Neutral Citation Number: [2017] EWCA Civ 71

Case No: C1/2016/1456

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION (PLANNING COURT)
THE HONOURABLE MR JUSTICE JAY
[2016] EWHC 570 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15/02/2017

Before:

LORD JUSTICE ELIAS
LORD JUSTICE PATTEN
and
LORD JUSTICE SALES

Between:

Mrs Karen Louise Oakley	**Appellant**
- and -	
South Cambridgeshire District Council	**Respondent**
- and -	
Mr Len Satchell	**Interested Party**

- -

Zack Simons (instructed by **Howes Percival LLP**) for the **Appellant**
Jack Parker (instructed by **NP LAW**) for the **Respondent**

- -

Hearing Date: 26 January 2017

Approved Judgment

Lord Justice Elias:

Introduction

1. This appeal raises the issue whether, in the particular circumstances of this case, the planning committee of the South Cambridgeshire District Council ought to have given reasons for granting planning permission for the development by Cambridge City Football Club, a semi-professional club, of a football stadium capable of seating three thousand people. The proposed construction is in the outskirts of Sawston in Cambridgeshire, on land which is part of the Green Belt.

2. The application for planning permission was made by the Interested Party, the President of the Club, on 4 November 2013. It was not only for the erection of the ground, together with associated training and parking facilities, but also for the creation of a partially floodlit recreational ground which would be gifted to the Sawston Parish Council for community use.

3. When considering planning applications, the development plan has a particularly important status. The planning authority must not only have regard to the provisions of the development plan, in so far as it is material (section 70(2) of the *Town and Country Planning Act* 1990), but also any determination must be in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the *Planning and Compulsory Purchase Act* 2004).

4. There is national guidance about the way in which planning decisions should be made. The relevant guidance in force at the material time was the National Planning Policy Framework (NPPF) of March 2012. Paragraphs 87 to 89 deal expressly with the circumstances in which permission may be granted to allow development in the Green Belt. So far as is relevant to this application, they are as follows:

> "87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
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> 88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
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> 89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are… :
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> - provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;"

I shall call this exception the "appropriate facilities" exception.

5. The concept of inappropriate development in the guidance is reflected in the Council's local development plan, the Local Development Framework 2007. It is common ground that, in the context of this case, if there is inappropriate development within the meaning of the guidance, there will also necessarily be a breach of the development plan, although the converse is not necessarily true.

The Planning Officer's report

6. The Council's Senior Planning Officer produced an impressive and very detailed report on the 4 June 2014 in which she recommended that the application should be rejected and permission refused. She recognised that certain benefits, including economic and community benefits, would accrue from the development but did not consider that they were of sufficient weight to constitute "very special circumstances" within the meaning of para. 88 of the NPPF. The report set out in detail the responses to consultations and summarised some 184 letters in support of the development and 42 against it. The factors in favour included the fact that not only would the development assist the Club but it would also provide new sporting, recreational and social activities for the community. The objections were mainly that the development would adversely affect the Green Belt and have a harmful visual impact on the surrounding landscape. There were also concerns about traffic, noise, and certain ecological matters.

7. The officer specifically considered whether the development fell within the "appropriate facilities" exception in para. 89 of the NPPF, thereby rendering otherwise inappropriate development appropriate. She considered that it did not satisfy the relevant conditions to fall within that exception, both because it failed to preserve the openness of the Green Belt, and because it undermined two of the five purposes of the Green Belt identified in para. 80 of the NPPF, namely checking the unrestricted sprawl of built up areas and safeguarding the countryside from encroachment. Accordingly, in the officer's view this was inappropriate development which could only be justified if there were very special circumstances. The inspector described her approach to determining that issue as follows:

> "Paragraph 88 of the NPPF goes on to state that, when considering any application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. It is therefore next necessary to consider whether the development results in any further harm in addition to that caused by inappropriateness." (Emphasis in original.)

8. She then considered other potential harm including adverse visual impact; the effect on local residents of increased traffic, noise and lighting; and ecological harm. It was recognised that some of the potential problems could be satisfactorily mitigated by appropriate conditions. There was also consideration of what the officer accepted would be certain community and economic benefits of the proposed scheme. The

inspector reached the clear conclusion, however, that these were not sufficient to amount to very special circumstances justifying the development. She considered that:

> "… these benefits, whether taken individually or collectively, would not clearly outweigh the harm to the Green Belt caused by reason of inappropriateness as well as the additional harm identified in this report." (para.134).

9. In her summary of the reasons for refusing permission, she identified the various aspects of the development plan which would be infringed, in her view without justification, by this development (para.136):

> "1. The site lies outside the defined village framework for Sawston, and within the countryside and Cambridge Green Belt. The proposed development, by virtue of the nature and range of proposed uses, together with the scale of the facility and its consequent failure to preserve the openness of the Green Belt, would constitute inappropriate development in the Green Belt, as defined within the National Planning Policy Framework 2012 ('the NPPF 20-12'), and would therefore be contrary to Policy GB/1 of the South Cambridgeshire Local Development Framework 2007 ('the LDF').
>
> 2. Notwithstanding the harm by reason of inappropriateness, the development would result in additional harm to the rural character of the area and to the openness of the Green Belt. Consequently, the proposal would be contrary to Policy DP/3 (m) of the adopted Local Development Framework 2007, which states that development will not be permitted if it would have an unacceptable adverse impact on the countryside and landscape character.
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> 3. Notwithstanding the harm by reason of inappropriateness, the site is in a location that would result in unsustainable forms of travel for the proposed use. Consequently, the proposal would be contrary to Policies DP/1 and TR/1 of the adopted Local Development Framework 2007, which state that development will only be permitted if it would be consistent with the principles of sustainable development by, in part, minimising the need to travel and reducing car dependency.
>
> 4. Insufficient very special circumstances, including the lack of a sufficiently robust and detailed consideration of alternative sites, have been put forward to demonstrate why the harm, by reason of inappropriateness in the Green Belt and other harm identified above, is clearly outweighed by these considerations. The application therefore fails to satisfy the requirements of paragraph 88 of the NPPF 2012."

