

Case Name: *Old Sarum Airfield Ltd v Secretary of State for Housing Communities And Local Government* [2020] EWHC 2112 (Admin) (31 July 2020)

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Commentary:

Mr Justice Knowles found that a planning inspector had given sufficient reasons and has properly applied the balancing exercise required by paragraph 196 of the NPPF in refusing an appeal for planning permission at Old Sarum Airfield (the "Airfield") in Wiltshire.

The Airfield is a designated Conservation Area which contains a significant number of heritage assets and which is currently operated as a commercial and civilian airfield. The Claimant applied for planning permission for a mixed use development which was refused first by Wiltshire Council, and then by a planning inspector at appeal. The Claimant challenged the Inspector's decision on the basis that: (i) she had failed to determine and weigh a number of significant public benefits of the proposed development against any harm to heritage assets as required by paragraph 196 of the NPPF; and (ii) that she had failed to give adequate reasons for her decision.

The Inspector had found that the proposed development would lead to "less than substantial harm" to the significance of designated heritage assets. She then, as required by paragraph 196 NPPF, weighed the public benefits of the scheme against the harm caused by the proposed development. The Claimant contended that the Inspector had failed to take into account four public benefits. The judge found that the Claimant had no ground of complaint as each of these four issues had been considered by the Inspector even if they had not been specifically identified as benefits.

The judge also found against the Claimant on the second ground holding that the duty to give reasons does not extend to issues that are "main issues" but are not determinative. Rather, for an issue to be a "main issue" for the purpose of the duty to give reasons it has to contribute materially to the outcome of the case. There was no question that the Inspector gave reasons on the principal issue of this case, namely that in her judgment the public benefits did not outweigh the harm caused by the proposed development. The second ground therefore also failed.

Permission was refused on a third ground of irrationality and unfairness.

Case summary prepared by Juliet Munn