

Case Name: *London Borough of Lambeth v Secretary of State for Communities And Local Government & Ors* [2018] EWCA Civ 844 (20 April 2018)

Full case: [Click Here](#)

Commentary: Retail – change of use to unrestricted within Class A1 (section 73 application)

Mistake in section 73 permission – Council failed to impose varied condition on restriction of use

Whether description of development can impose limitations:
description cannot impose limitations, restrictions must be imposed by condition. Breach only occurs where there has been a material change of use from description of development. (I'm Your Man)

Interpretation of a planning permission:

- use of extrinsic materials;
- corrective interpretation where mistake normally available where outcome is "arbitrary" or "irrational" or something wrong with the language. Did not apply in this case.

Rectification is not available in a public law case; statutory power to modify the permission is available but compensation may be payable.

Implying a condition:

- contract law principles allow implication if necessary to give business efficacy or so obvious it goes without saying. Not necessary or obvious in this case.

Reasons for conditions were required so even if condition was implied it would not be lawful. Condition imposing time limit on section 73 permission not valid

Case summary prepared by Town Legal LLP