

**Case Name:** *Lochailort Investments Ltd, R (On the Application Of) v Mendip District Council*  
[2020] EWCA Civ 1259 (02 October 2020)

**Full case:** [Click Here](#)

**Commentary:** The Court of Appeal considered whether the Norton St Philip Neighbourhood Plan (“the Plan”) – approved by the local planning authority Mendip District Council, setting out policies on the use and development of land in the neighbourhood, and forming part of the statutory development plan in accordance with which planning applications must be determined – contained lawful policies on development of ten parcels of land designated as Local Green Spaces (“LGSs”).

At first instance, the High Court had held that the Plan did so, following the Plan’s Examiner’s proper exercise of planning judgment and discretion as to whether the Plan should proceed having regard to national policy (specifically certain criteria in paragraph 100 of the National Planning Policy Framework). The Court of Appeal upheld the High Court’s ruling on this point, stressing that it is not the Court’s role to exercise planning judgment in the examiner’s stead, but to interpret planning policy as a question of law.

However, the Court of Appeal allowed the appeal on a different ground: that the Plan’s Policy 5 (stating: “Development on Local Green Spaces will only be permitted if it enhances the original use and reasons for the designation of the space”) was unlawful. This was on the basis that Policy 5, applying to LGSs once designated and in the absence of reasoned justification for it, is inconsistent with national planning policies for managing Green Belt development.

*Case summary prepared by George Morton Jack*