

Case Name: *Chesterton Commercial (Bucks) Ltd v Wokingham District Council* [2018] EWHC 1795 (Admin) (13 July 2018)

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Commentary: The discretion in section 70C where "an LPA may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control." was engaged on the facts and, the LPA's refusal to consider an application for planning permission made by the claimant was a lawful exercise of that discretion.

The comparison required by section 70C(1) must focus on the part of the enforcement notice which specifies the matters which constitute the breach of planning control as the starting point and compare this against the development to which the retrospective application for planning permission relates. The purpose of the comparison is to identify any overlap between the matters enforced against and the subject of the retrospective application. It is clear that something very much less than a complete coincidence between the matters enforced against and the matters for which permission is sought will be sufficient to engage section 70C(1). It is enough that the retrospective application relates to "the whole or any part of the land" to which the enforcement notice relates, and that granting it would involve granting permission for "the whole or any part of" the matters specified in the enforcement notice.

Case summary prepared by Town Legal LLP