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TRAIL RIDERS FELLOWSHIP v DEVON COUNTY COUNCIL (2013)

QBD (Admin) (Jeremy Baker J) 26/06/2013

ROAD TRAFFIC - LOCAL GOVERNMENT

HIGHWAY AUTHORITIES' POWERS AND DUTIES : HIGHWAYS : MOTOR VEHICLES : REASONS : ROAD SAFETY : ROAD TRAFFIC REGULATION : TRAFFIC REGULATION ORDER PROHIBITING MOTOR VEHICLES : WHETHER ORDER EXPEDIENT ON SAFETY GROUNDS : WHETHER LOCAL AUTHORITY COMPLIED WITH STATUTORY DUTIES : ROAD TRAFFIC REGULATION ACT 1984 s.1, s.122, s.122(1), s.122(2) : HIGHWAYS ACT 1980 s.130 : TRAFFIC MANAGEMENT ACT 2004 s.16 : LOCAL AUTHORITIES' TRAFFIC ORDERS (PROCEDURE) (ENGLAND AND WALES) REGULATIONS 1996 reg.17(3)

A local authority had been entitled to make a traffic regulation order prohibiting motor vehicles from using a part of a road where that was expedient in the interests of road safety.

The claimant association (T) challenged the validity of a traffic regulation order made by the defendant local authority preventing the use of motor vehicles along a 370-metre stretch of a country road.

The road was a highway maintainable at public expense. There were two residential properties on the road, one being a farm. The road had a junction with the A377, a main trunk road with a 60 mph speed limit. At that point the A377 had double white lines and no verge. There was evidence that in 1994 the part of the road leading to the junction had not been used for many years and was virtually impassable because of undergrowth. A safety assessment in 2010 concluded that the junction should be closed on safety grounds if there was a desire to reinstate use of the road. Visibility both ways at the junction was very significantly less than Highways Agency standards, and remained so even after clearance of the undergrowth by T. There was a history of vehicular collisions near the junction. The local authority gave notice of its proposal to make a traffic regulation order prohibiting motor vehicles from using the road for 370 metres from the junction for safety reasons given the poor alignment and visibility at the junction and given that that section of the road did not provide access to any adjacent property and alternative routes were available for motor vehicles. The relevant committee of the local authority considered objections including that of T and resolved to make the order in the interests of public safety in view of the sub-standard visibility distances at the junction.

T submitted that the local authority had failed properly to consider whether it was expedient to make the order pursuant to the [Road Traffic Regulation Act 1984 s.1](#), had failed to discharge its duties under [s.122](#) of the 1984 Act, the Highways Act 1980 s.130 and the [Traffic Management Act 2004 s.16](#), had come to an irrational conclusion and had failed to notify T of the reasons for making the order in accordance with the [Local Authorities' Traffic Orders \(Procedure\) \(England and Wales\) Regulations 1996 reg.17\(3\)](#).

HELD: (1) The extent of the duty to provide reasons depended on the complexity of the issues, [South Buckinghamshire DC v Porter \(No.2\) \[2004\] UKHL 33, \[2004\] 1 W.L.R. 1953](#) applied. T had been involved in the process of decision-making from an early stage. It was very familiar with the issues that arose, which were not complex. The central issue was the safety of road users on the road and on the A377. That was the principal reason given in the notice of the proposed order and in the order itself. It was self-evident that in the circumstances the local authority considered it expedient or appropriate to make the order on safety grounds, even if there was no express reference to s.1 of the 1984 Act. It had not failed to direct itself correctly. The matter had been considered by a specialist sub-committee. (2) There was no failure to discharge the statutory duty under s.122 of the 1984 Act. That duty was not an absolute duty. The duty to secure the expeditious, convenient and safe movement of vehicular traffic was that prescribed by [s.122\(1\)](#). However, that duty took effect so far as practicable in the light of the matters to be taken into account under [s.122\(2\)](#), [Wilson v Yorkshire Dales National Park Authority \[2009\] EWHC 1425 \(Admin\)](#) applied. It was clear that the primary consideration in the instant case was the safe movement of vehicular and other traffic. That was clear from the history of the matter and the notice of the proposed order, which was the essential document, [R. \(on the application of LPC Group Plc\) v Leicester City Council \[2002\] EWHC 2485 \(Admin\)](#), [\[2003\] R.T.R. 11](#) considered. (3) It was doubtful whether the statutory duties under s.130 of the 1980 Act and s.16 of the 2004 Act were engaged and if they were they did not add anything over and above the duties under the 1984 Act. (4) The decision was not irrational. The local authority had to consider the evidence of the safety of the junction. There was historical evidence and the results of a site visit and safety assessment. There was ample evidence that a traffic regulation order was expedient. The potential danger meant that an order limited to motor vehicles was justified. The committee took account of the objections and was entitled to conclude that the danger outweighed the other considerations. (5) The local authority had sufficiently complied with the requirement in the Regulations to give notice of reasons.

Claim dismissed

Counsel:

For the claimant: Thomas Fletcher

For the defendant: Stephen Whale

Solicitors:

For the claimant: Brain Chase Coles (Basingstoke)

For the defendant: in-house solicitor

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