

**Case Name:** *The Mayor of London v the Secretary of State for Housing, Communities And Local Government & Ors* [2020] EWHC 1176 (Admin) (12 May 2020)

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

**Commentary:** The High Court has dismissed the Mayor of London's challenge to the Secretary of State's decision to allow the appeal of Harrow School against a refusal of planning permission.

The proposed development comprised the demolition of a number of buildings within the appeal site including an existing sports building and the construction of a new sports building, a science building, a landscaping core, visitor car park and various alterations and relocations of facilities.

The Mayor only objected to the construction of the sports building which would lie within the Metropolitan Open Land (MOL).

The challenge was made on three grounds. The first was that the Secretary of State had acted unfairly by not giving the parties notice that departure from the agreed approach in the Statement of Common Grounds (SOCG) would be made and nor was the opportunity given to make representations. It was stated that the new sports building caused harm to the openness of the MOL and should be afforded substantial weight. The second was that the Secretary of State had not taken into account "harm to MOL purposes" and the third was the failure to consider harm to heritage assets in the Very Special Circumstances (VSC) balance as required by paragraph 144 of the National Planning Policy Framework.

The Court held that in respect of ground one, the school had resiled from the SOCG in relation to harm to MOL and so it ought to have been reasonably anticipated that there would be departure from the SOCG. The contention that the Mayor would have sought to call more evidence and make further submissions if the departure was known was deemed nothing more than an assertion. In respect of ground two, there was no need for the Secretary of State to address the harm to MOL purposes just because it agreed with the view that there would be less than substantial harm to heritage assets as the Secretary of State was not bound to have found that there would be harm to the school's historic site. In respect of ground three, the Court held that the Secretary of State had not disregarded heritage harm in the VSC balance and had looked at the case as a whole.

However, the Secretary of State's decision to order the Mayor to pay the school's costs on appeal was quashed by the Court.

*Case summary prepared by Lida Nguyen*