

Land and Planning Supplementary Comments in Relation to Matter 13

The LPA state in their written answers to Question 13.11 that three Local Green Space designations in made Neighbourhood Plans have been identified on the Policies Map but other Local Green Space designations in made Neighbourhood Plans have not been identified on the Policies Map. Unfortunately, the ones that have not been identified have not been named by the LPA so I can't check them against the ones that have. However, it is considered that this is an inconsistent and contradictory approach. In their rebuttal today, their reasoning behind the allocation of my client's land in the Local Plan despite the robust evidence based against it, was due to its allocation in the Crofton Park and Honor Oak Neighbourhood Plan (CPHON). The CPHON is full of errors but if one puts these aside, the Duncombe Hill/Brockley Rise land is allocated in it as Local Green Space. However, the Submission Version of the Local Plan being examined specifically allocates the land as Strategic Open Space which contradicts the LPA's only justification today. The Council's argument for this contradiction in their answers to Question 13.11 is that the other spaces in other Neighbourhood Plans did not meet the criteria for Strategic Open Space. Of course, this argument is fundamentally flawed as the land cannot be both a Local Green Space and a Strategic Open Space at the same time as Table 10.1 of the Submission Version of the Local Plan demonstrates. The evidence strongly demonstrates it should not be Strategic Open Space.

There is then the issue of unnecessary repetition. As eloquently put in the LPA's written answer paragraph 13.11.2, "*Decisions on planning applications will be using both the new Local Plan and adopted Neighbourhood Plan's , and any other material considerations. Therefore, there is no need to repeat designations such as Local Green Space covered in the Neighbourhood Plan on the Policies Map (PD02)*". I would wholly concur with this view and the LPA must be consistent on this point for all Local Green Spaces in made Neighbourhood Plans. Accordingly, for the Local Plan to be 'sound' all Local Green Spaces covered in made Neighbourhood Plans should be removed from the Local Plan and its Policies Map.

The suggestion/contention by the LPA today, contrary to their written view above, was that the Local Plan should be in conformity with Neighbourhood Plans but I can't find any legislation or national planning guidance to support this view. It only works in the reverse, i.e. that Neighbourhood Plans should be in general conformity with the Local Plan. Otherwise, you create a situation of double jeopardy where owners cannot ever reverse any wrong decisions (or illegal ones in my client's case) because if you follow the LPA's argument that they must repeat all land allocations in neighbourhood plans and then by law/national planning guidance when neighbourhood plans are reviewed they must repeat the allocations in the Local Plan; you end up with a vicious circle that can't be broken despite all the evidence to the contrary. This does not make any sense and it is vitally important to note that Neighbourhood Plans are not based upon the same robust evidence base that support Local Plans. Accordingly, the LPA's contention must be unsound.

As an aside, the point was made by the LPA that my client could have made a legal challenge to the Neighbourhood Plan. Despite the LPA not following the Regulations on making the Neighbourhood Plan, Counsel advised that legal challenges to Neighbourhood Plans are rarely successful because the challenge can only be made on a procedural point and not on the allocation of Local Green Space. Putting also the prohibitive costs of a legal challenge to one side, Counsel advised that the best remedy was via submissions upon the Regulation 19 Local Plan which we have since done.