

Case Name: *Noble & Anor, R (On the Application Of) v Cornwall Council* [2022] EWHC 2402 (Admin) (28 September 2022)

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Commentary: The High Court has upheld Cornwall Council's decision in November 2021 to grant planning permission for the extension of the Cape Cornwall golf club premises, which is in an area of outstanding natural beauty (AONB) in St Just, Cornwall, rejecting legal arguments from objectors to the scheme in a judicial review that a planning officer had unlawfully failed to properly assess the potential harm to the character of the designated AONB landscape

The proposed development concerned the construction of a function room, alterations to the clubhouse entrance and the creation of self-contained manager's accommodation and two detached buildings to house additional guests for the purposes of increasing the letting accommodation and wedding event functionality of the premises. In a delegated decision, officers granted permission for the proposed development despite receiving numerous objections, which focused on the impacts of the proposed intensification of the club's letting and wedding uses in terms of noise, traffic movements and light pollution. The Cornwall AONB unit also expressed a number of concerns, including that the proposed intensified use of the club for weddings and other functions would introduce noise and night-time light that would detract from the wild and remote character of the location and the quality of the place.

The delegated decision to grant permission concluded, on balance, that the proposal was acceptable on planning terms, subject to the imposition of various conditions. Two local objectors to the proposed extension of the golf club challenged the permission in court. The judicial review action was brought on 3 grounds concerning, in summary (1) an alleged breach of the section 38(6) PCPA 2004 duty; (2) A failure to properly address the issue of intensification and (3) A failure to properly address the issue of transport impacts.

Dismissing all of these grounds, the High Court noted the planning officer's conclusion that the proposal involved no departure from the local development plan. Arguments that no direct consideration was given to policies protecting the AONB and heritage coast were "plainly ill-founded", the High Court concluded. According to the High Court, the officer addressed the Cornwall AONB unit's concerns including the question of light spill and the potential impact on the area's dark skies at night. The High Court ruled that officers also properly considered the highways impact of the development.

Overall, officers concluded "more broadly, the reasoning of the officer's report is proportionate to the nature of the application and, in my view, addressed the material issues, including that of intensification."

Other than being the first planning judicial review (as I understand it) brought in the name of new King, this case is a good example, in my view, of the High Court taking a dim view of legal challenges which seek to forensically challenge officer's reports and amount to effectively challenges to the merits of the planning judgment of the local planning authority.

Case summary prepared by Paul Arnett