Case Name: *West Suffolk Council v Secretary of State for Levelling Up, Housing and Communities & Ors [2025] EWHC 861 (Admin) (10 April 2025)*

Full case: Read here

Commentary: West Suffolk Council applied for a statutory review pursuant to section 288 of the Town and Country Planning Act 1990 ("the TCPA 1990") of the decision by an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities to allow the appeal brought by the second defendant, Lochailort Kentford Limited, against the Council's refusal to grant a lawful development certificate ("LDC"). The LDC application pertained to the use of land and buildings at Kentford, Suffolk, owned by the third defendant, the Jockey Club. The site was previously owned and operated by the Animal Health Trust. Following a rolled-up hearing before Mrs Justice Lang, permission to apply for statutory review was granted, but both grounds of challenge were rejected, and so the claim for planning statutory review was dismissed.

The LDC applied for was for the purposes of Class E of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 ("the UCO"). The Council submitted that the Inspector made the two errors of law in allowing the appeal and granting the LDC.

Ground 1: In Class E(e) the phrase "the provision of medical or health services, principally to visiting members of the public" means that medical or health services are provided principally to passing members of the public without restriction. It is not enough that members of the public attend a site where the services are provided if their attendance is dependent on satisfying a prior requirement, such as obtaining membership of an organisation or a referral from a third party. In this case, the clinical services in question were provided on a referral basis only, yet the Inspector wrongly considered that they fell within Class E(e).

Ground 2: in Class (g)(ii) the phrase "the research and development of products or processes" means research and development *into* or *about* products or processes. The subject matter of the research and development is one or more products or processes or both, and research into something other than products or processes does not fall within Class E(g)(ii). The Inspector confused the subject matter of research and the form in which it is recorded, holding that research papers that simply advance human knowledge were themselves a "product" and therefore fell within Class E(g)(ii).

The first and second defendants submitted that the Inspector did not misinterpret or misapply either phrase. Under Ground 1, it was submitted that the Inspector found that members of the public brought their animals to the Animal Health Trust to receive specialist veterinary services, and the fact that they had to obtain a referral from their vet and an appointment was not inconsistent with that. Under Ground 2, the defendants submitted that the Inspector considered extensive evidence, including in the Statement of Common Ground, and concluded that the Animal Health Trust was researching and

developing "products and processes" to better diagnose, prevent and cure animal diseases. The fact that some research did not lead directly to the development of a product on site did not take the use outside of Class E(g)(ii).

Ground 1

The Court held that the natural, ordinary meaning of the language in Class E(e) was clear: there must be use, or part use, of the premises for the purpose of the provision of medical of health services, and those services must be provided principally to "members of the public." This was a term not defined in the UCO, but was to be understood straightforwardly and applied to a wide range of factual circumstances. Case law confirmed that the term "visiting" was compatible with members of the public having to make some arrangements with the provider before attending the premises. People bringing their animals to the Animal Health Trust for specialist treatment were visiting as members of the public, and the fact they had to obtain a referral did not indicate otherwise. The exclusion of specialist services provided by a consultant, on the basis that members of the public required a referral, was an unduly restrictive interpretation and application of Class E(e).

Ground 2

The Court held that there was ample evidence to support the Inspector's conclusion that the site was in use for the purpose of research of products or processes. Unsurprisingly, some of the research did not lead directly to the development of products and processes, but their development was its ultimate aim. Furthermore, the publication of research would have contributed to others developing products and processes, albeit elsewhere from the site.

The Court also found that the Inspector was entitled to reach the view that a research paper was a "product" of the research that had been undertaken and therefore came within Class E(g)(ii), as it was a means of disseminating the output of research. Any means of dissemination would be a "product", under the ordinary meaning and dictionary definition of the term. But even if the Inspector did err in finding that a research paper was a product of the research, it was of no confidence: her other findings and conclusions were sufficient to find that the use came within Class E(g)(ii).

Conclusion

For these reasons, both grounds of challenge were rejected, and so the claim for statutory review was dismissed.

Case summary prepared by Gregor Donaldson