

**Case Name:** *Smith, R (On the Application Of) v Castle Point Borough Council* [2019] EWHC 2019 (Admin) (31 July 2019)

**Full case:** [Click Here](#)

**Commentary:** An application for judicial review of the Council's decision to grant planning permission for a 5m wall surrounding a metal scrapyards in Benfleet was dismissed.

The claimant challenged the defendant Council's decision to approve the planning application, based on the interested party (Benfleet Scrap Limited's) wrongful approach towards contamination, the planning history of the site and the adjacent green belt.

C.M.G. Ockelton held that there was no need for the interested party to undertake contamination assessments when there was in fact no proposed change of use or a proposed development creating risk of contamination to their land.

In the second ground, the claimant put forward that there was insufficient investigation into the existing limitations on the use of the site and the defendant ought to have imposed conditions on this on the permission. C.M.G Ockelton held that a condition restricting the use of the site is not related to the construction of the wall and therefore it would not be necessary.

Finally, it was claimed that the wall would have a significant visual impact on the surroundings and there was no assessment in the application of the impact on the greenbelt. C.M.G Ockelton considered that there is not a dramatic difference in view between 5m of scrap metal and 5m of wall. He also emphasised that a wall is considered 'hard landscaping,' and this does not conflict with the purposes of a green belt set out in paragraph 134 of the NPPF.

The application for judicial review was dismissed.

*Case summary prepared by Town Legal LLP*