Landmark Chambers

Welcome to Landmark Chambers' Planning High Court Challenges Annual Conference, Part 1

The recording of Alex Goodman, Richard Turney and Andrew Byass' talks may be accessed here.

The recording of Matthew Fraser's talk may be accessed here.

Your speakers today are…

Landmark Chambers

Tim Mould QC(Chair)

Alex Goodman

Topic:
Is Climate Change the New Weapon of Choice in Environmental JR?
Part 2

Richard Turney

Topic:
Habitats case law: review of the year

Your speakers today are…

Landmark Chambers

Andrew Byass

Topic:
Is climate change the new weapon of choice in planning and environmental JR? Plan B and its aftermath Part 1

Matthew Fraser

Topic:
SEA and EIA case law review of the year

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Is climate change the new weapon of choice in planning and environmental JR? Plan B and its aftermath Part 1

Andrew Byass

Introduction

- The ***Plan B*** [2020] EWCA Civ 214 decision
- Obviously material considerations
- Other infrastructure policy decisions
- Other obviously material contexts
- Going forward after the Supreme Court's decision
- Alex Goodman and Part 2 of this joint talk

The Plan B decision

- The argument: the Paris Agreement was so obviously material to the decision to designate the ANPS that it was irrational not to take it into account
- Recalls the three categories of consideration in R v Somerset County Council ex parte Fewings [1995] 1 WLR 1037 at 1049
- Divisional Court: found this point unarguable: [639] – [648]
- Court of Appeal: accepted the argument: [237]. It's reasoning however is very short
- Very different conclusions on the same issue; now to be resolved by the Supreme Court (hearing was early October; HAL appealed but the SST did not)

Obviously material considerations

- In the development management decision-making context see for example ***DLA Delivery Ltd*** [2018] P.T.S.R. 2063
- Case concerned the need to take account of previous decisions covering exactly the same issues
- Such a decision was obviously material in context
- What is obviously material essentially requires application of normal ***Wednesbury*** principles, i.e. the matter is ‘so obviously material’ when no reasonable person would have failed to take it into account

Other infrastructure policy decisions

- HS2; ***R (Packham) v SST*** [2020] EWCA Civ 1004
  - Two of same judges as in ***Plan B Earth***
  - On the facts of this matter, the Paris Agreement was not obviously material to the decision to proceed with HS2
- Road Investment Strategy 2 – current challenge on climate change grounds (similar arguments to ***Plan B Earth***)
- National Networks NPS – threatened challenge on climate change grounds (arguing that review of the NPS is required)
- Energy NPSs – current challenge on climate change grounds (arguing that review of the NPS is required)

Other obviously material contexts?

- Adoption of development plans?
- NPPF makes multiple reference to mitigating the effects of climate change (defined as "*Action to reduce the impact of human activity on the climate system, primarily through reducing greenhouse gas emissions*").
- See for example:
  - 8, the definition of sustainable development
  - 20, need for strategic policies to address climate change mitigation
  - 148, 149, planning system needing to support the transition to a low carbon future
- What more might be needed?

Climate change post the Supreme Court's decision

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- Judgment pending
- If the CoA's decision is upheld, can expect to see close scrutiny of infrastructure policy making
- If it is not, climate change issues are nonetheless here to stay
- Achieving net zero accepted by the government to require transformational change, the issue being the extent of the court's role in accelerating that change

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Is Climate Change the New Weapon of Choice in Environmental JR? Part 2

Alex Goodman

Climate Change: Judicial View of the Evidence

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The Divisional Court held in *Spurrier* [2020] PTSR 240 at §559:

"*(i) concentration of GHGs in the earth's atmosphere is directly linked to average global temperatures, (ii) the concentration of GHGs has been rising steadily —and, with it, mean global temperatures—since the start of the Industrial Revolution and (iii) the most abundant GHG, accounting for at least two thirds of all GHGs, is CO2 which is largely the product of burning fossil fuels. The increase in global temperature has resulted in (amongst other things) sea level change; a decline in glaciers, the Antarctic ice sheet and Arctic sea ice; alterations to various ecosystems; and in some areas a threat to food and water supplies. It is potentially catastrophic*."

Some Planning Legislation on Climate Change

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- Section 19(1A) of the Planning and Compulsory Purchase Act 2004 has for 12 years required local plans to contribute to the mitigation of climate change.

