

Case Name: *Miles, R (On the Application Of) v Tonbridge And Malling Borough Council* [2020] EWHC 1608 (Admin) (23 June 2020)

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Commentary: This was an unsuccessful claim for judicial review of Tonbridge and Malling Borough Council's decision to grant planning permission for a traveller site on the green belt in Kent.

The Council had granted permission in 2008 for two caravans on the site for occupation by two named individuals and their dependents for a period of 3 years. In 2015 a further permission was granted with conditions requiring that the residential use of the site cease after 7 years and that the land then be restored to nature. In November 2019, the Council granted a new permission which allowed for 3 caravans on the site with no time limits.

The claimant contended that the Council had been wrongly influenced by an immaterial consideration, being that refusal of permission would likely lead to a planning appeal and, if it lost, the Council could be exposed to an unfavourable costs order and reputational damage.

The court considered it to be undisputed that the risk of an adverse costs award or reputational harm were not material planning considerations and that it would be illegitimate to allow such factors to influence a planning judgment. However, it held that there was nothing wrong with officers advising members in relation to such risks, and it was satisfied that these risks were not taken into account as material considerations in the Council's exercise of planning judgment.

The claimant further alleged that the members had been misled by the officers' reports, but the court found that the reports were not misleading when read as a whole and that they in fact properly informed the councillors of planning considerations relevant to the decision.

The court also rejected the claimant's other grounds that the Council had not given adequate reasons, had acted irrationally, and had misinterpreted and misapplied various national and local planning policies concerning green belt protection and traveller sites.

Case summary prepared by Safiyah Islam