

**Case Name:** Scarrott, R (On the Application Of) v Chelmsford City Council [2025] EWHC 1244 (Admin) (23 May 2025)

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

**Commentary:** This was an unsuccessful application for judicial review of the grant of planning permission by Chelmsford Borough Council (the “Council”) for 6 new affordable homes and associated access improvements, parking, private amenity space and landscaping.

Although permission for judicial review was granted on 5 grounds, the Court found that only one ground had merit (Ground 6, which related to an error in respect of the evidence for access by fire appliances conceded by the Council) but that relief in respect of that ground must be refused as it was highly likely that the outcome would not have been substantially different if that error had not been made.

## Facts

The planning application was considered at a meeting of the Council’s planning committee in October 2023. The officer’s report to committee set out the main considerations for the proposal and recommended the grant of planning permission with conditions, having concluded on balance that the proposal was compliant with the development plan objectives and was acceptable.

A site visit was conducted by the committee and a further meeting held in November 2023, with the Claimant submitting further written comments in the intervening period. The officer’s report to committee for the November 2023 meeting was materially identical to the original report but was supplemental by a note entitled ‘alterations and additions to planning committee’. The committee resolved to grant planning permission subject to the conditions proposed and without further substantive discussion of the proposals. The permission was subsequently granted.

## Grounds

The Claimant had initiated its challenge to the grant of permission on seven grounds. Following refusal of permission and a subsequent renewal of the application, permission was granted on the following grounds:

- Ground 1: Officers misconstrued Appendix B of the Local Plan and thereby provided members with significantly misleading advice on the compliance of the proposal with Policy DM26.
- Ground 2: Officers made a material error of fact when informing members that the Claimant's rear garden was in excess of 25 metres in length.

- Ground 3: Officers failed to draw members' attention to the relevant policy test within Growth Site Policy 1S of the Local Plan, with the result that the Council acted in breach of section 70(2) of the Town and Country Planning Act 1990.
- Ground 5(a): Officers failed to report an obviously material consideration to members, namely the substance of a consultee objection from Recycling and Waste Collection Services.
- Ground 6: the Defendant did not proceed on a rationally sufficient evidential basis to conclude the site was accessible by fire appliances of the size actually used by the Fire Service, as the officers' assertion that a fire appliance could access the site was based upon an incorrect assumption as to its dimensions.

## **Judgment**

The Claimant was unsuccessful on all grounds. In summary, Robert Palmer KC, sitting as a Deputy Judge of the High Court, concluded as follows:

- On grounds 1 and 2, although officers did make some errors in the way that they described the effect of Policy DM26 and Appendix B, such errors were either corrected or were minor or inconsequential and may be excused. Any misdirection was not ultimately material: even to the extent that there were errors in the detail of the advice given, the Judge could not say the committee's decision would or might have been different but for that advice.
- On ground 3, there was no failure by officers to report the requirement of Policy 1S to members, or for members to exercise any planning judgement in respect of it. It was already plain that the natural boundaries to the site were to be retained.
- On ground 5(a): There was no error in the report in this regard. Further, insofar as the matters raised were susceptible to planning control, they had been dealt with by way of condition.
- On ground 6, the Defendant accepted the error identified by the Claimant in respect of the tracking drawing put before members in the October and November meetings but submitted that if the correct tracking drawing (produced in the context of the proceedings) had been before the committee, the committee would have been highly likely to reach the same conclusion. The Judge accepted the Defendant's submission finding that it would have been highly likely that planning permission would have been granted on exactly the same basis as it was. The other points raised by the Claimant in the proceedings (which were not properly pleaded) failed to identify any other public law error beyond that conceded by the

Defendant. Relief was refused in accordance with section 31(2A) of the Senior Courts Act 1981.

*Case summary prepared by Anna Sidebottom*