The decision of the planning committee

10. The planning committee met to consider the application on the same day as the report was finalised, namely 4 June. The committee did not follow the recommendation of the officer. There are manuscript notes of the meeting which identify certain issues which were raised but it is not suggested that they show the basis on which the committee made its decision. The committee did not grant planning permission at that meeting; rather, it approved the development in principle. It delegated to officers the power to grant permission subject to certain matters being resolved and, where necessary, conditions being imposed. The outstanding issues included reconsideration of ecology and access issues, further consideration of the environmental impact, and the possible completion of a section 106 agreement. It is also pertinent to note that the committee required the application to be referred to the Secretary of State for Communities and Local Government as a departure from the development plan. It could only be approved thereafter if it was not called in for determination by the Minister (and it was not).

11. There were further discussions both between the applicant and officers and between various officers, and these led to the outstanding issues being satisfactorily resolved. The decision to grant planning permission was duly promulgated on the 17 April 2015. It is a lengthy document which imposes a range of conditions. The reasons for each of them (which have to be spelt out as a matter of law) are set out in the grant itself.

12. At the end of the notice setting out the decision to approve the application the following observation was made:

> "A delegation report or committee report, setting out the basis of this decision, is available on the Council website."

One of the arguments of the appellant is that this reference created a legitimate expectation that a report would be provided on the website setting out the planning committee's reasons. It is convenient to deal with that argument here. The judge rejected it in summary terms saying that any hypothetical reader would understand the reference to the report to be a reference to the officer's report which "is available on the Council's website" and not to some future report not yet in existence. I entirely agree. It is impossible in my view to create a legitimate expectation that reasons would be given from this comment. In my judgment this argument is wholly without merit.

The judgment below

13. The essence of the argument below, as it was before us, was that the planning committee had failed to give reasons for their decision in breach of a common law obligation to do so. As Mr Justice Jay pointed out, between 2003 and 2013 there was a statutory duty to give summary reasons for all planning decisions, but that was removed for planning approvals. The statutory obligation now is to give reasons only where permission is refused, although if it is granted subject to conditions, reasons must be given explaining why the conditions have been imposed. However, it was common ground below, as indeed it is before us that although there is no statutory

obligation to give reasons where permission is granted, it does not follow that there is never any obligation to do so. A common law obligation may arise in appropriate circumstances. The decision of the Court of Appeal in *R v Aylesbury Vale DC ex parte Chaplin* (1998) 76 P & C.R. 207 held that there is no general common law duty to give reasons in planning cases. The question in issue was whether it arose in the particular circumstances here.

14. The focus of the argument below appears to have been narrower than the submissions made to us. The judge was referred to the well-known decision of the House of Lords in *R v Secretary of State for the Home Department ex parte Doody* [1994] AC 531 and to the decision of Sedley J, as he then was, in *R v HEFC ex parte Institute of Dental Surgery* [1994] 1 WLR 242. The judge followed Sedley J's analysis that the authorities showed that there are two distinct circumstances where reasons should be given. The first, as in *Doody*, was where the nature of the decision required it on grounds of fairness; the second was where, to use the terminology of Sedley J in the *Dental Surgery* case, there was something "aberrant" in the particular decision which called out for explanation. The former justifies the imposition of a duty to give reasons in a class of case whereas the latter justifies it by reference to the particular decision in issue.

15. In *Doody* the House of Lords held that where a prisoner received an indefinite sentence with a minimum term to be served, the duty of fairness required the Home Secretary (who at that time fixed the minimum term) to give reasons how that decision had been reached. Lord Mustill, giving the only reasoned judgment in their Lordship's House, also held that imposing the duty could be justified on the alternative ground that it was not disputed that the Home Secretary was subject to judicial review, but that would be frustrated without reasons being provided (p.565):

> "I think it important that there should be an effective means of detecting the kind of error which would entitle the court to intervene, and in practice I regard it as necessary for this purpose that the reasoning of the Home Secretary should be disclosed."

16. An example of an aberrant decision, of the type referred to by Sedley J in the *Dental Surgery* case, is the Court of Appeal decision in *R v Civil Service Appeal Board ex parte Cunningham* [1999] 4 All E. R. 300. The case concerned the amount of compensation which the Civil Service Appeal Board awarded to a prison officer whom it found to have been unfairly dismissed. The officer had no right of recourse to an industrial tribunal. In accordance with the Board's policy, no reasons were given for the amount awarded. The court held that the amount was so low when compared to the amount which an industrial tribunal would have been expected to award that it was prima facie irrational. Lord Donaldson MR held that this was a judicial decision where fairness required the giving of reasons. The Board should provide outline reasons to enable the applicant to know that it had directed its minds to the right issues and reached a lawful decision. McCowan LJ added that it was a case which "cries out for some kind of explanation from the Board". There was a genuine concern that justice may not have been done given the disparity between the amount awarded and the amount which an industrial tribunal might have been expected to award in similar circumstances.

17. It was submitted by the appellant before Jay J that this similarly was a case "crying out for an explanation" given that the planning committee had departed from the considered recommendation of the officer. The judge rejected that submission. He did not accept that there was any analogy with the *Cunningham* case; there was nothing intrinsically peculiar or aberrant in the committee disagreeing with the officer's recommendation. That fact alone was not enough to trigger a duty to give reasons.

18. Moreover, in the judge's view there were good reasons for not imposing a common law duty given the nature and character of the decision-making process. The judge was persuaded that certain observations made by Sedley J in the *Dental Surgery* case were apt when he said that giving reasons "may place an undue burden on decision makers; demand an appearance of unanimity where there is diversity; call for the articulation of sometimes inexpressible value judgments". In the judge's view, that fairly characterised the position here.

The grounds of appeal

19. The argument before us has switched focus. The appellant no longer sought to contend - or if he did, it was not with any particular enthusiasm - that the duty arises because the decision to grant planning permission was so aberrant as to require explanation. In my judgment, he was right not to press this argument. I agree with the judge that a decision could not fairly be characterised as aberrant simply because the committee disagrees with an officer's recommendation. The committee's decision is not an appeal against the recommendation of the officer. Indeed, the principal purpose of the officer's report is to alert the members to the relevant considerations, including the applicable policies, bearing upon their decision: *R v Mendip DC ex p.Fabre* [2000] 80 P & CR 500, 509 per Sullivan J. The mere fact that the officer and the committee part company is not a sufficient basis for saying that the latter decision is peculiar or aberrant so as to attract the duty to give reasons. Having said that, for reasons I develop below, the fact that the committee has departed from the officer's report may in some contexts be a relevant factor supporting the conclusion that a common law duty to give reasons should be imposed.