- Climate Change Act 2008 has committed to carbon budgets' established the committee on climate change; the Emissions Trading Scheme and other high-level policy interventions.

- Section 1 of the CCA 2008 set an emissions reductions target of 80% now increased to "netzero" : emissions of greenhouse gases being 100% lower than 1990 levels by 2050.

- Sections 5 and 10 of the Planning Act 2008- require NPSs to mitigate climate change.

Plan B Earth [2020] EWCA Civ 214
R (Packham) v SST [2020] EWCA Civ 1004

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- See Part 1 (Andrew Byass' talk)
- https://www.supremecourt.uk/cases/uksc-2020-0042.html

- *R (Packham) v SST* [2020] EWCA Civ 1004

This claim alleged that the government, when conducting a review of whether to proceed with HS2 had failed to take proper account of the Paris Agreement. The CoA held on the facts the government had neither ignored nor misunderstood its obligations in relation to Climate Change. See Andrew Byass' talk

R (ClientEarth) v SSBEIS [2020] JPL 1438

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ClientEarth applied under section 118 PA 2008 for judicial review of the decision by the Secretary of State to grant the application made by Drax Power Limited for a development consent order for a NSIP under the PA 2008 for the construction and operation of two gas-fired generating units situated at the existing Drax Power Station near Selby in North Yorkshire.

- SS had not erred in approach to a qualitative "need" for fossil fuels.
- Holgate J found that there was no possibility of challenging the merits of a NPS by way of a challenge to a development consent order under section 118 PA 2008.

R (Vince, Monbiot, Good Law Project) v SSBEIS

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Challenge to Energy National Policy Statements. Irrational and frustrates statute not to exercise power to review the 2011 statements in light of

a.The amendment to section 1 to the Climate Change Act 2008 so that the UK's *net carbon account for the year 2050 is now* required to be 100% lower than the 1990 baseline rather than 80% lower, the target on which the Energy NPSs were premised on 27 June 2019,

b.Developments in the latest scientific understanding as to the urgency and scale of action needed on climate change; the UK's revised international commitments to the global effort to reduce temperature rises under the Paris Agreement; and

c.the unanimous parliamentary declaration of a "climate emergency" on 1 May 2019.

Rolled Up Hearing in January 2021

R (McLennan) v Medway [2020] Env. L.R. 5

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A next-door neighbour objected to an extension on grounds it would overshadow his solar panels, compromising his contribution to renewable energy and mitigating climate change. The planning officers advised that was not a material consideration because it was a purely private interest. Lane J quashed the planning permission holding that mitigation of climate change was a material planning consideration pursuant to the local plan; the NRPF and section 19(1A) of the Planning and Compulsory Purchase Act 2004 (which requires the local plan as a whole to contribute to the mitigation of climate change) and the failure to have regard to it was in fact irrational in the *Wednesbury* sense.

R. (on the application of Stephenson) v Secretary of State for Housing, Communities and Local Government [2019] P.T.S.R. 2209

- Talk Fracking challenged the adoption of paragraph 209(a) of the NPPF
- Court held the government had failed to take into account scientific evidence put forward by the Claimant.
- Such evidence, submitted in relation to a consultation response was obviously material.

Cases in the Pipeline

- ***Dunne v SSCLG*** CO/ 2634 /2020
- This is an application under section 288 of the Town and Country Planning Act 1990 ("**TCPA**") challenging the decision of the Secretary of State for Communities, Housing and Local Government, communicated by a decision letter dated 16th June 2020 (the "**DL**"), to grant planning permission for development described as: "the installation of a synchronous gas-powered standby generation facility".
- Inspector found that there would be what he identified as harm from the development to mitigation of climate change, but he found that harm was expressly outweighed by for the sake of shorthand- the presumption in favour of fossil fuels in the NPSs.

Manston Airport DCO

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- Claim brought by a Ms Dawes to a Development Consent Order.
- Inspectors recommended consent not be granted, but Minister overruled.
- Claim contends that the Secretary of State's analysis of the need for the development was flawed, and that, the Secretary of State failed to discharge his duty to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline ("Net Zero"), under section 1 of the Climate Change Act 2008.
- Detailed ground of Resistance due on 16 November 2020
- Looks as though a hearing has been set for 16-17 February 2021.

