

**Case Name:** *Girling v East Suffolk Council* [2020] EWHC 2579 (Admin) (01 October 2020)

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

**Commentary:** In the High Court the Claimant unsuccessfully challenged East Suffolk Council's decision to grant planning permission for works in anticipation of the proposed Sizewell C nuclear power station. The claim was brought by a local resident on behalf of the Together Against Sizewell C campaign group.

The Sizewell C project would involve the use of land currently needed for the operation of the extant Sizewell B power station. The Claimant sought the quashing of the grant of permission for the relocation of facilities used in connection with Sizewell B on the land earmarked to be used for Sizewell C.

The application site is in the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and is adjacent to the Sizewell Marshes Site of Special Scientific Interest and Coronation Wood local nature reserve. The works will require the felling of 229 trees in Coronation Wood and substantial re-planting with much younger specimens.

The Claimant's first ground was that the Council unlawfully failed to consider the need for, and alternatives to, the proposal for the purposes of paragraph 172 of the NPPF in addressing whether there were exceptional circumstances to justify harm caused to an AONB caused by the development.

However, the Court held that the detailed officer's report and the committee meeting minutes showed that the Council considered the overall impact of the proposal to be beneficial rather than materially harmful to the AONB and that it was not unlawful for the Council to reach this conclusion. The Court noted that, though there were many people who disagreed with parts of the conclusion, it was not for the Court to adjudicate on the correctness of rival views.

The Court was satisfied that the Council had considered a range of factors forming the overall exceptional circumstances of the case, such as the urgent national need for new nuclear power generation endorsed in the Government's relevant National Policy Statements, the identification of the Sizewell C site as potentially appropriate for an additional nuclear power station, the public interest in reducing the risk of overlapping construction programmes for Sizewell C and other substantial infrastructure projects in the area, and the lack of suitable sites outside the AONB.

The Court also dismissed the Claimant's second ground which was that the Council failed to reach a lawful conclusion that the environmental information was "up to date" contrary to regulation 26 of the Environmental Impact Assessment Regulations 2017.

*Case summary prepared by Safiyah Islam*