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NEWS REPORT

Date: 16 February 2015
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Title: R (Moore & Coates) v Secretary of State for Communities & Local Government & Ors
Country: United Kingdom
Context
Issue at stake: Discrimination against travellers in planning matters
Ground of discrimination: Ethnicity (travellers)
Source: Decision of the High Court [2015] EWHC 44 (Admin)
Field: Housing (planning)
Legislative provisions: Equality Act 2010 ss19, 29 & 149

Content

Case: The Claimants, who were Romany Gypsies, challenged the policy of the Secretary of State by which first all and subsequently 75% of applications for “traveller pitches”¹ on “Green Belt” land (upon which building is generally not permitted) were “called in” to the Secretary of State for his decision,² rather than being determined by Planning Inspectors (as is the case for over 90% of all planning applications³). The effect of the policy was, as the judge pointed out at §39, that “a traveller wanting to live on a pitch in the Green Belt, but not erect any buildings, could now expect that his or her case would be [determined by the Secretary of State], whereas a person proposing to build one or more dwellings would not. That was true even in cases where the application or permission would be temporary...”

The Claimants challenged the policy by way of an application for Judicial Review in the High Court. They, and the Equality and Human Rights Commission which intervened, argued *inter alia* that the policy was contrary to the prohibition on race discrimination and to the Public Sector Equality Duty. The disadvantage they suffered as a result of the policy was that they had to wait much longer for decisions than would have been the case had their applications been decided by a Planning Inspector.

Decision of the Court: The Court ruled that the policy disparately impacted on travellers (comprising Romany Gypsies and Irish Travellers) and that it was not justified by the aim of the policy, which the Court found to have been the reduction of successful planning applications on the Green Belt. Such an aim could have been achieved by non-discriminatory means. The policy therefore breached ss19 &

¹ That is, for permission to park caravans permanently or semi-permanently.

² With the effect that the Secretary of State himself made decisions on whether such pitches would be permitted, rather than this decision being made by the planning inspectorate.

³ Planning applications also being necessary for the building of houses and commercial property etc.

20 of the Equality Act 2010. In addition, the Secretary of State had failed to comply with the duty of “due regard” imposed by s149 of the Act in adopting the policy. In fact, he had had no regard at all.

Internet link source and additional information:

<http://www.communitylawpartnership.co.uk/traveller-planning/277-moore-a-coates-v-ssclg>