

# Judicial Communications Office

12 October 2026

## COURT OF APPEAL DISMISSES GARVAGHY ROAD APPEAL

### Summary of Judgment

The Court of Appeal<sup>1</sup> today dismissed an appeal against a decision of Mr Justice Humphreys dated 27 September 2026 where he refused leave to apply for judicial review of a determination of the Parades Commission for Northern Ireland (“the Commission”) dated 25 September 2026 concerning a procession notified by Portadown District Loyal Lodge No. 1. Breandán Mac Cionnaith (“the appellant”) challenged the Commission’s decision not to prohibit the return procession from proceeding along the Garvaghy Road.

At the outset, the court emphasised that, in judicial review proceedings, its function is to exercise only a supervisory jurisdiction and not an appellate jurisdiction:

“A court considering a judicial review of a decision made by a public body created by statute to determine a particular issue exercises a supervisory jurisdiction. It does not determine the merits of any decision made. What that means is that we can only decide whether a decision of a public body, in this case, the Commission, has been lawfully taken. We cannot make the decision ourselves. To be clear, this court is not determining whether the parade proceeds along the Garvaghy Road.”

The court outlined the statutory framework under the Public Processions (Northern Ireland) Act 1998. The Commission is empowered to impose conditions on public processions and must have regard to matters including potential public disorder, disruption to community life, impact on community relations, compliance with the Code of Conduct, and the desirability of permitting processions customarily held along a particular route.

The court noted that the Commission received extensive written and oral representations from the organiser, residents, political representatives, churches and the Police Service of Northern Ireland (“PSNI”), and considered detailed legal submissions before reaching its determination. The Commission recorded the opposition of the Garvaghy Road Residents’ Coalition, including concerns regarding community impact, trauma and fear arising from the proposed parade, together with the organiser’s position regarding the importance of completing the traditional route and measures offered to minimise disruption. The Commission also considered PSNI evidence that there was no information indicating that the parade would result in disorder or violence, whilst recognising that policing plans covered a range of scenarios and that sufficient resources would be deployed for any procession or protest activity. Having considered the statutory criteria and competing rights, the Commission imposed conditions restricting participant numbers, timing, banners, supporters and bands, but did not prohibit the notified route along the Garvaghy

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<sup>1</sup> The panel was Keegan LCJ, Colton LJ, and McBride LJ. Keegan LCJ delivered the judgment of the court.

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Road. It concluded that those conditions represented the least restrictive means of preventing disorder and protecting the rights and freedoms of others.

## Grounds of Appeal

The appellant advanced four grounds of appeal: (i) application of an incorrect test regarding public disorder; (ii) inadequacy of reasons; (iii) failure properly to conduct the proportionality balancing exercise; and (iv) irrationality.

On the first ground, the court held that the Commission had not applied the wrong legal test. The court said that, reading the determination as a whole, the Commission assessed the possibility of disorder, considered the evidence before it, attached significant weight to the PSNI assessment, and imposed preventative conditions. It concluded that the Commission understood and evaluated the relevant risks.

On the second ground, the court held that the determination contained adequate reasons. It noted that the determination, which stated that there should be an absence of bands and accompanying supporters, alongside restrictions on conduct, reduced the possibility of adverse behaviour to the residents. The court commented that the Commission was not required to explain how every concern would be removed. It held that its judgment was that the remaining impact on residents did not justify excluding the route and said this struck a fair balance. Another aspect of this ground was that the Commission should have said why it changed its mind to allow this parade without restricting the return along the Garvaghy Road when that had not happened for 28 years. The court said it understood this concern, however, as the Commission expressly stated each application must be considered individually and there is no legal requirement to explain consistency or inconsistency with previous decisions. The court commented:

“A determination such as this should not be read hyper critically. As the judge said, the determination of the Commission should not be read as a judgment of the court, it is written by non-lawyers, and it represents their evaluative judgment in respect to multifactorial issues. In our view the reasons for the decision are discernible and so this ground of appeal also fails.”

On the third ground, the court held that the Commission had properly conducted the proportionality assessment required where rights under articles 8 and 11 of the European Convention on Human Rights were engaged. The court said the Commission recognised the significance of the route to participants, considered the impact on residents, and reached an evaluative judgment after balancing all relevant considerations. The court declined to second-guess that assessment.

On irrationality, the court held that the high threshold for intervention was not met. It found the Commission had considered relevant evidence and competing interests and reached a reasoned decision within its statutory remit:

“Given our conclusions on the other grounds of challenge, it therefore cannot prevail. In any event, irrationality is a high bar particularly when the impugned decision is made by a specialist body entrusted by Parliament with responsibility for a particular issue as here. We agree with the judge that the

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threshold for irrationality cannot be met in this case given that the Commission obtained evidence from the relevant sources and then considered the competing interests to reach a reasoned decision. As the judge said the fact that people may disagree with the decision does not make it irrational.”

## Overall conclusion

The court said it was satisfied that the judge was correct in his assessment of this application and that it should dismiss this appeal:

“We have had the benefit of the core material we needed to reach this outcome namely a comprehensive decision from the Commission and the underlying material from the police which was given significant weight. Having assessed this material and the extensive legal arguments made, we find that this application for leave to apply for judicial review has no reasonable prospect of success and so the judge was correct to refuse leave. We are also bound to say that even if leave were granted this application would have failed on its merits for all of the reasons we have given. This is the law which we apply in exercising our supervisory jurisdiction. We make no comment on the merits of the decision itself as that is not our function.

Accordingly, we dismiss the appeal and the application for leave to apply for judicial review is thereby also dismissed.”

## 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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