20. Mr Simons, counsel for the appellant, submitted that reasons were required on two possible bases which I will briefly sketch out here. The more ambitious submission was that the common law should always require reasons to be given, even where planning permission is granted and even though there is no statutory obligation to do so, unless it is clear from the relevant publicly available materials how the decision must have been reached. He accepted that it frequently will be obvious how it has been reached, even in the absence of express reasons, particularly where the committee agrees with the officer's report. This is because, as Lewison LJ recently observed in *Palmer v Herefordshire Council* [2016] EWCA Civ 1061, para.7:

> "In examining the reasons given by a local planning authority for a decision, it is a reasonable inference that, in the absence of contrary evidence, they accepted the reasoning of an officer's report, at all events where they follow the officer's recommendation: *R (Fabre)* v *Mendip DC* (2000) 80 P&CR 500, 511; *R (Zurich Assurance Ltd) v North Lincolnshire Council* [2012] EWCA Civ. 3078 at [15]."

21. Mr Simons also recognised that even where the committee departs from the officer's recommendation, it may nevertheless sometimes be clear how the decision must have been taken and he cites the *Chaplin* case, considered below, as an illustration, at least by analogy, of that situation. But he contends that where the reasoning is not intelligible from the available planning materials, a common law duty to provide reasons arises. Counsel submits that this is precisely the situation here; the reasoning of the committee is opaque and consequently the common law will require reasons.

22. The alternative and narrower ground was that whatever the general position with respect to planning decisions may be, the nature of this particular planning decision required reasons to be given. Mr Simons relies upon two features of the decision in particular which, whilst not making this decision unique, distinguish it from most other planning determinations. First, the committee has departed from the officer's very strong recommendation. Second, it did so in circumstances where the development constitutes a departure from the development plan and, more specifically, where it involves development in the Green Belt. Reasons should be given in order to explain why such interference is justified.

23. Mr Parker, counsel for the Council, rejects both arguments. He emphasised that there is no general duty to give reasons in planning cases, as the *Chaplin* case confirms. The wider formulation proposed by the appellant would in effect undermine that well established principle. As to the narrower basis relied upon as the source of the duty, there is no principled basis for saying that the duty should arise simply because of the particular features identified by the appellant. On the contrary, Jay J accepted that there were powerful policy reasons for not requiring the imposition of the duty to give reasons, and he was right to reach that conclusion.

24. Mr Parker added that, n any event, the appellant had accepted that it would not be necessary to give reasons expressly where they could be readily inferred, and that was the position here. He submitted that although there was a departure from the officer's recommendation, nonetheless the essence of the committee's reasoning could be discerned from the material in the planning file.

Discussion

25. There are, therefore, two distinct issues which need to be considered. The first is whether it is possible to infer the reasoning of the committee from the materials in the public domain, and in particular the officer's report. The second, assuming that this is not possible, is whether there is a duty on the committee to explain its reasoning. The latter issue raises a point of general principle whilst the former is particular to the facts of this case. I shall deal with the issue of principle first.

Reasons: the general position

26. There are powerful reasons why it is desirable for administrative bodies to give reasons for their decisions. They include improving the quality of decisions by focusing the mind of the decision-making body and thereby increasing the likelihood that the decision will be lawfully made; promoting public confidence in the decision-making process; providing, or at least facilitating, the opportunity for those affected to consider whether the decision was lawfully reached, thereby facilitating the process of

judicial review or the exercise of any right of appeal; and respecting the individual's interest in understanding - and perhaps thereby more readily accepting - why a decision affecting him has been made. This last consideration is reinforced where an interested third party has taken an active part in the decision making-process, for example by making representations in the course of consultations. Indeed, the process of consultation is arguably undermined if potential consultees are left in the dark as to what influence, if any, their representations had.

27. The disadvantage, accepted by Jay J in this case, is that having to provide reasons - particularly where they have to withstand careful scrutiny by lawyers - might involve an undue burden on the decision maker. Exceptionally, there may be some powerful public interests, such as national security, which could justify withholding reasons, but there is no such competing public interest under consideration here.

28. Statute frequently, and in a wide range of circumstances, obliges an administrative body to give reasons, although the content of that duty, in the sense of the degree of specificity of the reasons required, will vary from context to context. However, absent some statutory obligation, the question whether reasons are required depends upon the common law.

29. It is firmly established that there is no general obligation to give reasons at common law, as confirmed by Lord Mustill in the *ex parte Doody* case. However, the tendency increasingly is to require them rather than not. Indeed, almost twenty years ago, when giving judgment in *Stefan v General Medical Council*(no.1) [1999] 1 WLR 1293,1300, Lord Clyde observed:

> "There is certainly a strong argument for the view that what was once seen as exceptions to a rule may now be becoming examples of the norm, and the cases where reasons are not required may be taking on the appearance of exceptions."

30. In view of this, it may be more accurate to say that the common law is moving to the position whilst there is no universal obligation to give reasons in all circumstances, in general they should be given unless there is a proper justification for not doing so.

31. There are certain categories of case where the courts have required reasons to be given at common law, although the jurisprudence is relatively under-developed, perhaps because statutory requirements are so common. Apart from cases where fairness requires it, or a particular decision is aberrant, the duty has also been imposed where the failure to give reasons may frustrate a right of appeal, because without reasons a party will not know whether there is an appealable ground or not: see e.g. *Norton Tool Co. Ltd v Tewson* [1973] 1 WLR. 45; and where a party has a legitimate expectation that reasons will be given: see *Martin v Secretary of State for Communities and Local Government* [2015] EWHC 3435 (Admin) where Lindblom LJ held that there was a legitimate expectation that inspectors would give reasons in a written representations planning appeal generated by the Secretary of State's long established practice of giving reasons in such cases.

32. There is a strong analogy between the need to give reasons in order not to frustrate a statutory right of appeal and the need to do so in order not to frustrate a potential application for judicial review. However, whatever the merits of the analogy, if this

were always to ground a basis for requiring reasons to be given, it would be inconsistent with the lack of any general common law obligation to give reasons. Nonetheless, there will be many cases where it is in the public interest that affected parties should be able to hold the administration to account for their decisions, and in the absence of a right of appeal, the only way to do so is by an application for judicial review. Where the nature of the decision is one which demands effective accountability, the analogy with a right of appeal is surely apt.

