

Oakley and the duty to give reasons

Breakfast seminar

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Landmark Chambers



R (oao Hawksworth Securities Plc) v Peterborough City Council [2016] EWHC 1870 (Admin)



- IP applied to refurbish and extend the main shopping centre (“the Queensgate scheme”):
 - Queensgate scheme included a cinema.
- Claimant applied for planning permission for a mixed use development on the North Westgate opportunity area site.
 - Relied on proposed cinema as an anchor.
 - Argued scheme not viable without cinema & only room for 1 cinema in Peterborough.
 - Claimant objected to IP’s application as it would prejudice C’s

Facts of *Hawksworth*



- Both applications considered at same committee meeting
- IP's application granted
- Then Claimant's application considered and also granted
- Claimant's 7th ground of challenge:

The reasons volunteered by the Committee for its decision to grant permission were inadequate because they did not identify what conclusions were reached on the principal controversial issue of prejudice to the Westgate scheme

Facts continued



- In particular the Claimant argued the reasons did not disclose;
- (1) whether C's evidence and the advice in the OR regarding likely prejudice to C's scheme were rejected or not;
- (2) if that evidence and advice was rejected, the basis for rejecting it;
- (3) if that evidence and advice was not rejected, whether the Committee concluded that the loss of the Westgate scheme was outweighed by the merits of the Queensgate scheme, and if so on what basis

Lang J's decision

- Article 35 DMPO does not contain a duty to give reasons for granting planning permission
- C argued the LPA had volunteered reasons in its committee minutes and their adequacy could be examined
- The standard of reasons to be applied to an LPA decision to grant planning permission differs from the standard applicable to Ministers or Inspectors giving decisions on appeal (***South Bucks v Porter No 2*** [2004] UKHL 33)

Lang J's decision



- A planning appeal is akin to adversarial proceedings and the decision-maker must give clear reasons for his conclusions on the principal controversial issues
- By contrast, an LPA is an administrative body deciding an individual application. It is not conducting a formal adjudication in a dispute and it is not required to give reasons for rejecting objectors' representations
- Where an LPA gives reasons for granting permission it only needs to summarise the main reasons for the decision briefly. It is not required to set out each step of its reasoning or those matters it accepts and those it rejects

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