

Case Name: *London Historic Parks And Gardens Trust v Secretary of State for Housing Communities And Local Government* [2020] EWHC 2580 (Admin) (02 October 2020)

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Commentary: In the High Court the Claimant, a charity with the object of protecting London green spaces, brought a judicial review of (i) the UK's alleged failure to transpose Article 9a of Directive 2001/1/92/EU (the "EIA Directive") into domestic legislation and (ii) whether the "handling arrangements" made for the determination of the Secretary of State's planning application for the Holocaust Memorial in Westminster comply with regulations 64(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the "2017 Regulations").

Article 9a of the EIA Directive deals with the independence and objectivity in the discharge by a "competent authority" of its duties regarding environmental impact assessment of its own projects (i.e. projects that the competent authority is itself promoting). In the case of the Holocaust Memorial the relevant competent authority is the Secretary of State for Housing, Community and Local Government.

On the first point Mr Justice Holgate held that the UK has properly transposed Article 9a of the EIA Directive into English law by regulation 64(2) of the 2017 Regulations which also satisfied the principles of legal certainty.

However, the Judge found for the Claimant on the second point, namely that the "handling arrangement" regarding the call-in of the Holocaust Memorial planning application by the Secretary of State currently fail to satisfy regulation 64(2) of the 2017 Regulations. The judgment sets out the manner in which these arrangements must be amended so as to overcome these errors and be compliant with the relevant legislation.

Case summary prepared by Juliet Munn