33. Absent reasons, there are considerable difficulties facing a potential applicant who suspects that something may be wrong with a decision but is unsure. Unless the decision is plainly perverse, the assumption will necessarily be that the decision was lawfully made; there is a presumption to that effect given that the burden of establishing illegality is on the applicant. No doubt there will be cases where a party has sufficient material to be able to mount some sort of legal challenge and get beyond the leave stage. In those circumstances the respondent will effectively be compelled to provide reasons in order to defend the case because if no reasons are given, the court may infer that the decision is bad: see the seminal case of *Padfield* [1968] AC 997 (HL). Even then, however, the applicant may not be given full reasons, merely such explanation of the reasoning as meets the particular ground of challenge. Moreover, if the basis of the claim is too speculative - as it may well be where no reasons are available - the application is likely to fail at the leave stage.

Reasons in planning cases

34. There are a number of circumstances where statute requires reasons to be given in the planning context. This duty needs to be considered against the background that whereas an applicant for planning permission has the right to appeal a decision which is adverse to him, whether it be a refusal of permission or a grant of permission but subject to unacceptable conditions, there is no right for third parties to appeal in any circumstances. The only remedy is by way of judicial review.

35. A statutory obligation to provide reasons has long been established where planning permission is refused or is granted but subject to conditions. It is currently imposed by regulation 35 of the *Town and Country Planning (Development Management Procedure) (England) Order 2015/595*. By contrast, the obligation to provide reasons where permission is granted was only introduced by an amendment to the relevant regulations with effect from 2003 and it was removed ten years later. Sullivan J explained the rationale for introducing the duty in *R (on the application of Wall) v Brighton and Hove City Council* [2004] EWHC 2582(Admin) at paras. 52-53 as follows:

> "52. Over the years the public was first enabled and then encouraged to participate in the decision-making process. The fact that, having participated, the public was not entitled to be told what the local planning authority's reasons were, if planning permission was granted, was increasingly perceived as a justifiable source of grievance, which undermined confidence in the planning system. Thus the requirement to give summary reasons for a grant of planning permission should be seen as a further recognition of the right of the public to be involved in the planning process. While the requirement to give "full

> reasons" for a refusal of planning permission, or for the imposition of conditions, will principally be for the benefit of the applicant for planning permission, who will be better able to assess the prospects of an appeal to the Secretary of State, the requirement to give summary reasons for the grant of planning permission will principally be for the benefit of interested members of the public. The successful applicant for planning permission will not usually be unduly concerned to know the reasons why the local planning authority decided to grant him planning permission.
>
> 53. Parliament decided that this extension of the public's rights under the Planning Code was necessary even though in many cases it could reasonably be inferred that the members would have granted planning permission because they agreed with the planning officer's report (see ***Fabre*** above). Parliament could have, but did not, limit the obligation to give summary reasons to those cases where the councillors did not accept their officers' recommendation."

36. The scope of the duty in such cases was, however, more limited than where permission is refused. In the latter situation, the notice setting out the reasons "shall state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan relevant to the decision". By contrast, where permission was granted, the duty was less onerous. The notice had to include merely "a summary of their reasons for the grant of permission" and "a summary of the policies and proposals in the development plan which are relevant to the decision to grant permission".

37. As Sullivan J indicated in the *Wall* case, the provision of summary reasons is hardly a burdensome exercise:

> "When officers recommend the grant of planning permission there is no reason why their reports should not similarly contain recommended summary grounds for so doing. Very often the conclusions in an officer's report will in effect be a summary of the grounds for granting planning permission. The members will be able to adopt or amend the officer's summary grounds, but the requirement to set out summary grounds in the decision notice will ensure that the members decide in public session why they wish to grant planning permission."

38. The duty to give reasons where permission is granted was abrogated by an amendment order with effect from June 2013. The reason for making this amendment was explained in an Explanatory Memorandum prepared by the Department and laid before Parliament. It was thought that the requirement to provide a summary statement of reasons added little to the officer's report "and therefore adds little to the transparency or the quality of the decision-making process but it does add to the burdens on local planning authorities". he memorandum pointed out that much of the relevant documentation relating to planning applications was now available on-line. It explained that the removal of the duty sought "to reduce the regulatory burden and

offer time-saving benefits to local authorities, without reducing the transparency or accountability of the decision-making process". The assumption, therefore, was that where permission is granted, typically the reasoning will be sufficiently transparent since it can be gleaned from the available materials so that there is no need for a formal statement of reasons.

39. It is pertinent to note that reasons may still have to be given in some circumstances even where planning permission is granted. By regulation 24 of the *Town and Country Planning (Environmental Impact Assessment) Regulations 1999*, where an application for planning permission for an EIA development is determined, the local planning authority must make available for public inspection certain information including "the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public". This obligation applies, therefore, even where permission is granted.

40. One particular duty to provide reasons, relied upon in the appeal but not raised before Jay J, is the statutory duty to give reasons created by regulation 7 of the *Openness of Local Government Bodies Regulations 2014*. This provides that where, inter alia, an officer is authorised to grant permission, a written record must be produced as soon as is reasonably practicable after the decision and must include, inter alia, "a record of the decision taken along with reasons for the decision". Mr Simons submitted that this applies to the grant of permission in this case since it was made by the officer acting under delegated powers. He submitted that the effect of this regulation is that the officer is obliged to obtain from the committee the reasons why it gave its "in principle" consent to the development.

41. I do not agree. The reasons to be given are those which explain why the officer made the decision he did. But the starting point for that decision is the "in principle" planning permission given by the committee. The officer will no doubt have to give reasons why, starting from that premise, he was satisfied that permission should be granted. But in my judgment he will not, as counsel suggested, be obliged to obtain from the committee the reasons for its separate and earlier decision conditionally to approve the development. That is not, in my view, implicit in the regulation. Indeed, it would be bizarre if the planning committee had to give its reasons to the officer who would then make them available to the public when it delegated authorisation but did not have to give reasons to anyone at all when it granted permission itself.

The grounds of appeal: the wider argument

42. I turn to consider the grounds of appeal, taking first the wider submission that reasons should always be given unless the reasoning is intelligible without them.

43. The decision of the Court of Appeal in the *Chaplin* case confirms that there is no general duty to provide reasons in planning cases. Mr Simons does not directly challenge this principle, but he does seek to restrict it. In essence he submits that express reasons can be dispensed with only where - and only because - they are not necessary.

