

Judicial Communications Office

23 April 2026

COURT DISMISSES APPEAL AGAINST PLANNING DECISION

Summary of Judgment

The Court of Appeal¹ today dismissed an appeal by Gordon Duff against a decision of Lisburn and Castlereagh City Council on 20 October 2023 whereby it granted reserved matters approval to outline planning permission for the erection of a new dwelling with detached garage at a site on the Hillhall Road, Lisburn.

Background

The outline planning permission for the dwelling was granted on 3 May 2019 on the basis that an “infill” dwelling was acceptable in principle at the site under Policy CTY8 of PPS 21. Mr Duff (“the applicant”) did not challenge the grant of the outline planning permission at the time. The reserved matters approval was granted in September 2021 at which point the architect applied for building control approval which was also granted. Work commenced on the foundations in December 2021. The reserved matter approval was then challenged by the applicant but eventually granted by Lisburn and Castlereagh City Council (“the Council”) on 20 October 2023. The essence of his case before the court was that the grant was so flawed that it is not possible to grant a lawful reserved matters approval consistent with planning policy. There were no objectors when the reserved matters application was made and all statutory consultees agreed to the approval.

The applicant sought to challenge the decisions of the Council. He was granted leave by the High Court in 2024 on certain grounds but refused on others following an inter partes hearing². The applicant subsequently renewed his application for leave on those refused grounds before the Court of Appeal. He contends that, on the evidence and argument advanced before the court below and maintained in the appeal, the judge was wrong to have refused leave. This submission was advanced on the basis that he had established, in respect of each of the grounds on which leave was refused, an arguable case with a realistic prospect of success.

Principles governing standing

The court considered whether the applicant had standing although no cross appeal had been lodged in respect of this. The applicant acts as a litigant in person and has, over the years, become a prolific litigant launching numerous applications for leave to apply for judicial review seeking in effect to act in a representative capacity on behalf of the public. He accepts that he is not an active member of any organisation concerned with the environment.

¹ The panel was Treacy LJ and Horner LJ. Treacy LJ delivered the judgment of the court.

² [2024] NIKB 119.

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The Court of Appeal previously outlined the principles governing standing in another case involving the applicant in which it held he did not have standing³. The issue of the applicant's standing was also considered in another case before the Court of Appeal⁴.

When considering the issue of standing the authorities make it clear that weight may be given to the public interest in the implementation of projects and the delay involved in judicial proceedings. The court said that that includes the interests of the planning applicant in this case, the inevitable delay resulting from the applicant's instigation of judicial review challenges pursuing wholly unmeritorious appeals and the associated stress and uncertainty thereby caused. Importantly, the courts must be careful not to encourage the proliferation of litigation by a "busy body" to avoid unnecessary cost and administration. The court commented that the applicant has been "singlehandedly responsible for the proliferation of a wholly disproportionate body of litigation largely in the planning context often causing feelings of unfairness and heartache to the individuals concerned." It said this also must be seen in the context of the applicant's lack of direct, personal interest, the unchallenged grant of outline planning permission, the fact that there were no objectors when the reserved matters application was made and that all statutory consultees agreed to the approval.

The court noted that the applicant is seeking to act in a representative capacity on behalf of the public. *Duff* [2023] NICA 56 made clear that the court must then consider his suitability having regard to his knowledge, ability and resources. The court, in this case, did not consider that the applicant is a suitable representative of the public interest. It said he is a personal litigant who is not an active member of a recognized organisation concerned with the environment. No such organization or NGO has raised any challenge. The court commented that such bodies act as a filter and contribute their specialised knowledge thereby putting the courts in a better decision to decide the case. They will use their specialised knowledge when evaluating the merits of a particular environmental challenge and identify with precision the grounds of challenge and the underlying public interest. They will also have ready access to and ordinarily will instruct specialist lawyers in the field to argue the case. This specialist knowledge and expertise help to ensure that only meritorious grounds of challenge are brought and that the court has the benefit of properly instructed public lawyers' expert in the field.

The court added that these safeguards are obviously in the public interest in developing environmental jurisprudence in an orderly, informed and expert manner. They ensure that only genuine cases of important public interest are brought and that the relevant issues, policies, legal provisions (domestic and European) and the factual context are fully and fairly placed before the court. It will also best ensure that only the relevant documents and arguments are advanced so that the time of the court and the parties is not wasted and the focus of all the parties remains on the relevant issues. The court noted that a feature present in this case was the lack of discernment, the pursuit of grounds that are unarguable and the pursuit of an unmeritorious appeal exacerbating the distress, inconvenience and cost to the notice party.

The court dismissed the appeal on the merits with reasons at the conclusion of the oral hearing. In respect of the grounds upon which leave was refused and unsuccessfully appealed the court considered that the applicant does not have standing for the reasons given above. As to the grounds upon which leave was granted and not appealed the court considered that the

³ *Duff v Causeway Coast and Glens Borough Council and FP McCann Ltd* [2023] NICA 56.

⁴ *Duff v Causeway Coast and Glens Borough Council and Alex McDonald* [2023] NICA 22.

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determination of whether the applicant has standing in respect of those grounds should be addressed by the judge allocated to hear that case.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available shortly on the Judiciary NI website (<https://www.judiciaryni.uk/>).

ENDS

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