

Insights

LEGAL CHALLENGE TO EXPANSION OF WIMBLEDON'S ALL ENGLAND CLUB DISMISSED

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SUMMARY

In R. (*On the application of Save Wimbledon Park Ltd*) v Mayor of London and (1) *The All England Lawn Tennis Ground PLC* (2) *London Borough of Merton* and (3) *London Borough of Wandsworth*, the High Court dismissed an application to quash the grant of planning permission permitting the expansion of the Wimbledon Tennis Championships site.

WHAT WAS IT ABOUT?

- Save Wimbledon Park Limited (“SWP”) brought a claim challenging the Mayor of London’s (“MofL”) decision to grant planning permission to create 38 new tennis courts, a stadium and related buildings and infrastructure, expanding the current site onto land at Wimbledon Park golf course.
- The expansion land is designated as Metropolitan Open Land and a Grade II* listed Registered Park and Garden of Special Historic Interest. The land is subject to restrictive covenants requiring it to be kept open and free of built development. SWP also argued that the land was held subject to a Statutory Trust for public recreation.
- The key ground of challenge related to the lawfulness and rationality of the MofL’s approach to the materiality of the (assumed) Statutory Trust over the development site, and the restrictive covenants affecting the development site in the determination of the planning application. SWP also argued that the MofL should have considered whether land use management choices at the site amounted to deliberate neglect of a heritage asset; and thirdly, that the proposed private tennis development failed to offer adequate alternative sports and recreational activity.

WHAT DID THE COURT SAY?

- The Court dismissed the judicial review on all grounds.
- The deliverability of the development did not, in the circumstances, affect the merits of granting planning permission; its relevance was a planning judgment that was rationally exercised having regard to the relevant factors.
- The grant of planning permission is without prejudice to, and does not override, any existing property rights. A development may be acceptable in land use planning terms even if it is incompatible with a different (non-planning) restriction on the use of land. Deliverability was not a material consideration in these circumstances as the benefits of the scheme were not time sensitive and no weight was being placed on the speed of delivering benefits.
- The Court dismissed the other grounds, noting there was no evidence of any deliberate neglect of the heritage asset and that the MofL had properly considered the development's impact on open space and sports provision.

WHY IS IT IMPORTANT?

The case highlights the intersection between public law and private land rights. The Court took the view that where there may be a purported obstacle to delivery, it is legitimate to determine whether the development would be acceptable in land use terms on the assumption that it will come forward *at some point*. This may be helpful precedent for developers where land is bound by similar restrictive covenants.

RELATED CAPABILITIES

- Planning & Zoning
- Litigation

MEET THE TEAM



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