication Local Plan, together with an explanation of its effect in terms of it representing the proposed removal of the Local Green Space designation from Udney Park Playing Fields, and together with any sustainability appraisal, as a proposed Main Modification to the submitted version of the Local Plan for public consultation, for a period of six weeks. This consultation was undertaken 22 February to 5 April 2019. Note that this consultation only relates to Udney Park Playing Fields and it did not provide the opportunity to raise any other potential sites in the borough for designation as Local Green Space.

Following the consultation the relevant documents, including the responses received, were sent to the Planning Inspectorate on 21 June 2019. As indicated above the Planning Inspectorate has appointed Inspector Paul Griffiths BSc (Hons) BArch IHBC to consider whether or not to recommend a Main Modification to the Local Green Space designation of Udney Park Playing Fields, having regard to any representations made.

Date: 3 July 2019