R (Finch) v Surrey County Council CO/4441/2019

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- Due to be heard on 17 November 2020
- Claim seeking to quash the grant of planning permission to Horse Hill Developments Ltd for the retention and extension of a well site and the drilling of four new wells for the production of hydrocarbons. Friends of the Earth intervening.
- Claim concerns an apparently as yet unresolved point as to whether downstream GHG emissions from the oil produced by the development should be taken into account. The Claimant says that there was a patent defect in the Environmental Impact Assessment in failing to consider that. It relies- as to the materiality of these indirect effects on whether the effect is "*liable to result from the use and exploitation of the end product of works*": *Abraham v Wallonia* [2008] Env LR 32 at §43; *Ecologistas ev Accion-CODA v Ayuntamiento de Madrid* [2009] PTSR 458 ("***Ecologistas***") at §39 and *R (Squire) v Shropshire Council* [2019] Env LR 36 at §73ff.
- http://www.wealdactiongroup.org.uk/2020/10/friends-of-the-earth-join-horse-hill-jr/#:~:text=by%20Sarah%20Finch,Friends%20of%20the%20Earth%20and%20Government%20minister%20to,in%20Horse%20Hill%20judicial%20review&text=Sarah%20argues%20that%20the%20Council,deciding%20to%20grant%20planning%20permission

Plan B Earth 2

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- Proposes to bring a claim in the next few weeks which it is calling the *"Young People vs Government"* case.

- On behalf of three young co-claimants, Marina, Jerry and Ade, with family in Latin America, Ghana, Nigeria and the Caribbean, who will argue breaches of their rights under Article 2 & 8. They want the court to declare that what it calls a government *de facto* policy of disregarding its climate obligations in its financial interventions in response to COVID-19 is unlawful and commissions an actionable plan to comply with its obligations under the Human Rights Act 1998.

- A related case is the celebrated decision of the Supreme Court of the Netherlands which held that the state *is* responsible for excessive emissions, triggering positive emissions reduction obligations under ECHR articles 2 and 8 in *Urgenda* v *The State of the Netherlands* (20 December 2019}

Three More Pipeline Cases

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Oil and Gas Authority's Maximising Economic Recovery UK Strategy

- Proposed Challenge on hold pending a review (not yet issued)
- Challenge to Road Investment Strategy 2: permission granted in August by Lieven J: Road Strategy not thought through with regard to the climate. (see Andrew Byass talk)
- Friends of the Earth Challenge against the Chancellor, Department for International Trade and UK Export Finance to their use of taxpayer money to part fund a new Liquid Natural Gas mega-project in Mozambique :

- https://www.theguardian.com/business/2020/sep/07/legal-challenge-uk-1bn-grant-mozambique-gas-project ; https://www.energyvoice.com/oilandgas/africa/263818/mozambique-lng-uk-emissions/ ; https://friendsoftheearth.uk/climate-change/your-money-funding-fossil-fuel-projects

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SEA and EIA case law review of the year

Matthew Fraser

Cases to cover

Strategic Environmental Assessment ("SEA"):

- *Aireborough Neighbourhood Development Forum v Leeds City Council* [2020] EWHC 1461 (Admin)
- *R (Plan B Earth) v SST* [2020] PTSR 1446

Environmental Impact Assessment ("EIA"):

- *R (Haden) v Shropshire Council* [2020] EWHC 33 (Admin)
- *Kenyon v SSHCLG* [2020] JPL 1189
- *R (ClientEarth) v SSBEIS* [2020] JPL 1438
- *R (XSWFX) v Ealing LPC* [2020] EWHC 1485 (Admin)
- *R (Swire) v SSHCLG* [2020] Env LR 29
- *R (Packham) v SST* [2020] EWCA Civ 1004
- *Gathercole v Suffolk CC* [2020] EWCA Civ 1179
- *Girling v East Suffolk Council* [2020] EWHC 2579 (Admin)
- *London Historic Parks & Gardens Trust v SSHCLG* [2020] EWHC 2580 (Admin)

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SEA

Aireborough NDF v Leeds City Council [2020] EWHC 1461 (Admin)

- Challenge under s.113 PCPA 2004 to Leeds Site Allocations Plan
- The plan contained a number of Green Belt housing allocations justified on basis of exceptional circumstances including housing need.
- While the plan was being examined, a significantly lower housing requirement emerged using a new methodology.
- Did the Inspectors breach the SEA Regs by failing to consider and consult upon the “reasonable alternative” of suspending the plan?

