

Case Name: *CPRE Surrey & Anor v Waverley Borough Council & Ors* [2018] EWHC 2969 (Admin) (05 November 2018)

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Commentary: The claimants, CPRE Surrey and POW Campaign Limited (a local campaigning group) challenged under section 113 PCPA 2004 the adoption of certain policies of the Waverley Borough Council ("WBC") Local Plan Part 1. The relevant policies set out WBC's housing requiring and allocated a new settlement at Dunsfold Aerodrome for 2,600 homes, along with a design strategy for the new settlement. There was also a challenge under section 288 TCPA to the grant of planning permission following a call-in by the Secretary of State for the new settlement at the aerodrome following the adoption of the plan. The section 288 challenge was held to be parasitic on the section 113 challenge.

WBC's area is in the same housing market area ("HMA") as that for Guildford and Woking Borough Council ("Woking"). The examining inspector had found that it was appropriate for WBC's plan to accommodate a proportion of the unmet need of Woking. In assessing WBC's housing need, he had rejected the 2012 household projections in the Strategic Housing Market Assessment ("SHMA") for the HMA and instead used the government's 2014 projections which had recently been published at the time of the examination. However, the inspector did not carry out the same exercise in assessing whether Woking had sufficient housing need to require some of that unmet need to be met in WBC's area.

The claimants argued that the inspector had erred in law in not taking the correct approach to Woking's unmet need. By doing so, the claimants contended, the inspector had either taken into account an irrelevant consideration or adopted an unlawful inconsistent approach.

The judge rejected these arguments. She held that the inspector was not carrying out an examination of Woking's local plan and could not realistically have been expected to have all of the evidence necessary to determine Woking's housing requirement. Although about a section 78 inquiry, the judge held that Lindblom LJ's judgment in *Jelson v SSCLG* [2018] JPL 790 applied equally, or even more strongly, in this case.

The section 288 claim fell away on the basis of the failure of the section 113 claim.

Case summary prepared by Ricardo Gama