

R v Secretary of State for the Environment and others, ex parte Ward

QUEEN'S BENCH DIVISION (CROWN OFFICE LIST)
WOOLF J

25, 26, 27, 28 JULY, 5 OCTOBER 1983

Local authority – Caravan sites – Provision of caravan sites – Duty of local authority – Judicial review of authority's decision – Authority providing site in accordance with duty – Site provided proving unsuitable for human habitation – Authority deciding to cease to provide site and not providing alternative site – Secretary of State refusing to direct authority to comply with duty to provide site – Whether gipsy living on existing site having sufficient interest to apply for judicial review of local authority's and Secretary of State's decisions – Whether relevant that authority's area designated as area in which unauthorised camping prohibited – Whether court should grant relief – Caravan Sites Act 1968, s 6(1), 9, 12(1) – Supreme Court Act 1981, s 31(3) – RSC Ord 53, r 3(7).

A London borough leased an area of land from the Greater London Council for a term of seven years from 9 February 1976 in order to discharge the duty imposed on it by s 6(1) of the Caravan Sites Act 1968 to provide caravan sites for gipsies residing in or resorting to the borough's area. The Secretary of State then made a designation under s 12(1) of the 1968 Act that the borough's area was an area in which unauthorised camping was prohibited. Despite substantial expenditure by the borough the caravan site proved to be unsuitable for human habitation because of pollution. The borough therefore resolved to close the site on the expiry of a one-year extension of the lease and further resolved not to provide an alternative site, but made it clear that no action would be taken to evict gipsies then living on the existing site or to cut off essential services to the site such as water and electricity while they remained there. The applicant, a gipsy living on the site, applied to the Secretary of State to exercise his powers under s 9 of the 1968 Act to direct the borough to comply with its duty under s 6(1) to make adequate provision for a caravan site for gipsies. There being no immediate danger of the gipsies being evicted from the existing site or of services to the site being cut off, the Secretary of State declined to give directions under s 9, on the ground that at that stage there was no urgent need for him to do so, but he stated that he would keep the situation under review. The applicant applied under RSC Ord 53 for judicial review of the Secretary of State's failure to give directions under s 9 and of the borough's decision to cease to provide the existing site without providing an alternative site.

Held – (1) The applicant had 'a sufficient interest', within s 31(3) of the Supreme Court Act 1981 and RSC Ord 53, r 3(7), to apply under Ord 53 for judicial review of the borough's decision to discontinue providing the existing site and not to provide any alternative site for his use because (a) he was personally and directly affected by that decision, (b) the Secretary of State's designation under s 12(1) of the 1968 Act of the local authority's area as an area where unauthorised camping was prohibited did not release the authority from its duty under s 6(1) to provide camping sites for gipsies, and (c) the

^a Section 6(1), so far as material, is set out at p 563 *at h*, post.

^b Section 12(1) provides: 'Subject to subsection (3) below, the Minister may by order made on the application of a county council or London borough council designate the area of that council as an area to which section 10 of this Act applies [i.e. as an area in which unauthorised camping is unlawful].'

^c Section 9 is set out at p 563 *d*, post.

^d Section 31(3) is set out at p 564 *e*, post.

^e Rule 3(7) is set out at p 564 *d*, post.

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Kathleen Armour



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