

Case Name: *Jones, R (On the Application Of) v Cornwall Council* [2024] EWHC 2198 (Admin)
(23 August 2024)

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Commentary: This was an unsuccessful judicial review of the decision of Cornwall Council to grant planning permission for housing development on the edge of the Cornwall AONB.

Background

Planning permission was granted by the Defendant for five dwellings (including affordable housing) on agricultural land on the edge of Cornwall AONB. Permission was granted contrary to officers' recommendation for refusal. This was the second application for planning permission for five dwellings on the site, the first of which made no provision for affordable housing and was refused by the Defendant and subsequently dismissed at appeal.

Grounds

The Defendant's decision was challenged on the basis that the authority did not give adequate reasons for their decision.

Reasons relating to landscape / AONB

In its reasoning, the planning committee attributed great weight to safeguarding the distinctive landscape and scenic beauty of the AONB but considered that *"the housing benefits associated with providing affordable homes in an area of significant need outweigh the limited and localised harm to the surrounding AONB"*.

The committee also accepted in its reasoning that insufficient evidence had been submitted to show that the site was the most preferred land parcel to deliver affordable housing, a factor officers regarded as important. However, the Committee gave more weight to the *"urgent need to deliver affordable homes as soon as possible"* and took the view *"the proposal itself would not result in significant harm to the AONB"*.

Reasons on highways issues

Impacts on the local highway network and highway safety were also considered by the committee, including the increased use of an existing junction to which the development would have access. In its reasoning the Committee stated *"the proposal would not result in a material increase of users at the nearby roads junction of Treyarnon Lane and the B3276"* (the junction in question) and that a *"planning condition can ensure that visibility at this junction is improved"*.

Reasons in relation to policy

The Claimant submitted the reasons of the committee did not adequately deal with the compliance with Local Plan policies, in particular Policy 9 of the Cornwall Local Plan. The committee, unlike officers, were of the view that the proposal complied with Policy 9 of the Cornwall Local Plan (which supports affordable-led development outside existing settlements).

Judgment

The Judge summarised the relevant legal principles by reference to *R (CPRE (Kent)) v Dover District Council* [2017] UKSC 79: reasons for a decision must be proper, adequate and intelligible. Local planning authorities may give relatively short reasons for refusal without any suggestion they are inadequate.

Reasons relating to landscape / AONB

The Judge found the committee's comments that there would be "*limited and localised harm*" to be significant as they acknowledged there would be some harm. As to the matter of insufficient evidence, the Judge found that this was a planning judgment which the committee was entitled to make. The reasons, although briefly stated, were adequate. It was not necessary to set out in great detail the level of harm to the landscape and AONB which the committee accepted. It was sufficient to say, as the committee did, that such harm was not significant and that great weight was being accorded to the urgent need for affordable housing.

Reasons on highways issues

The Judge considered the committee was entitled to come to the view that the application was acceptable from a highway safety perspective because the development would not result in a material difference in the number of users and because a condition could ensure that visibility was improved. Although this improvement related only to the northern visibility splay, it was nevertheless an improvement. The reasoning of the committee in this regard was also considered to be adequate.

Reasons in relation to policy

The Judge noted that there was no obligation on the committee to decide whether the application complied with each and every Local Plan policy. He found that it was clear from the committee's reasoning that it regarded Policy 9 as one of the main policy considerations. The committee had acknowledged in its reasons that there was insufficient evidence to show that the site was preferred land and well related to St

Merryn. However, Policy 9 supports development outside settlements which is affordable housing led, which this application “clearly was”. The committee was entitled to use its planning judgment to disagree with the officer's assessment.

The Judge found the reasons given by the committee, although short, dealt properly adequately and intelligibly with the main issues. The claim failed.

Case summary prepared by Anna Sidebottom