



## Press Summary

26 March 2025

### **R (on the application of The Spitalfields Historic Building Trust) (Appellant) v London Borough of Tower Hamlets and another (Respondents)**

**[2025] UKSC 11**

*On appeal from [2023] EWCA Civ 917*

**Justices:** Lord Reed, Lord Sales, Lord Hamblen, Lady Rose and Lord Richards

#### **Background to the Appeal**

This appeal is concerned with the way in which a local authorities determine applications for planning permission. Such an application may be considered by councillors at a series of meetings before a final decision is made. The issue is whether a provision in a local authority’s standing orders is lawful if it restricts voting at the final meeting to decide the application to those who had been present at the meetings at which the application has previously been considered.

The planning application in this case is to redevelop an old brewery in Spitalfields and was made in May 2020 to the first respondent, the London Borough of Tower Hamlets (the “**Council**”). The appellant, the Spitalfields Historic Building Trust (the “**Trust**”), is opposed to the application.

The application came before the Development Committee (the “**Committee**”) of the Council at a meeting on 27 April 2021. Five members were present. The committee voted unanimously to defer consideration of the application. The Committee next considered the application at its meeting on 14 September 2021. By that point, the composition of the committee had changed.

The Council’s standing orders provide that where a planning application is deferred, only members present at the previous meeting will be able to vote on the application. This meant that only three out of the previous five Committee members voted on the application. The Committee resolved to grant planning permission by a vote of two to one.

The Trust applied for judicial review of the grant of planning permission on the ground that it had been unlawful to exclude Committee members from voting at the September meeting if they had not been present at the April meeting. The Trust argued that if more Committee members had been permitted to vote, the application might have been refused. The High Court

dismissed the claim. The Trust appealed to the Court of Appeal, which dismissed the appeal. The Trust now appeals to the Supreme Court.

## **Judgment**

The Supreme Court unanimously dismisses the appeal. Lord Sales gives the judgment, with which the other members of the Court agree.

## **Reasons for the Judgment**

The Local Government Act 1972 (the “**LGA 1972**”) confers powers on the Council to make standing orders regulating the proceedings of its committees and this includes the power to regulate the circumstances in which a member will be entitled to vote. There is no basis for interpreting these powers in a narrow way so as to make the provisions in the Council’s standing orders unlawful.

### The legislative framework

The Court sets out the legislative framework [3]-[10]. The principal statute which governs how a local authority in England takes decisions is the LGA 1972 [3].

Section 101(1) of the LGA 1972 provides that a local authority may arrange for the discharge of any of their functions by a committee. Section 106 provides that a local authority may make standing orders with respect to the quorum, proceedings and place of meeting of any of their committees [4].

Paragraphs 39 to 44 of Schedule 12 of the LGA 1972 also provide that a local authority may make standing orders for the regulation of its proceedings and business, including as carried out by its committees [5]-[7].

### The Council’s Constitution

The Council has adopted a series of standing orders using its powers under the LGA 1972 as part of its constitution, which set out how decisions are to be made [11]. Part D of the constitution includes detailed procedure rules for the Committee (the “**Procedure Rules**”) [13].

Paragraph 5.4 of the Procedure Rules states that in order to be able to vote upon an item “a Councillor must be present throughout the whole of the Committee’s consideration including the officer introduction to the matter” [14]. Paragraph 11.4 provides that “[w]here an application is deferred and its consideration recommences at a subsequent meeting only Members who were present at the previous meeting will be able to vote” [15]. The Trust contends that this restrictive voting rule is unlawful.

### The appellant’s submissions

The Trust submitted that the context for the LGA 1972 is that councillors are elected to represent their constituents. If an elected councillor is prevented from voting, then that constitutes a form of indirect disenfranchisement of the constituents which they represent. A councillor’s right to vote is therefore of such importance that it can only be restricted by clear words in primary legislation. The general language used in paragraph 42 of Schedule 12 and section 106 of the LGA 1972 is insufficiently clear to restrict a councillor’s right to vote. The Trust argues that the relevant standing orders, which the Council purported to make under these provisions, are therefore unlawful [35]-[40].

### Analysis

The Court does not accept the Trust’s submissions. The provisions in paragraphs 39 and 42 of Schedule 12 and in section 106 of the LGA 1972 should be read according to the natural and

ordinary meaning of the language used in them, as the judge and the Court of Appeal interpreted them. The relevant standing orders were lawfully made under these provisions [41].

Whilst a councillor's ability to vote is a central feature of their role in representing their constituents, this needs to be understood in the wider context of the LGA 1972. In particular, the LGA 1972 it intended to enable the local authority or its committees to take effective and lawful action, which is in the interests of all the people in its area [42].

There are common law rules which regulate the ability of councillors to vote. For example, a councillor may not vote upon a matter if they are biased and if they participated in a Committee vote on a matter the decision taken would be unlawful [43]. The existence of these of these rules shows that the right of a councillor to vote cannot be regarded as fundamental in the sense proposed by the Trust [44]-[45]. Furthermore, the participation of councillors in the business of a local authority is not apt to be analysed in terms of personal rights of a councillor. The relevant rights are those of everyone in the local authority's area, who are entitled to expect it to take actions which are effective and lawful [46]-[47].

The effect of the provisions in the LGA 1972 dealing with meetings and voting must be interpreted in this context [48]. Paragraph 39 of Schedule 12 does not confer a right to vote, as the Trust suggested. Instead, it stipulates the majority required for a resolution to be carried. This provision assumes that councillors have a general entitlement to vote, just as this was previously assumed under the common law [49]-[51].

The powers to make standing orders contained in paragraph 42 of Schedule 12 and section 106 of the LGA 1972 allow a local authority to regulate its meetings [51]. The exercise of these powers is not unrestricted, but is subject to the ordinary public law requirements that they must be used rationally and for a proper purpose; the fact that these controls apply to the exercise of the powers supports the inference that Parliament intended that the entitlement of members to vote should be subject to standing orders which are validly made according to these standards [53]-[60]. Also, the entitlement of members to vote, which is implicit in the LGA 1972, is subject to the general common law rules referred to above that enhance the quality of local authority decision-making [61].

The Court analyses the wording of paragraphs 42 of Schedule 12 and section 106 of the LGA 1972. The ordinary meaning of these provisions is that the power to make standing orders to regulate the proceedings of committees includes the power to regulate the entitlement to vote [63]-[66]. This interpretation is supported by other provisions of the LGA 1972 [67]-[68].

The Trust's submission that the ordinary meaning of these provisions should be treated as restricted on the basis that a councillor's right to vote is fundamental to the scheme of the LGA 1972 is rejected and it is explained that authorities on which the Trust sought to rely in support of that submission are not applicable to this case [68]-[88].

### Conclusion

For these reasons, the Court dismisses this appeal [92].

*References in square brackets are to paragraphs in the judgment.*

### **NOTE:**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)**