

Case Name: *Lochailort Investments Ltd, R (On the Application Of) v Mendip District Council*
[2019] EWHC 2633 (QB) (08 October 2019)

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Commentary: The High Court granted an interim injunction preventing the respondent local planning authority from holding a referendum on a neighbourhood plan pending a claim for judicial review seeking to quash the authority's decision that the plan meets the basic conditions.

The draft neighbourhood plan included a local green space designation which the applicant considered did not meet the basic conditions because the designation had failed to have regard to and failed to understand national policy on local green space in paras 99-101 of the National Planning Policy Framework. The judge applied the American Cyanamid principles, as modified in relation to public law cases, that in order for interim relief to be granted there must first be a serious question to be tried and the balance of convenience must lie in granting the relief.

The parties were in agreement that there was a serious question to be tried, but the local planning authority contended that the balance of convenience lay in refusing relief. The judge disagreed. Against the general principle that public authorities should be allowed to act in a manner which they consider to be in the public interest, the judge weighed the fact that the authority had not produced any evidence that prejudice would be caused by the granting of relief. On the contrary, she held, the status quo was preserved by not allowing the referendum to proceed as this would cause less confusion among the public than allowing the referendum to proceed before being quashed. Accordingly, the injunction was granted

Case summary prepared by Ricky Gama