44. As I have said, Mr Simons accepts, as Lang J observed in *R* (*Hawksworth Securities Plc*) v *Peterborough City Council* [2016] EWHC 1870 (Admin), that often a consideration of the planning materials which are publicly available will demonstrate

the basis on which the application was granted. Indeed, that was the premise on which the statutory duty to give reasons was abrogated. But inferring the process of reasoning is likely to be more difficult, although not necessarily impossible, when the application for permission is granted contrary to the officer's recommendations. The question is whether a planning authority can at common law refuse to reveal its process of reasoning even where that process is not otherwise clear.

45. I see considerable force in this wider argument advanced by the appellant for a number of reasons, some of which were advanced by counsel. First, planning decisions generally affect individuals other than the applicant for permission and they have a legitimate interest in the outcome. Sometimes, as in this case, a decision whether or not to allow a development impacts on the local community. I develop this point more fully below when considering the narrower ground.

46. Second, there do not appear to be any decisions (apart from Jay J in this case) where a court has held that reasons need not be given even though the reasoning is otherwise opaque. Although the mantra that there is no general duty to give reasons is oft repeated, in practice in the cases where a reasons challenge has failed, the courts have concluded that reasons can be inferred in any event.

47. For example, in the *Chaplin* case itself, which confirmed that reasons were not generally required in planning cases, the duty was held not to arise because the explanation for the decision was obvious. The facts were that the applicant sought permission to build two houses at the edge of the village. The relevant planning question was whether it was within the existing built-up area. The officer's report concluded that it was but the Council's development control sub-committee initially took a different view. Several months later, after the applicant had appealed the decision, some of the members of the sub-committee visited the site and invited a fresh application which was successful. No reasons were given for the decision and there was no explanation why minds had changed. It was submitted that in the circumstances reasons ought to have been given, but the application was dismissed at first instance by Keene J and the appeal failed.

48. Pill LJ, with whose judgment Waller and Nourse LJJ agreed, rejected the submission that there was an obligation to give reasons arising out of the particular circumstances of the case. He said this:

> "Though the answer may not have been easy, the question posed for the consideration of members of the Sub-Committee was clear. There was a single issue. Their planning advisers were consistent in making a judgment in favour of the grant of permission. Upon the first application for permission, a majority of members rejected the advice of their planning advisers. Before they considered the second application, the members had the benefit of a site visit and further advice from their planning advisers. Better informed as they were, members were entitled to make a different judgment upon the issue, as one of them undoubtedly did and others probably did. That was a course they were entitled to take …

> There was a good and obvious reason for the second decision and no obligation to spell it out arose by reason of the previous refusal. The majority had obviously come to the conclusion that the site was within the built-up area of Nash".

49. The analysis was, therefore, that no reasons needed to be given because the basis of the reasoning was obvious and did not need spelling out. Indeed, in *R v Mendip D.C. ex parte Fabre*, Sullivan J treated *Chaplin* as an example of a case where, prima facie, reasons were required but were not necessary because the reasoning was clear. To similar effect was the decision of Lightman J. in *R v East Hertfordshire District Council ex p Beckman* (1978) 76 P & C.R. 333 when he held that where a committee granted planning permission departing from its own earlier decision to the contrary, "clear and unambiguous" reasons were required as a matter of "fairness and good administration" (p.337).

50. Third, if reasons are required when a committee changes its mind, there is a powerful case for asserting that they should also be required when the committee disagrees with the planning officer. The situations are very similar and there is no reason why the requirements of fairness and good administration should not require reasons in this situation too, at least where the reasoning is otherwise obscure. Indeed, in the *Mendip* case Sullivan J expressed the view that where the committee departs from the officer's recommendation, "some explanation will be required" of the committee's views. He did not go so far as to say that there was a common law duty to give reasons in situations where the reasons were otherwise opaque, but he did observe that "it might be sensible at the very least to record the members' reasons in the form of a minute".

51. Fourth, I accept the appellant's submission that if there is no duty to give reasons when the committee disagrees with the officer's recommendation, there would be something of an anomaly between that situation and the case where the permission is in line with the officer's views. In the latter situation, the reasons can be inferred on the basis that the committee's reasons are taken to be those of the officer and the decision can be challenged on that premise. In the latter, because that inference cannot be drawn, the reasons will often be obscure and therefore it will be much more difficult to challenge what is in fact precisely the same decision to grant permission.

52. Fifth, counsel observed that planning history may have an influence upon a planning decision and ought to be taken into consideration where relevant. However, for past decisions properly to be taken into account, the basis of those earlier decisions needs to be known in addition to the decisions themselves: see the observations of Mr George Bartlett QC in *R (Harvard) v South Kesteven DC* [2006] J.P.L.1734, para.14.

53. Finally, in my judgment, there is no strong argument against giving reasons. I respectfully disagree with the submission which appealed to Jay J below, to the effect that it would be unduly burdensome for the planning committee to have to produce reasons in a case such as this. In my view it lacks merit for four reasons. First, as we have seen, there is the statutory duty to provide reasons - and relatively detailed reasons - in many planning determinations including, in EIA cases, where permission is granted. If reasons can be required in those circumstances, it is difficult to see why

it should be unduly onerous to produce them in cases when permission is granted. Second, as Sullivan J pointed out in the *Ball* case, the committee has the planning officer's report as a point of reference and a point of departure. It will often be relatively easy to indicate which aspects of that report it accepts and which it disagrees with, and why. Third, the content of a common law reasons duty is likely to be less rigorous than where the duty arises in the statutory context. Finally, members have access to officers and lawyers who can assist them in the formulation of their reasons.

54. I would add that the abrogation of the express duty to give reasons is not inconsistent with this submission since, as we have seen, it was not intended that the removal of the express duty to give reasons should in any way reduce transparency. Indeed, it is consistent with the rationale of the amendment that reasons should be given where the committee's reasoning is not otherwise clear.

55. For these various reasons I am strongly attracted to the wider submission advanced by Mr Simons. It would not mean that any busybody could seek reasons where permission is granted. The rules of standing ensure that only those who have a proper interest in doing so can challenge a decision. However, I would not decide the appeal on this broad principle. The courts develop the common law on a case by case basis, and I do not discount the possibility that there may be particular circumstances, other than where the reasoning is transparent in any event, where there is a justification for not imposing a common law duty. It is not necessary for me to rely upon the broad argument because in my judgment the duty arises under the alternative argument.