Held: it was a “reasonable alternative”, but so obvious that no prejudice arose from the failure to consult (Claimant had made representations on it anyway), so even if the error had not occurred, the outcome would have been the same – so unlawful, but no relief granted: [126]-[130]. Plan quashed on other grounds.

R (Plan B Earth) v SST [2020] PTSR 1446

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- Challenge to National Policy Statement ("NPS") for a 3rd runway at Heathrow.
- Claimed breach of SEA Directive by failing to (a) give an outline of relationship between the NPS and other relevant plans/programmes, and (b) identify the characteristics of areas likely to be significantly affected.
- Separate claim that Paris Agreement was a relevant "environmental protection objective" at "international" level: SEA Directive, Annex I, para. (e).

Held: the court's approach to considering the compliance of an environmental report with the SEA Directive must reflect the breadth of the discretion given to a public authority in deciding what information is reasonably required, and should apply the *Wednesbury* irrationality standard of review. Applying that test, there was no breach of the SEA Directive re (a) & (b) above: [136]-[183]. But separate claim re: Paris Agreement upheld: [242]-[247].

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EIA

R (Haden) v Shropshire Council [2020] EWHC 33 (Admin)

- Judicial review claim against grant of planning permission for sand and gravel aggregate extraction in the Green Belt.
- Breach of EIA Regulations (reg. 3(4)) by failing to require a further hydrological assessment due to alleged significant effects on groundwater.

Held: read fairly, the local authority's officer's report indicated that it agreed with both the Environment Agency and the applicant that there would be no likely significant effects on groundwater. Given the agreement of the EA, expected to be competent on EIA matters, it was rational for the local authority to have concluded no likely significant effects. The court drew a distinction between a consultee like the EA "questioning levels of assurance, which would not necessarily lead to an objection" and a conclusion of likely significant adverse effects: [39]-[42].

Kenyon v SSHCLG [2020] JPL 1189

- Judicial review claim of a screening direction that residential development of less than 150 homes (near an AQMA) was not "EIA development".
- High Court dismissed claim that SSHCLG had failed to consider the cumulative effects of the proposal taken together with other sites. Appeal to the Court of Appeal on wide ranging grounds.

Held: Appeal dismissed. References to material not available at time of screening direction should be ignored. Coulson LJ at [2]: "*I wondered if the most important point to arise from the appeal hearing was the need to ensure that appeals in cases of this kind do not become another weary trot around a well-worn course*". The reasons in the screening direction, albeit brief, were rational and adequate in view of the non-complex or borderline nature of the case, including on the issue of cumulative effects: [43]-[62], [84]. Precautionary principle only relevant where there is "reasonable doubt": not here [63]-[70].

R (ClientEarth) v SSBEIS [2020] JPL 1438

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- Challenge to the grant of a DCO for the construction and operation of two gas-fired generating units at Drax Power Station.
- Grounds inc. breach of Infrastructure Planning (EIA) Regs 2017 regs. 21 & 30 due to failure to consider imposing monitoring measures re: GHG emissions and other matters.

Held: no specific duty to give reasons re: monitoring, and nobody had suggested GHG emissions monitoring during the DCO examination, which was unsurprising given the need to obtain a GHG Permit from the EA under the GHG Emissions Trading Scheme Regs 2012, which would enable GHG emissions to be separately monitored and controlled. Anti-duplication provision in reg. 21(3)(c). No breach of reg. 21 – even if there had been, no prejudice. [198]-[221].

R (XSWFX) v Ealing LPC [2020] EWHC 1485 (Admin)

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- Judicial review claim against discharge of ecological pre-commencement conditions for redevelopment of Warren Farm (MOL in West London) as training facility for Queens Park Rangers football club, alleging failure to consider whether EIA required. The original grant of PP had not had an EIA.

Held (permission decision only): Requirement to screen for EIA applies to "subsequent applications", inc. applications under a condition: reg. 5-9, and screening opinions must in any event be kept under review. Council accepted that it failed to screen for EIA before discharging conditions, but argued it was "highly likely" would have done so even if they had. This was rejected – C's ecological evidence meant it was not highly likely that the screening opinion would have been negative. Permission granted. Claim subsequently conceded.

