

**Case Name:** *Bailey, R (On the Application Of) v St Albans City And District Council* [2020] EWHC 24 (Admin) (16 January 2020)

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

**Commentary:** A claim seeking to quash a grant of planning permission for an “infill” dwelling adjacent to the Claimant’s property was dismissed by the Planning Court. The grounds were that the Council had failed to take into account an emerging policy and had failed to take into account a current policy which was not applicable on its face but which, following the consistency principle, should have been taken into account. The claim was dismissed as the officer had correctly taken the relevant policies into account even though the consistency principle did apply. A further ground was that the Council had been irrational in failing to impose a condition that the proposed parking spaces be maintained permanently which was also dismissed.

On the first ground, the Court was satisfied that the officer’s report had considered the substance of the relevant emerging policy even if it was only specifically referenced at the start of the report and not in the relevant paragraph.

On the second ground, the Court agreed with the Claimant that the consistency principle applied and that the local policy dealing with side extensions was a material consideration even though on its face it was not relevant to a new dwelling. This was because there was an established practice of applying the policy by analogy in other cases of infill development. However, the Court concluded that the officer had correctly taken it into account and had not been irrational in concluding that there was no “terracing impact”.

Finally, it would not have been irrational for the Council to grant permission without a condition requiring retention of the parking spaces but this point was academic because a section 106 agreement had subsequently been entered into requiring the provision and retention of the spaces.

*Case summary prepared by Susannah Herbert*