

Case Name: *Anand & Anor v Royal Borough of Kensington And Chelsea* [2019] EWHC 2964 (Admin) (06 November 2019)

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Commentary:

The High Court has dismissed a legal challenge by the trustees of the Central Gurdwara (Khalsa Jatha) London ('Claimant') to the Royal Borough of Kensington & Chelsea ('RBKC') decision to make a Traffic Management Order ('TMO') imposing additional parking restrictions in the evenings and weekends in the area with a Sikh Temple, which was brought on consultation, Public Sector Equality Duty ('PSED'), and irrationality grounds.

The statutory review legal challenge was brought on 3 grounds, all of which were unsuccessful. Ground 1 was that RBKC had acted unfairly in deciding to make the TMO on 18 June 2019 in breach of the Claimant's legitimate expectation arising from a promise made to them by RBKC at a meeting on 2 April 2019 that before a final decision was made RBKC would consult them further. Ground 2 was that RBKC's TMO decision was in breach of the PSED under s149 EA 2010 on the basis that: (i) RBKC's data about the age and disability of worshippers in the Equality Impact Analysis ('EiA') was inadequate and the financial impacts on the Gurdwara were not considered; (ii) it was irrational for RBKC to have concluded without evidential support in the EiA that worshippers could use public transport, that those with limited mobility could be dropped off by third parties, and that there were alternative car parking spaces; and (iii) that there had been no proper or conscientious focus in the EiA on the PSED statutory criteria. Ground 3 was that RBKC had acted irrationally in deciding to extend the parking restrictions when the parking spaces were 20-25% empty at evenings and weekends.

As to Ground 1, the High Court held that the Claimant had failed to establish, on the evidence, that RBKC had made a clear and unambiguous promise to the Claimant that it would not extend the controlled parking hours without further consulting them. As to Ground 2, the High Court, considering the contents of the EiA, officer report, and underpinning equalities evidence held that there had been no breach of the PSED as RBKC had: (a) properly understood the PSED and applied the relevant statutory criteria; (b) carefully analysed the relevant protected characteristics of age and disability; (c) assessed the equalities impacts on residents as well as worshippers; and (d) decided to make further dedicated blue badge parking provision for disabled worshippers as mitigation for identified equalities impacts. As to Ground 3, the High Court concluded that RBKC was legally entitled, in the exercise of its discretionary judgment, to conclude that the occupancy rate of 80% in evenings and weekends was high and that the proportion of non-resident vehicles was significant.

This case is an important illustration of the high threshold and evidential burden for claimants to satisfy to successfully advance a substantive legitimate expectation claim. It is also a useful reminder that the PSED is a procedural duty which does not require any particular outcome and does not enable claimants to challenge the merits of a public body's

decision.

Town Legal summary by Paul Arnett

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