

Approved by Ms Justice Legg
Rachel Ann Legg 19.12.18

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

CO/3223/2018

**IN THE MATTER OF THE APPLICATION UNDER SECTION 113 OF THE
PLANNING AND COMPULSORY PURCHASE ACT 2004**

BETWEEN:

BEECHCROFT DEVELOPMENTS LIMITED

Claimant

and

**(1) RICHMOND-UPON-THAMES LONDON BOROUGH COUNCIL
(2) SECRETARY OF STATE FOR HOUSING COMMUNITIES AND LOCAL
GOVERNMENT**

Defendants



CONSENT ORDER

Before _____ sitting in the at the Administrative Court, Queen's Bench
Division, Planning Court, High Court of Justice, The Strand, London WC2A 2LL

UPON reading the Claimant's Statement of Facts and Grounds, as well as the
supporting evidence

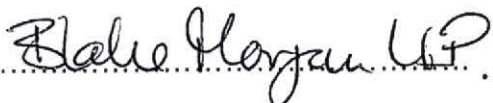
AND UPON reading the Statement of Reasons justifying the order as agreed

IT IS ORDERED BY CONSENT:-

1. That the application for permission to apply and the application pursuant to
section 113 of the Planning and Compulsory Purchase Act 2004 be allowed.

2. That the designation as Other Open Land of Townscape Importance of the St Michael's Convent site (part of site allocation SA 17) in the Richmond upon Thames Local Plan adopted on 3 July 2018 in respect of the southern part of the garden (south of, and including, the footpath running approximately west to east across the said garden, and shown outlined in red on the plan attached hereto) be quashed and remitted to the Second Defendant.
3. This change shall be published by the First Defendant as a proposed main modification to the submitted version of the Local Plan for public consultation within 4 weeks of this Order, for a period of no less than six weeks.
4. Following the public consultation pursuant to paragraph 3 above the Second Defendant shall appoint an independent examiner to consider whether or not to recommend a main modification to the OOLTI designation on the Site having regard to any representations made as well as his previous conclusions on this issue.
5. Upon receipt of that recommendation, the Council shall make any necessary amendments to the submitted Local Plan in respect of the OOLTI designation, and any consequential amendments to its Policies Map, in order to reflect the recommended main modification and adopt these accordingly.
6. The Claimant's costs, to be assessed by the Court if not agreed, shall be paid by the First Defendant and the Second Defendant in equal shares.

We consent to an order in the above terms.



On behalf of the Claimant

Blake Morgan LLP
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EC4A 3DJ

Jack Chapman
.....
Solicitor

On behalf of the First Defendant

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Saïr
.....

On behalf of the Second Defendant

Government Legal Department
One Kemble Street
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WC2B 4TS

