

**Case Name:** *Save North St Albans Green Belt & Ors, R (On the Application Of) v Hunston Properties Ltd & Ors* [2022] EWHC 2087 (Admin) (04 August 2022)

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

**Commentary:**

This judicial review case concerned the decision of St Albans City and District Council (“the Council”) to grant outline planning permission for a residential development of up to 150 dwellings on land known as Sewell Park (“the Site”), situated within the Metropolitan Green Belt.

The Claimants, Save North St Albans Green Belt (an action group formed by local residents) and their representatives, pursued three grounds of challenge, as follows:

1. The advice to Members of the Planning Referrals Committee (“the Committee”) in the officer’s report (“OR”) significantly misled the Committee as to the basis upon which it was justifiable to depart from previous decisions refusing planning permission at the Site;
2. The Council was under a duty to give reasons for its decision to grant permission and why it departed from the previous decisions refusing planning permission at the Site and the reasons given in the OR were inadequate and insufficient on this issue;
3. The Committee acted unlawfully by taking into account irrelevant considerations and failed to take into account relevant considerations, given that the OR relied upon material in support of the application for planning permission which was based on an earlier proposal for only 132 dwellings whereas the proposal before the Committee was for “up to 150” dwellings.

None of the three grounds succeeded.

For Ground 1, the Claimants argued that a paragraph of the OR gave a misleading impression that the green buffer between the built development and the open countryside in the proposed development was an improvement on one of the two appeal schemes (“Appeal B”), which was in fact a significantly smaller development, extending significantly less far into the countryside.

Mrs Justice Lang accepted that the officer “probably ought to have reminded” Members of the smaller size of the Appeal B proposal and so the impact on the Green Belt overall would be less than the impact of the proposed development. However, in her judgment, this failure was not seriously misleading in a material way which could have made a difference to the Committee’s decision: not only was the information elsewhere in the OR but also the lesser impacts of a smaller development would have been obvious to Members.

On Ground 2, Mrs Justice Lang did not consider that the Council was under a common law duty to give reasons, but in any case, the lengthy and detailed OR met the standard required.

On Ground 3, Mrs Justice Lang held that the officer’s judgment that the information provided with the application allowed a full assessment of the impacts of up to 150 dwellings to be considered could not be challenged. In coming to this conclusion, Mrs Justice Lang referred to a paragraph in the OR where the officer made express reference to the fact that some material related to a 132 dwelling scheme but was nevertheless sufficient, especially since layout and scale were reserved matters. Moreover, she held that officers and Members would be well able to assess impact on character and appearance and landscaping on the basis of a 150 dwelling scheme with the

information provided, since the Site boundary was fixed and the areas of open space within the Site were shown on the parameter plans, which were enforced by condition. She further found that the inclusion of a net density figure in the OR relating to the 132 dwelling scheme was not in error, since the OR was “correctly recording what was ‘specified in the application submission’”.

Accordingly the application was dismissed.

Commentary: In this case it seems the devil is in the detail – namely, the type of material that made reference to the 132-dwelling scheme and the fact that the officers were aware of and addressed this discrepancy in their OR. However, it seems that the reference to the net density figure for the 132-dwelling scheme in the OR could be interpreted in such a way as to indicate an error and therefore some further elaboration as to why the Council’s interpretation was correct would have assisted.

*Case summary prepared by Stephanie Bruce-Smith*