The grounds of appeal: the narrower argument

56. The decision under challenge has a number of distinct features relied upon by the appellant. Not only has the committee disagreed with the officer's recommendation, but in addition it has done so in circumstances where its decision is not consistent with the local development plan and involves development in the Green Belt. Prima facie that is inappropriate development and the planning committee is required to conclude that the adverse effects "by reason of inappropriateness and any other harm" are clearly outweighed by other considerations.

57. The development of the football stadium will undoubtedly have a significant and lasting impact on the local community. Local inhabitants, therefore, have a close interest in the outcome of the application. The law recognises this by giving them the opportunity to make representations through the process of consultation; they can seek to influence the decision by participating in that process.

58. An important objective of environmental policy is to protect and preserve special features of the landscape and certain important buildings. So special status is given, for example, to areas of outstanding natural beauty, the Green Belt, and listed buildings. They have this status because it is considered that in general their preservation enriches the quality of life. These features are not to be preserved at all cost, but strong reasons, and sometimes very exceptional reasons, will be required to justify interfering with them. For many citizens, a development which has an adverse impact on the countryside or which causes a change in the character of the landscape in their locality, particularly if the development brings in its wake a corresponding increase in noise, traffic and lighting pollution, will be perceived as lessening the

quality of their every-day lives. For some third parties, a development of this nature may also have some economic impact if it affects the value of their property. There will obviously be situations where the benefits of a particular development outweigh the environmental disadvantages, and nobody can expect to live in a time capsule. But in my judgment the common law would be failing in its duty if it were to deny to parties who have such a close and substantial interest in the decision the right to know why that decision has been taken. This is partly, but by no means only, for the instrumental reason that it might enable them to be satisfied that the decision was lawfully made and to challenge it if they believe that it was not. It is also because as citizens they have a legitimate interest in knowing how important decisions affecting the quality of their lives have been reached. This is particularly so where they have made representations in the course of consultation. They cannot expect their detailed representations to be specifically and individually addressed, but as participants in the process, they can expect to be told in general terms what the committee perceived to be the advantages and disadvantages of a particular development, and why the former clearly outweighed the latter.

59. In a general sense this may be considered an aspect of the duty of fairness which in this context requires that decisions are transparent. The right for affected third parties to be treated fairly arises because of the strong and continuing interest they have in the character of the environment in which they live. Even if the decision to allow a development does not affect any property or financial interest, it may damage other non-pecuniary interests which affected parties may value equally highly. In my judgment, these are powerful reasons for imposing a duty to give reasons, at least if the reasoning process is not otherwise sufficiently transparent.

60. The decision in this case involved a development on the Green Belt and was also in breach of the development plan. Public policy requires strong countervailing benefits before such a development can be allowed, and affected members of the public should be told why the committee considers the development to be justified notwithstanding its adverse effect on the countryside. In my judgment these considerations demand that reasons should be given. Even if there are some planning decisions which do not attract the duty to give reasons, there is in my judgment an overwhelming case for imposing the duty here.

61. That conclusion is in my judgment reinforced where the committee departs from the officer's recommendation. The significance of that fact is not simply that it will often leave the reasoning obscure. In addition, the fact that the committee is disagreeing with a careful and clear recommendation from a highly experienced officer on a matter of such potential significance to very many people suggests that some explanation is required. As I have said, I would not impose the duty to give reasons on the grounds that the committee's decision appears to be aberrant within the *Cunningham* principle, but the dictates of good administration and the need for transparency are particularly strong here, and they reinforce the justification for imposing the common law duty.

The Aarhus Convention

62. Although the Aarhus Convention did not figure in the arguments before us, in my view it reinforces the conclusion I have reached. This development plainly falls within the terms of that Convention, given its impact on the environment. The

Convention, to which the UK is a party, emphasises the importance of the public having access to environmental information, and having the right to participate in decision making. In addition, there must be effective judicial remedies. It does not sit happily with these obligations to deny a party information about how the decision was reached; and for reasons I have given, it may forcefully be argued that the duty to give reasons is required in order to make the judicial review procedure effective.

Is the reasoning clear?

63. Mr Parker submits that even if there is a duty to give express reasons where the reasoning is otherwise unclear, the duty does not arise here because it can be readily inferred what the reasons are from the publicly available material. The committee itself expressly stated that the development was in breach of the local development plan, and it is also clear from the letter referring the application to the Secretary of State that the planning committee considered that this was inappropriate development on the Green Belt. (This letter was introduced into the hearing on appeal. Until then, as indeed the judge below recognised, it was not possible to discern whether the committee's view was that this was inappropriate development but nonetheless justified by very exceptional circumstances, or whether the appropriate facilities exception applied thereby rendering it appropriate development).

64. Mr Parker says that notwithstanding that the committee departed from the officer's recommendation, the obvious inference from the materials is that the committee merely weighed factors differently to the officer. They were persuaded that the advantages of the development outweighed the disadvantages and constituted very exceptional circumstances. Furthermore, it must be assumed that an experienced planning committee will be well versed in the material policies identified in the report, and will understand that in a development of this kind the benefits must very clearly outweigh the harm to the Green Belt. The presumption is that the committee acted lawfully, and adopting that approach, the essential process in its reasoning can be readily discerned.

65. I am not persuaded that the reasoning can be adequately inferred. This was not a case where the decision essentially turned upon the resolution of a single issue, as in *Chaplin*. Nor is it a case where the officer set out the relevant competing considerations, perhaps expressed the view that it was a marginal decision, and came down on one side or the other. It may be easy to infer in such a case that the committee did merely balance the interests differently. Here there was a complex assessment of numerous factors in play and there is no indication at all how they were assessed. For example it is not clear whether the committee accepted the officer's view that there was harm over and above inappropriate development. Nor is it possible to understand which factors in favour of the development carried such weight, either individually or collectively, as to justify the conclusion that these benefits very clearly outweighed the policy of the preservation of the Green Belt. Did the committee reject the officer's conclusion that consideration of alternative sites had not been sufficiently robust? Or that contrary to the applicant's arguments, it would be detrimental to the landscape and the biodiversity? We are left in the dark about all these matters. It is not even clear in which respects the committee found that the development would contravene the development plan. In the circumstances I do not accept that the reasoning is sufficiently transparent to relieve the committee of the duty to provide reasons.

What relief should be granted?