R (Swire) v SSHCLG [2020] Env LR 29

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- Judicial review claim of negative EIA screening direction for a 20-home development on one of four sites used for the disposal of cattle infected by BSE ("mad cow disease"). Developer's contamination reports submitted with application did not make any reference to this former use.
- Resolution to grant outline planning permission granted with contamination remediation conditions. Screening direction held that any contamination problems could be addressed by the conditions.

Held: screening decisions needed to be based on sufficient evidence of impacts and potential remedial measures to make an informed judgment about whether EIA needed. Evidence before SoS was "very limited" in respect of the BSE-related contamination. Effectiveness of the conditions could not be predicted with confidence: [90], [91], [106] and [111].

R (Packham) v SST [2020] EWCA Civ 1004

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- Judicial review claim against the decision to continue with HS2 following the project review completed on 11 February 2020. One ground of claim was that the decision was predicated on a flawed assumption that the review had re-assessed the environmental effects of HS2, when it had not.

Held: (dismissing appeal against refusal of permission) the Government was under no misapprehension about the scope of the review. It was not part of the legislative process for approval of the project, and therefore did not engage EIA legislation. The review panel had not been asked to undertake a comprehensive environmental assessment. Such a task would have been onerous and unnecessary given the EIA already undertaken for Phase One prior to the HS2 Act 2017. No suggestion either of any new or different environmental impacts. [60]-[82].

Gathercole v Suffolk CC [2020] EWCA Civ 1179

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- Judicial review claim against the grant of planning permission for a new primary school, raising issue of adequacy of assessment of effect of noise impact of nearby airfield on children, and whether the effects of the identified alternative sites were assessed properly in the Environmental Statement (ES).

Held: No contemporaneous complaint about the adequacy of the ES re: alternative sites. EIA Directive art. 5(3)(d) only required an outline of main alternatives, and main reasons for choice, not a detailed assessment of each main alternative. Question of sufficiency of information was a matter for the decision-maker, not the court. The decision to choose the preferred site was not irrational, and any inadequacy in ES would not have affected the decision.

Girling v East Suffolk Council [2020] EWHC 2579 (Admin)

- Judicial review claim against grant of planning permission for replacement facilities at Sizewell B nuclear power station (SZB) that are intended for use as part of future Sizewell C station (SZC). The DCO for SZC is pending examination.
- The proposal is for the works to begin before DCO decision, to avoid future delays to SZC implementation.
- Claim that the EIA had been unlawfully undertaken without up-to-date information on breeding birds, which was required by reg. 26(2) of EIA Regs.

Held: reg. 26(2) was not a duty to ensure all information was up-to-date, but only that "reasoned conclusion" on significant environmental effects was up-to-date. Council's view that the bird information was sufficiently up-to-date was not irrational, which was the high standard required: [56]-[58].

London Historic Parks & Gardens Trust v SSHCLG [2020] EWHC 2580 (Admin)

- Judicial review claim against handling arrangements for determining SSHCLG's planning application for Holocaust Memorial. Argued that: (a) UK had failed to adequately transpose requirement in art. 9a of EIA Directive for independence and objectivity when carrying out EIA of own projects; (b) if reg. 64(2) of EIA Regs constituted adequate transposition, the proposed arrangements failed to comply with it.

Held: (a) reg. 64(2) lawfully transposed art. 9a of the EIA Directive; (b) the handling arrangements needed to be amended to comply with reg. 64(2), and then published. [125]-[139].

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Habitats case law: review of the year

Richard Turney

Key themes

- Article 6(4): IROPI, alternatives and compensation
- The standard of review
- Timing of appropriate assessment

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Article 6(4)

Heathrow litigation

- Airports NPS adopted on the basis that adverse effect on integrity could not be excluded but that there were IROPI and no alternatives
- That conclusion was challenged by the Mayor of London and the local authorities
- The particular issue concerned the rejection of a second runway at Gatwick as an alternative

Court of Appeal in Heathrow [2020] PTSR 1446

- CA upheld DC findings that SST was entitled to rely on the "hub objective" to exclude Gatwick as an alternative

- That aim was central to the ANPS, and the fact that Gatwick was treated as a "credible option" did not mean it was an "alternative" for the purposes of the Art 6(4)

- CA relies on AG Opinion in *Portugal*: *"Among the alternatives shortlisted … the choice does not inevitably have to be determined by which alternative least adversely affects the site concerned. Instead, the choice requires a balance to be struck between the adverse effect on the integrity of the SPA and the relevant reasons of overriding public interest."*

