respond that the WRA does not support this , and we have made no statements that we would proceed on this basis (although the fact that we normally do determine applications on a 'first come first served basis could make things uncomfortable for us). We would also say that it would not be 'legitimate'/reasonable for the refused party to rely on such points given the factors cited in a) above. Our decision not to grant the first application we received is 'irrational'. Again, we would resist this citing the factors in a) above.

c) Our decision not to grant the first application we received is 'irrational'. Again, we would resist this citing the factors in a) above.

4. Other implications. Judicial review is expensive; it is debatable whether Earl (the applicant who would be refused) has the resources to bring court proceedings, given that the recent letter sent by his MP refers to business difficulties, and of having to make two staff redundant, albeit because of the delay in determining the applications.

If a judicial review succeeds the adverse costs order is likely to be higher than any costs order made against us by the Planning Inspectorate (but it is not presently possible to give a realistic estimate).

Conclusion

We have respectable arguments both ways, but neither is legally watertight

Jeremy Graydon –Solicitor National Permitting Service
Huw Williams – Senior Legal Advisor