

RTPI – Planning Law Update

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Environmental Impact Assessment - Screening

- R (Friends of Basildon Golf Course) v Basildon District Council [2010]
- R (Co-operative Group Limited) v Northumberland County Council [2010]
- Mageean v Secretary of State for Communities and Local Government [2010]
- R (Wye Valley Action Group) v Herefordshire County Council [2011]

Environmental Assessment and Demolition

- R (on the application of Save Britain's Heritage) v The Secretary of State for Communities and Local Government [2011]
- Planning permission required for demolition
- Potential for environmental impact assessment required for demolition

Town and Village Greens

- BDW Trading Limited v Spooner [2011]
 - Application as land as TVG July 2009
 - Planning permission granted June 2006
 - Council appropriated land
 - Appropriation trumped TVG
- DEFRA consulting on changes to registration system

Enforcement – dishonesty and nil use

- Welwyn Hatfield B.C v Secretary of State for Communities and Local Government [2011]
 - Issues:
 - Immunity applies only if change of use
 - Property laying empty does not amount to nil use
 - Deceit will impact on decision

Time Limits

- R (Buglife) v Medway Council [2011]
 - Three month JR period if matter of European Law
- R (on the application of McRae) v Hereford District Council
 - If non-EU issue then promptness applies

Breach of pre-development conditions

- Greyfort Properties v Secretary of State [2010]
 - Breach of pre-development condition amounts to unlawful implementation
- Condition must also go to heart of permission

Reasons for granting planning permission

- Telford Trustee Number 1 Limited v Telford and Wrekin Council [2011]
- Reasons must be given on a decision to approve
- Brief summary adequate to comply with this requirement
- Reference back to committee report

Procedural Impropriety

- R (Kerr) v Cambridge City Council
- Complainant registered his wish to speak at committee
- Was not included on the list
- If Council have procedures they must follow them
- Three month JR from date of decision rather than meeting

Temporary Permission

- Avon Estates Limited v Welsh Ministers [2011]
- Temporary permission with seasonal use condition
- Seasonal use continued but CLEUD on basis that condition no longer existed
- CLEUD should be granted



Mode of Appeal

- Ashley v Secretary of State [2011]
- Section 319A – Planning Inspectorate can determine procedure
- If expert evidence submitted issue is whether that evidence is controversial

Enforceability of Section 106 Agreement

- R (Millgate Development Limited) v Wokingham BC [2011]
- Section 106 submitted on appeal
- Inspector considered section 106 unnecessary but allowed appeal
- LPA sought to enforce agreement
- Court held obligation enforceable
- Lessons learnt?

Material Considerations

- Financial – HSF v Wolverhampton CC
- Health Concerns – R (Copeland) v Tower Hamlets LBC
- Racial – R (Harris) v Haringey LBC

Conclusion

- Lots of legal developments
- Likely to be more
- Think we are in for an exciting 12 months





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