66. The final issue is the question of relief. We heard no submissions about that. The original application for judicial review sought to have the permission quashed. That may be the appropriate relief but I am conscious that we heard no argument about that, and it is desirable that we should. I would allow the parties an opportunity to make further observations in writing, at least at the first instance, before reaching a final conclusion on that issue.

Disposal

67. For reasons I have set out, I would uphold the appeal and declare that the respondent authority was in breach of a common law duty to provide reasons for its decision to grant planning permission for the development. I would not determine the appropriate relief without first giving the parties an opportunity to address that question in writing.

Lord Justice Patten:

68. I agree.

Lord Justice Sales:

69. I agree with Elias LJ that a common law duty arose in this case requiring the Council to give reasons for its decision and that the Council was in breach of that duty in failing to do so. Since there are some differences, at least in nuance, between my own reasons and those of Elias LJ as to the basis for the duty which arose in this case, I explain my reasons separately.

70. As I understood the arguments presented to us, they operate at three different levels of generality. At the highest level, Mr Simons for the appellant submits in effect that the common law should now be taken always to impose a duty on a local planning authority to give reasons for granting planning permission, but that such a duty may be satisfied where it can be inferred from the reasoning in the officer's report what the planning authority's reasons were (see *R v Mendip D.C., ex p. Fabre* (2000) 80 P & CR 500 and *Palmer v Herefordshire Council* [2016] EWCA Civ 1061 at [7]) or where it is obvious from inference in the circumstances what the planning authority's reasons were, even though not specifically set out in the officer's report (see *R v Aylesbury Vale D.C., ex p. Chaplin* (1998) 76 P & CR 207).

71. I think it is worth elaborating on these two qualifications a little. In many cases, an officer's report will set out arguments for and against a particular grant of planning permission, or for and against a particular view on an issue which arises in the structured reasoning path which the planning authority is required to follow, and then give the officer's recommendation that permission be refused or that a particular view be adopted on that issue. But the planning authority may grant permission or adopt a view on that issue contrary to the officer's recommendation, without saying more. In such a case, even though the planning authority has departed from the recommendation, the fair and proper inference is that it has simply adopted the contrary reasoning as set out in the report. This is an application of the approach in *ex p. Fabre*. Moreover, I think that the decision in *ex p. Chaplin* does not really

exemplify a different qualification, but is rather a further illustration of the same approach. In that case, it was clear from the officer's report that there was only one critical issue of planning judgment bearing on the decision to be made, so where the planning authority changed its mind and eventually reached a decision which was in line with the earlier recommendation made by officers it was clear by inference that the authority had simply made the contrary planning judgment on that issue and accepted the officers' reasons on that point.

72. Mr Simons advanced three points in support of his primary, general submission: (i) the importance of consistency in planning decisions, in relation to which knowledge of the reasons for grant of permission in one case may be relevant to decisions in other cases (for this point he relied in particular on *R (Havard) v South Kesteven D.C.* [2006] JPL 1734); (ii) the importance of assessing proper compliance by a planning authority with its duty under section 38(6) of the 2004 Act to act in accordance with the development plan for its area, unless there is a sufficient good reason for departing from it (in relation to which he relied in particular on *R (Hampton Bishop Parish Council) v Herefordshire Council* [2014] EWCA Civ. 878; [2015] 1 WLR 2367); and (iii) that it would be anomalous to conclude that where planning permission is granted in accordance with the officer's recommendation, the reasons for that decision are open to view by reason of the *ex p. Fabre* approach with the consequence that a legal challenge to them can be mounted, whereas if the officer recommends refusal but the planning authority grants permission without giving reasons, its reasons for doing so are not open to scrutiny and the opportunity to test them by bringing court proceedings is accordingly diminished.

73. I do not consider that these reasons, taken individually or cumulatively, support the general duty for which Mr Simons contends. As to (i), the significance of the planning history of one site when planning permission is sought for another site will usually be relatively peripheral to the main arguments on the planning merits in relation to the latter site. This is not a factor of such force as to be capable of generating the general duty for which Mr Simons contends. Moreover, at various points when Mr Simons was pressed on the potential onerousness for a planning authority acting by a committee of lay councillors having to give collectively agreed reasons for all their decisions, he retreated into a submission that they might not have to give very detailed reasons. But if detailed reasons are not given, that will reduce the ability to check whether and to what extent one planning case really is like, or unlike, another case.

74. Elias LJ regards point (ii) as being in reality a reason in support of the appellant's alternative, fall-back argument rather than her primary general argument, and I think he is right about that. In many cases planning authorities will grant permission in a way which appears to accord with the development plan. That does not seem to be something which particularly calls for explanation, whereas a departure from the development plan may do. If permission is granted in accordance with the development plan, the fair inference is that the reasons for that decision reflect the underlying reasons for the development plan being framed in that way in the first place.

75. Point (iii) has some force, but the absence of reasons is not something which immunises a decision of a planning authority which is contrary to the officer's recommendation from legal challenge. If, as here, the planning authority makes a decision to grant planning permission which is contrary to both the substantive

reasoning and the recommendation in the officer's report, it will be open to an objector to launch legal proceedings to challenge that decision, relying on the apparent absence of any proper reasons in favour of the decision. If the planning authority files an acknowledgement of service which identifies its reasons, then – subject to any scepticism whether they have simply been invented after the event (compare *R v Westminster City Council, ex p. Ermakov* [1996] 2 All ER 302 and *R v East Hertfordshire D.C., ex p. Beckman* (1997) 76 P & CR 333, at 337) – the objector will have the opportunity to amend to challenge those reasons. If the planning authority does not say in the acknowledgement of service what its reasons were, then the inference will be strong that it has no proper reasons and any attempt to introduce some in evidence later in the proceedings may well prove ineffective, by reason of *ex p. Ermakov*.

76. Also against Mr Simons' primary submission are statements in the cases that there is no general duty to give reasons for decisions to grant planning permission: see e.g. *ex p. Chaplin* at p. 211. There are, moreover, reasons which are not without force why a court applying the common law should be cautious about imposing a general duty of the kind for which Mr Simons contends. The planning system at local planning authority level is staffed by lay councillors and reflects local democracy in action. If onerous duties to give reasons are imposed across the board, it might deter otherwise public-spirited volunteers. The need to prepare and agree reasons might also introduce an unwelcome element of delay into the planning system: see *R (CPRE Kent) v Dover D.C.* [2016] EWCA Civ 936 at [20] per Laws LJ. These sorts of factor are difficult for a court to assess and I think this court should be wary of stepping in to impose a general duty where Parliament has chosen not to do so. In my view, the common law should only identify a duty to give reasons where there is a sufficient accumulation of reasons of particular force and weight in relation to the particular circumstances of an individual case. This observation leads me to Mr Simons' alternative submission.

