

Case Name: *Friends of the West Oxfordshire Cotswolds, R (On the Application Of) v West Oxfordshire District Council* [2023] EWHC 901 (Admin) (20 April 2023)

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Commentary: The Friends of the West Oxfordshire Cotswolds brought a successful claim for judicial review against West Oxfordshire District Council's (the "LPA") decision to approve plans submitted to it pursuant to a planning condition relating to planning permission granted for 25 dwellings and a 12 bed supported living facility. Ancient woodland is situated to the west of the site and the planning application documents proposed a 5 meter buffer zone between the proposed development and the ancient woodland to protect it and the wildlife within.

The court upheld the claimants claim on a number of grounds.

The court held that the condition requiring the 5 meter buffer zone did not permit any room for officers to subsequently vary the width of the buffer zone at the point of deciding whether to approve the submitted plans. The condition required that the works and future maintenance should be carried out in accordance with the approved plans, which provided a 5 meter buffer zone.

The court agreed with the claimant that by failing to accurately present Natural England's comments, the officer's report displayed a material and significant misunderstanding of Natural England's comments. The LPA had failed to sufficiently gather information when the full extent of the inconsistencies in the buffer zone were known.

The applicant's tree protection plan was approved by the LPA pursuant to a separate condition prior to the LPA having a full understanding of the buffer zone discrepancies. On this related point, the court found that the failure to update this plan following the discovery of inaccuracies to the buffer zone meant that the approved tree protection plan was inaccurate and failed to comply with British Standards.

Whilst the LPA had subsequently granted planning permission following a section 73 application which did guarantee the 5 meter buffer zone, the court found that the present claim could not be considered purely academic as the quashing of the discharge of the conditions under the original permission could arguably result in the permission not being validly commenced.

The court therefore quashed the LPA's decisions to discharge the relevant conditions.