

Case Name: *Holborn Studios Ltd, R (on the application of) v London Borough of Hackney & Anor* [2020] EWHC 1509 (Admin) (11 June 2020)

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Commentary:

In this case, the High Court quashed the grant of planning permission by Hackney Council for a mixed-use scheme that included the demolition of Holborn Studios, one of Europe's largest photographic studio complexes.

The judicial review claim (on behalf of Holborn Studios) was made on three grounds. The first concerned the viability information provided by the Council, with the claimant claiming that the Council had failed to satisfy policy requirements in this regard, was in breach of a legitimate expectation in respect of the disclosure of viability information and was in breach of the Council's duties in relation to the publication of background papers to the committee report. The second was that the Council's guidance for the members of its planning committee was unlawful as it precluded members from reading lobbying material submitted to them by consultees and instead directed this straight to officers unread. The third was that the Council's officers failed to correctly interpret relevant development plan policies.

The claim succeeded on the first ground, but grounds two and three were dismissed.

On the first ground, Dove J held that the Council had failed to satisfy the requirements of the NPPF and PPG to the effect that, save in exceptional circumstances, viability assessments (including their standardised inputs) should be placed in the public domain. Dove J also found that the material which was in the public domain was opaque and unexplained; in particular, it did not identify both the existing use value and the landowners' premium which had been used to derive the benchmark land value. As such, it failed to adhere to the PPG objective for inputs and findings to be set out in a way which enables clear interpretation and integration of those figures. Further, the Council had unlawfully neither listed nor made available for inspection substantial additional background material on which the committee report was based. The failure to provide the background material underpinning the viability assessment, in circumstances where such material as was in the public domain was opaque and incoherent, was a clear and material legal error in the decision-taking process.

In relation to the second ground Dove J found that receiving communications from objectors to a planning application is an important feature of freedom of expression in connection with democratic decision-taking. As such, the preclusion or prevention of members reading such material could not be justified as proportionate and would be in breach of the right of freedom of expression under Article 10 of the ECHR. This ground was not made out, however, on the basis that Dove J was not satisfied that, on the facts of this case, the claimant was prejudiced by the breaches.

The third ground was dealt with briefly, with Dove J finding that there was nothing unlawful in the way in which the relevant policies were interpreted or the considerations taken into

account in the committee report.

For further discussion see Simoncity.

Case summary prepared by Victoria McKeegan