

Case Name: *Protecting Our Park Ltd v Cheshire East Borough Council [2025] EWHC 1848 (Admin)* (18 July 2025)

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Commentary: This case was a successful judicial review brought by Protecting Our Park Limited (the “Claimant”) against the decision of Cheshire East Borough Council (the “Council”) to grant planning permission to Symphony Park Holdings Limited (the “Interested Party”) for the construction of buildings, to be known as Symphony Park, at Heatherley Woods, Alderley Park, Nether Alderley, Cheshire (the “Site”) (the “Planning Permission”).

Background

The Site forms part of the wider Alderley Park area and was home to AstraZeneca’s lead centre for cancer research until the company relocated the majority of its activities to a site in Cambridge. Following the relocation, the intention was to “secure a vibrant and prosperous future for Alderley Park through its transformation to an independent, self-sustaining, world-class hub for life sciences acting as an anchor for the sector in the North West”.

A development plan was formulated by the Council together with Alderley Park Limited which envisaged the park as a base for life sciences businesses and referred to the development of parts of the park for residential purposes so as to provide capital funding for the proposed life sciences park.

The park is restricted by being in the Green Belt however the Council had developed a policy (LPS 61: Alderley Park Opportunity Site) for the development of the land. The original s106 agreement for the Alderley Park area established the Alderley Park Reinstatement Fund, the purpose of was to receive the proceeds of planning obligations associated with developments which were conditional on funding the development of the life sciences park.

The Planning Permission granted to the Interested Party by the Council permitted construction of an integrated retirement community consisting of 139 extra care units and associated facilities. The documents submitted with the application stated that the “capital receipt from the disposal of the Site [would] be re-invested” to support delivery of the life sciences facilities in the wider park area, which a viability appraisal confirmed were “not viable without cross funding support” and “even with cross funding... [would] still require additional funding”.

In considering the application for the Planning Permission, the officer appraisal which formed part of the committee report stated “... if the land receipt fills only a small part of the funding gap and there is no realistic prospect of alternative sources of funding to fill

the remaining gap... then it seems uncertain that the office and laboratory development would come forward... [and] it would be questionable whether the scheme can be considered to “enable the delivery of the life sciences park” as required under the [Policy LPS 61]”. The committee report recommended approval and the Council’s strategic planning board resolved to grant the Planning Permission on 28 February 2024.

Grounds of challenge

The Claimant brought the challenge on three grounds, namely:

1. that the Council acted unlawfully by failing to identify/obtain the level of cross funding that would be provided by the scheme;
2. that the Council’s conclusion that the scheme accorded with Policy LPS 61 was irrational; and
3. that the Council failed to give adequate reasons for its decision.

The Claimant submitted that ground 1 formed the main issue in the case, being the fact that the Council’s strategic planning board made its decision to grant the Planning Permission without sufficient information as to the level of funding which would be secured from the disposal of the Site, and whether or not that level of funding would be sufficient to deliver the relevant life sciences facilities, therefore meeting the policy requirement to “subsidise and thus enable” the life sciences development.

The Claimant contended that the Interested Party’s application was “based on the contention that it was ... funding in whole the shortfall of £27.35 million” required to deliver the life sciences facilities, comprising both laboratory and office facilities.

Analysis of policy and judgment

HHJ Pearce agreed with the Council that the officer’s appraisal could not be relied upon in support of a particular interpretation of the policy, and that determining the true meaning of the policy was an objective matter to be determined by the court. He went on to state that “[i]t would be sufficient that the funds that were realised contributed in some meaningful way to the operation and/or development of the life sciences park” and that it was not necessary for monies realised to be linked to the completion of a specific identified project.

Despite this, he went on to find that the committee report was drafted in a way which suggested that by granting the Planning Permission, the life sciences facilities referred to would be delivered, thereby bringing about the associated economic benefits. The committee could have been drafted in a way which “[drew] attention to the shortfall in cross funding but argued that the potential for that shortfall to be met from other

sources coupled with the economic benefit of the construction of the laboratory and offices was sufficient to justify the grant of permission”, but it did not.

It was clear from the evidence before the court that the cross funding available was “nothing like sufficient” and therefore the rational decision would have been to refuse permission or “grant permission in any event notwithstanding the insufficiency of cross funding to ensure completion of the construction of the laboratory and offices”. Neither of these approaches match that taken by the Council and it is clear that the Council’s members resolved to grant the Planning Permission on the basis that it would deliver the life sciences facilities.

Conclusion

For the reasons set out above, the Claimant was successful on ground 1 and the Council’s decision was quashed.

Ground 2 was found to be unarguable in light of HHJ Pearce’s analysis of the construction of Policy LPS 61.

Ground 3, being closely linked to ground 1, was also made out, given the judge’s finding in respect of ground 1 that the decision was not reached rationally.

Case summary prepared by Sophie Bell