CA-2024-001234

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
KINGS BENCH DIVISION
ADMINISTRATIVE COURT
THE HONOURABLE MR JUSTICE CHAMBERLAIN
[2024] EWHC 2707 (Admin)

BETWEEN:

FRIENDS OF THE EARTH

Appellant

and

THE SECRETARY OF STATE FOR THE ENVIRONMENT, FOOD, AND RURAL AFFAIRS

Respondent

ORDER
by the Rt. Hon. Lord Justice Snooze

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal:

IT IS ORDERED THAT:

(i) Permission to appeal is granted on the following grounds:

a. The judge erred in concluding that the UK's obligations under the ECHR did not require the Government to set out objectives that are substantive, specific and measurable (Appeal Ground 1); and

b. The judge erred in concluding that relief should be refused under s.31(3C) of the Senior Court Act 1981 in circumstances where a legally adequate equality

impact assessment was not produced until after the decision under challenge was made and only in response to litigation (Appeal Ground 2).

REASONS

1. On Appeal Ground 1, I agree with the learned judge below that, applying domestic principles of construction, there is no requirement in section 58(1)(a) of the Climate Change Act 2008 for any particular level of specificity in setting out the objectives of the Government in relation to adaption to climate change.

2. However, having regard in particular to the judgment of the European Court of Human Rights in Verein KlimaSeniorinnen Schweis v Switzerland, App. No. 53600/20, I consider that the appellant has reasonable prospects of success in establishing, contrary to the learned judge's conclusions below, that effective protection of the rights of individuals from serious adverse effects on their life, health, well-being and quality of life requires mitigation measures to be supplemented by adaptation measures aimed at alleviating the most severe or imminent consequences of climate change, taking into account any relevant particular needs for protection. The appellant will need however to grapple with whether or not there is any or any clear distinction between State's obligations in relation to mitigation as opposed to adaptation.

3. On Appeal Ground 2, I consider that the appellant has reasonable prospects of successfully arguing that it was wrong in principle for the learned judge below to refuse relief in reliance on an *ex post facto* equality impact appraisal produced in response to the litigation and which did not as a matter of fact inform the decision of the respondent to publish NAP3. In coming to this view I have had regard to the broader principles applicable to the public sector equality duty and its discharge in R (Bracking) v Secretary of State for Work and Pensions [2013] EWCA Civ 1345, as well as the judgment of Moses LJ in Kaur & Shah v LB Ealing [2008] EWHC 2062 (Admin).

Snooze LJ

12 November 2025