Alternatives: SEA v HRA

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- The SEA process could legitimately consider “reasonable alternatives” which were then excluded as “alternatives” for the purposes of HRA:

“the Habitats Directive has a determining effect on the inclusion or exclusion of alternatives. By contrast, the identification of “reasonable alternatives” under the SEA Directive is a requirement designed to inform the following consultation process. It was, therefore, permissible, in the preparation of the ANPS, to retain the Gatwick second runway scheme as a “reasonable alternative” in the Appraisal of Sustainability throughout the process. However good a plan or project the alternative in question might be in itself, and even if there may be a strong case on environmental grounds for preferring it to the plan or project actually proposed, the SEA Directive does not dictate that it be adopted and the proposed plan or project rejected.”

C-411/19 WWF Italia v Presidenza del Consiglio dei Ministri

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- Derogation under Art 6(4) must be interpreted strictly and economic impacts of alternatives alone are not sufficient to reject them

- The AA cannot be revisited at the “derogation” stage e.g. by requiring further studies, because the derogation must weigh up the environmental impacts against the “IROPI”

- The AA must include an assessment of protective measures, so further measures cannot be added without revisiting the AA

- Compensatory measures may, of course, be applied subsequently

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STANDARD OF REVIEW

Heathrow and the standard of review

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- CA rejected an argument that a different standard of review was required:

"First, although the Advocate General in Craeynest [2020] Env LR 4 indicated that in some cases a more intensive standard of review will apply, this was especially—as she put it (in point 43 of her opinion)—"where they are particularly serious interferences with fundamental rights". The Hillingdon claimants have not shown how any fundamental EU rights have been interfered with in this case, let alone seriously interfered with or made "impossible in practice" to exercise. Secondly, as the court said in Craeynest, there is a clear strand of EU case law that respects the discretion of member states to lay down procedural rules for the protection of EU law rights. Wednesbury irrationality is the normal standard of review applicable in judicial review proceedings in this jurisdiction where interferences are alleged with rights of various kinds, including rights arising in domestic environmental law. And it seems to us appropriate in principle, and not less favourable, to apply the same standard to rights under EU law. Nor does it render the exercise of EU rights virtually impossible or excessively difficult in practice. In our view, therefore, there is no justification for applying a more intense standard of review than Wednesbury to the operation of the provisions of article 6(4) of the Habitats Directive. Neither the court's decision in Craeynest nor the Advocate General's opinion supports a different conclusion."

The CJEU and standard of review

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- Some doubts as to how *Wednesbury* would be regarded by CJEU, particularly in the context of derogation under Art 6(4)

- See e.g. *WWF Italia*: “for the referring court to verify” whether alternatives exist

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TIMING: WHEN DOES THE ASSESSMENT HAVE TO BE CARRIED OUT?

Keep Bourne End Green v Buckinghamshire CC [2020] EWHC 1984 (Admin)

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- Challenge to plan allocation of 32 Ha of land for housing

- Council could rely on “multi-stage decision-making process” to confine the assessment to the acceptability in principle of the proposed mitigation measures for the Burnham Beeches SAC

- Confirms the need for “credible evidence of a real, rather than a hypothetical risk of harm” to mount a challenge based on HRA defects

C-254/19 Friends of the Irish Environment v An Bord Pleanala

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- Main issue was whether an extension of time to implement consent for an LNG regasification terminal triggered Article 6(3)
- Extension of time is a “project” for EIA and Habitats purposes
- In certain circumstances “having regard in particular to the regularity or nature of those activities or the conditions under which they are carried out”, extensions of time could be considered “one and the same project” and thus exempt from new assessment
- That is not the case (at least) where the previous consent has lapsed – a new assessment is required
- It is lawful (and necessary) to take into account previous assessments, but they must be complete and up to date

R (Hudson) v Windsor and Maidenhead RLBC [2020] JPL 779

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- Failure to carry out appropriate assessment not fatal to planning permission
- The OR itself was incapable of amounting an AA on the facts
- However the applicant's assessments had demonstrated that mitigation measures could address any adverse effects, and NE was satisfied as to the measures
- In those circumstances, relief was refused under s 31 SCA 1981

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Q&A

We will now answer as many questions as possible.

Please feel free to continue sending any questions you may have via the Q&A section which can be found along the top or bottom of your screen.

Thank you for listening

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