

Recent Case Law on the National Park duties



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Context

- Part II National Parks and Access to the Countryside Act 1949
- S. 5:
 - (1) *The provisions of this Part of this Act shall have effect for the purpose—*
 - (a) *of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and*
 - (b) *of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.*

Duties of NPAs

- S. 11A(1):
 - (1) A National Park authority, in pursuing in relation to the National Park the purposes specified in subsection (1) of section five of this Act, shall seek to foster the economic and social well-being of local communities within the National Park [...] and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of the National Park.*
- **R (Harris) v Broads Authority** [2016] EWHC 799, [75], this imposes:
 - relatively broad duties, which are largely dependent upon the value judgments made by a National Park ority from time to time. The subsection is directed at the promotion of broad objectives and securing *591 co-operation between public bodies within that context.*

Duties of relevant authorities

- National Park Policies Review Committee, 1974
"We have no doubt that where the conflict between the two purposes, which has always been inherent, becomes acute, the first one must prevail in order that the beauty and ecological qualities of national parks may be maintained."
- S. 11A(2)
(2) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

Duties of relevant authorities

- Key points:
 - “*any function*”
 - Function includes powers and duties: **Hazell v Hammersmith and Fulham LBC** [1992] 2 AC 1, 29
 - The duty is to “have regard to” the s. 5(1) purposes.
 - Purposes outlined in s. 11A(2) are not exhaustive of all that a decision maker needs to consider: **R (Harris) v Broads Authority** [2016] EWHC 799, [86]
 - (Subject to Sandford and irrationality) the weight to be given to all the purposes a matter for the decision maker: **Tesco Stores Ltd v SSE** [1995] 1 WLR 769, 780.

Sandford principle

- **R (Harris) v Broads Authority** [2016] EWHC 799, Holgate J
- Broads Authority wanted to rebrand the Broads as the “Broads National Park.”
- Disagreement over how principle works:
 - Claimants say conservation prevails
 - Defendants say it simply carries “greater weight”
- Not resolved ([85]).

Sandford principle

- **Stubbs (Green Lanes Environmental Action Movement) v Lake District NPA** [2020] EWHC 2293 (Admin), Dove J
- C sought JR of D's decision not to impose TRO on two green lanes in NP.
- Ds internal report had said Sandford Principle only invoked in cases of "irreconcilable conflict". C's argued conflict does not need to be "irreconcilable."
- C's case dismissed. A "conflict" is a case where the NPA cannot manage both s. 5 duties equally. Whether that has occurred is a matter for the NPA.

Thank you for listening

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