

Case Name: *Gare, R (On the Application Of) v Babergh District Council [2019] EWHC 2041 (Admin) (26 July 2019)*

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Commentary: The High Court quashed a planning permission made by Babergh District Council for a 6-dwelling development on the outskirts of a village, finding that the planning committee had failed to give reasons for their decision which went against officers' recommendations to refuse.

The claimant was the owner of a property overlooking the proposed development site. He was granted permission to judicially review the defendant's decision on five grounds relating to the defendant's failure to provide reasons, the failure to determine whether the development proposal complied with the development plan, and the misapplication and misinterpretation of the defendant's own development plan policies.

The judge was minded to quash the decision on the first two grounds. Whilst accepting the defendant's submission there was no general duty to provide reasons for planning decisions, the judge accepted the claimant's submission that in light of the combination of circumstances in this case, there was a clear requirement for the defendant to provide reasons for its decision. In particular, this was the third occasion in two and a half years in which a decision had been taken on proposals for the site, the most recent of which had also been overturned by the High Court on the basis that the defendant's planning committee had granted planning permission against the advice of planning officers and had failed to provide reasons for doing so.

In this case, the defendant submitted that sufficient reasons for the decision could be inferred from the publicly available material such as the officer's report and the draft committee meeting minutes. Yet, the fact that the reasons relied upon were not contained within a single document but two separate sources that were inherently in disagreement, did not provide sufficient clarity to be able to infer what the defendant's reasons for the decision were. The judge found that it was impossible to discern from the draft committee minutes the full picture of the committee's view, by what route it had arrived at its decision, or the extent to which the proposals accorded with the development plan. In light of this, the decision was quashed.

Case summary prepared by Rebecca Craig