

Case Name: *London Borough of Lambeth v Secretary of State for Housing, Communities and Local Government and others* [2019] UKSC 33 (3 July 2019)

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Commentary: Planning permission was granted in 1985 for a retail store in Streatham in the administrative area of the appellant, the London Borough of Lambeth. A condition limited its use to the sale of DIY goods and other specified categories excluding food. A number of section 73 planning permissions were subsequently granted varying the categories of goods that could be sold, most recently in 2014. The 2014 planning permission referred to the proposed new wording for the relevant condition, but did not actually include the wording within a schedule of conditions to the planning permission. The respondent owner of the site applied for a certificate of lawfulness of proposed use or development from the appellant confirming that the lawful use of the store extended to the unrestricted sale of goods, including the sale of food. The appellant refused the certificate which was subsequently issued on appeal. The appellant challenged the issue of the certificate, but the High Court and Court of Appeal upheld its lawfulness. The appellant appealed to the Supreme Court.

The court allowed the appeal, stating that the certificate should be amended to exclude the uses which were referred to on the decision notice. Giving the lead judgment, Lord Carnwath held that a reasonable reader taking the 2014 permission at face value would interpret the document as an approval of a variation of the relevant condition, notwithstanding that the condition was not included in a schedule of conditions to the decision notice.

Case summary prepared by Town Legal LLP