77. Secondly, as an alternative submission at a lower level of generality, Mr Simons says that a duty to give reasons arose on the particular facts of this case. He relied on two additional matters here, either alone or in combination with (i) to (iii) above: (a) the fact that the planning permission granted was for development in the Green Belt, which is subject to a high degree of protection in planning policy terms (and, moreover, involved a departure from the development plan: see (ii) above) and (b) the fact that the permission granted was contrary to the recommendation in the officer's report and, I would add, contrary to the whole thrust of the substantive reasoning in that report. (I leave aside here two further points on which Mr Simons sought to rely, namely regulation 7 of the Openness of Local Government Bodies Regulations 2014 and legitimate expectation, since in my view there is no merit in either of them, for the reasons given by Elias LJ). As I understood from Mr Simons' reliance on points (a) and (b), and from the references he made to *R v Higher Education Funding Council, ex p. Institute of Dental Surgery* [1994] 1 WLR 242 and *R v Civil Service Appeal Board, ex p. Cunningham* [1991] 4 All ER 310, he did not abandon his contention, pressed on the judge below, that the planning authority's decision in the present case could be regarded as in some sense aberrant, or at any rate apparently unjustified.

78. Planning law exists at the conjunction of engagement of the public interest and matters of concern to private parties, who may be seeking planning permission to

further their own interests or may be resisting the grant of planning permission for development which may affect them in significant ways. As regards both the public interest and private interests, where planning decisions are taken it is important that the relevant decision-maker (whether local planning authority, Inspector or Secretary of State) asks himself the correct questions in a proper manner as structured by the relevant legislative and policy framework and makes rational and justified assessments in answering the questions. The structuring of the questions is intended to ensure that appropriate policy weight is given to different competing factors. Thus if permission for development is to be granted contrary to the applicable development plan, a particular onus of justification arises. The same is true for the grant of permission for development in the Green Belt, in view of the protection accorded to it by longstanding policy, now replicated in the NPPF. The public interest requires that departures from the development plan and from ordinary protection of the Green Belt require particular justification. The same was held to be the case in the *CPRE Kent* case at para. [21] in relation to departures from the ordinary strong protection to be accorded to an Area of Outstanding Natural Beauty, which likewise is a policy of a "pressing nature" requiring "substantial reasons" to be given if development causing substantial harm to such an Area is to be permitted. The private interests which may be affected by development pursuant to permission granted in such circumstances also require that proper attention is given to whether such departures from ordinary policy are justified. In a general sense members of the public have a reasonable expectation that development plans and national policy for the protection of the Green Belt will usually be complied with, and may indeed have taken decisions having such considerations in mind, for instance when deciding where to buy a house.

79. Where the public interest in ensuring that the relevant decision-maker has considered matters properly is especially pressing, as in cases of grant of planning permission as a departure from the development plan or in cases of grant of planning permission as a departure from the usual protective policy in respect of the Green Belt, that is a factor capable of generating an obligation to provide reasons. This is because requiring the giving of reasons is a way of ensuring that the decision-maker has given careful consideration to such a sensitive matter. Similarly, where a person's private interest is particularly directly affected by a decision, that may also provide a normative basis for imposition of a duty to give reasons, as exemplified in the *Doody* and *Cunningham* cases. In the planning context, I think that there is particular force in this point where the decision appears out of line with a natural and reasonable expectation on the part of the public that decisions will comply with the local development plan and with national policy to protect the Green Belt. Although it might be said that decisions to allow development in the Green Belt or contrary to the development plan are not aberrant as such, in that such decisions are not uncommon and cannot be assumed to be irrational, I think that they do give rise to an important onus of justification on the part of the decision-maker which, taken with the parallel public interest considerations in such cases, grounds an obligation under the common law to give reasons in discharge of that onus.

80. In my judgment, the foundation for the identification of a duty to give reasons for the decision of the Council in this case is the fact that the decision to grant planning permission appeared to contradict the local development plan and appeared to subvert the usual pressing policy concern that the Green Belt be protected (I think either of these factors alone would be sufficient), which engaged a particular onus of

justification on the part of the Council which could only adequately be discharged by the giving of a sufficient indication of its reasons for making the decision it did. The structured planning consideration required in this case was more complex than the simple issue of planning judgment which arose in *ex p. Chaplin*. In my view, the fact that the Council's decision was contrary to the reasoning and recommendation in the officer's report is not as such a matter which generates an obligation to give reasons; rather, it is something which means that the Council cannot refer to the officer's report pursuant to the approach in *ex p. Fabre* to show that it has discharged the duty upon it, which arose for the other reasons to which I have referred.

81. The third level at which argument was addressed to us was the most particular of all, turning on a specific feature of the case which only emerged in the course of the hearing when the court asked to see a copy of the letter sent by the Council to the Secretary of State to afford the Secretary of State an opportunity to call in the decision. As Elias LJ explains at para. [63] above, that letter, read with the officer's report, indicated that the planning committee of the Council thought that the grant of planning permission could be justified on the basis of "very special circumstances" within the meaning of paras. 87 and 88 of the NPPF. Mr Parker for the Council sought to rely on this letter, read with the officer's report, as indicating sufficiently what the Council's reasons were for the grant of planning permission in the Green Belt, which also showed sufficiently why a departure from the development plan was thought to be justified. Accordingly, on this submission for the Council, the case was really like *ex p. Chaplin* on its particular facts.

82. I do not accept this submission. I agree with the reasons of Elias LJ at paras. [63]-[65] above for rejecting it. Further, if there is an onus of justification which generates a duty to give reasons in this case, I do not consider that it is satisfied by resort to the kind of paper-chase which this argument requires. Members of the public are entitled to expect the duty to give reasons to be satisfied in a reasonably clear fashion, and in the absence of some statement of reasons specifically adopted by the local planning authority will naturally look to the relevant officer's report to find out what the reasons for a particular decision were. I do not think that they can reasonably be expected to cast around to look for other documents in the planning file to try to piece together the reasoning of the planning authority.