By the Court

STATEMENT OF REASONS

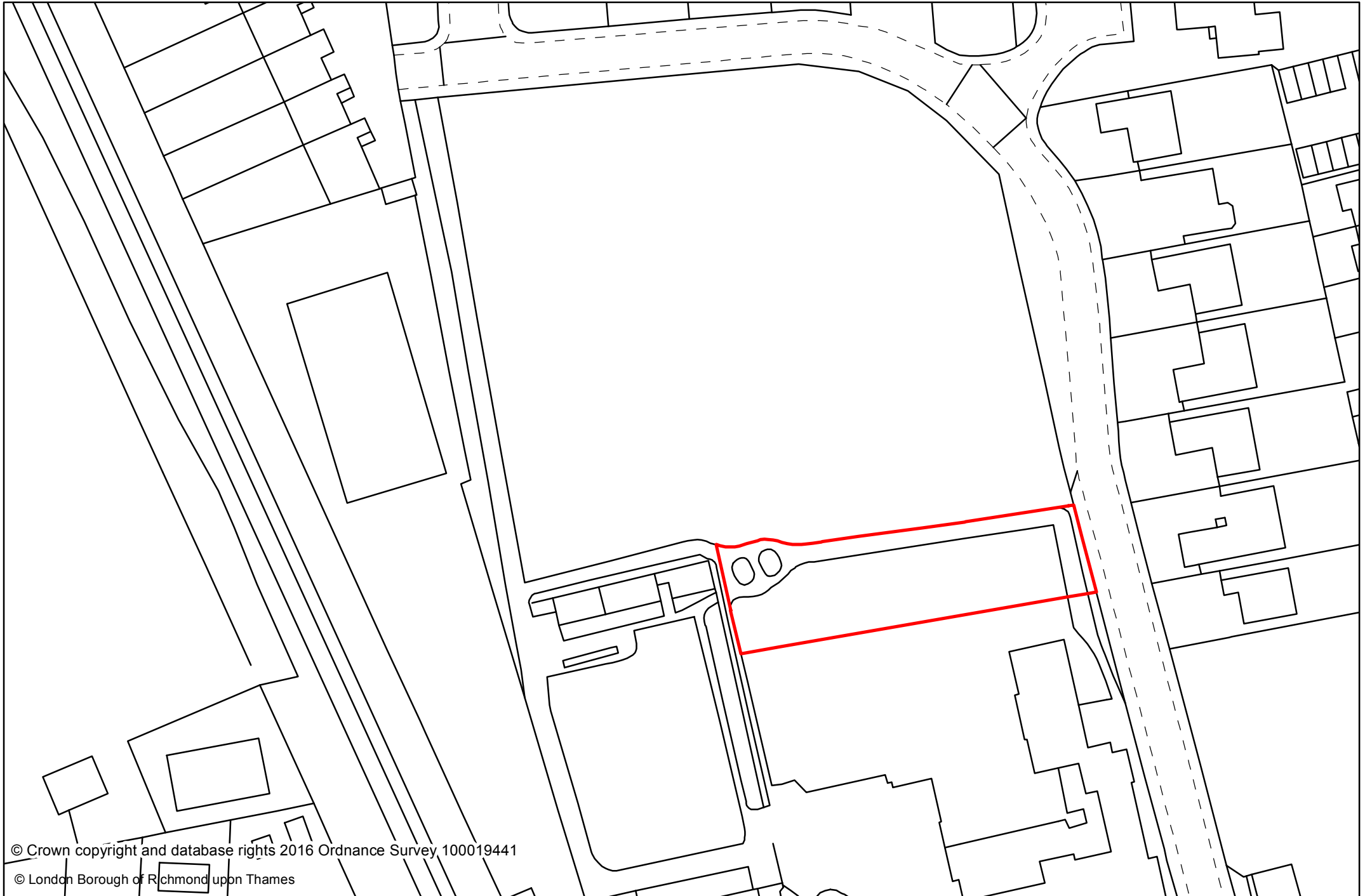
1. These proceedings concern a statutory review under s. 113 of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") in respect of the adoption by the First Defendant of its Local Plan.
2. The proceedings have a narrow focus, being the designation of, and boundary to, the Other Open Land of Townscape Importance ("OOLTI") designation on St Michael's Covent, Ham ("the Site") within the Richmond upon Thames Local Plan ("the Local Plan").
3. The publication version of the Local Plan had identified two specific local designations on part of the Site: OOLTI and Other Site of Nature Importance ("OSNI"). A plan was embedded within the Local Plan which illustrated the boundaries of these designations. The boundaries were conterminous.
4. In his examination report, the Inspector referenced amendments to the boundary of both the OOLTI and OSNI designations on the site.
5. The amendments to the OSNI designation became the subject of one of the Inspector's main modifications (MM23), and the adopted version of the Local Plan reflects this modification to the boundary of the OSNI designation on the Site (as the First Defendant was obliged to do if it wished to adopt the Local Plan).
6. In respect of OOLTI boundary, the Inspector said:

"Based upon the evidence provided, including my site inspection, the value of the gardens when assessed against the OOLTI criteria lie to the north of the former lawned areas and therefore should not include areas which lie open where more immediately adjacent to the buildings themselves and which are demarcated by an established footpath. The boundary should reflect this." (IR/140)
7. However, the Inspector inadvertently failed to reflect this as a clear recommendation in his proposed main modifications. Accordingly the adopted

version of the Local Plan does not reflect the recommended modification to the OOLTI boundary on the Site.

8. The parties agree 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, as is required by section 20(5)(b) and 7C(b) of the PCPA 2004.
9. Given that the proposed modification of the OOLTI designation was not subject to a main modification consultation, the parties are agreed that the matter needs to be remitted, together with directions for action as specified.

The Subject Land



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