An A to Z of the process of changing street names

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Local Government analysis: What does Basildon v James tell us about the court's approach to renaming streets and the correct approach in relation to other provisions where a statutory right of appeal to challenge a decision exists but no test is laid down by the statute itself? Steven Gasztowicz QC at Cornerstone Barristers explores the implications of the decision and suggests that the court could only challenge the council's decision if they found problems with their reasoning.

Original news

Basildon Borough Council v James [2015] EWHC 3365 (Admin) [2015] All ER (D) 249 (Nov)

The Administrative Court, in allowing the appellant local authority's appeal by way of case stated, held that the correct approach to the statutory test on an appeal against a decision to change street names was whether, according the local authority appropriate respect for its reasoning and conclusions, that decision could properly be said to be wrong. In the circumstances, the judge had not been entitled to make the decision he had.

What are the legislative provisions behind the renaming of streets and what process does a council have to undergo if it wants to change the name of streets?

The power to rename any street (or part of any street) is given to the council by section 18 of the Public Health Act 1925 (PHA 1925).

If a council wants to change the name of a street in its area, it must post a notice of the intended order at each end of the street or in some conspicuous part of the street at least a month before making the order.

This notice must contain a statement that the intended order may be made by the council on or after the date given in the notice, and that an appeal lies to the magistrates' court against the intended order by any person aggrieved.

Any such appeal to the magistrates' court is required to be made within 21 days after the posting of the notice.

The right of appeal itself is given by PHA 1925, s8, which provides that 'the court may make such order in the matter as they consider reasonable'.

On what grounds was the renaming challenged in this case?

In summary, the residents' contentions were:

- there was no need for re-naming
- the renaming scheme was no more logical than what existed
- the emergency services and others had managed to find their way round the estate to date
- it would not improve anything
- the chosen names had no local history to them
- the expense was not worth it, and
- the residents would be involved in considerable inconvenience in dealing with the changes, in terms of notifying new addresses and so on

The council's position was that there were potential benefits, including in terms of regeneration and changing the perceptions of the area, which made it appropriate.

How did the court view the approach of the district judge in taking an analogous approach to licensing decisions?

The court considered the district judge was right to think that an approach similar to that set out in *R (on the application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court (Lord Mayor and Citizens of the City of Westminster, interested party)* [2011] EWCA Civ 31, [2011] 3 All ER 579 was appropriate, but that the different statutory context had to be borne in mind. There were no statutory objectives and he elevated the feelings and wishes of residents to being a matter of such importance that he effectively reversed the burden of proof and required the council to prove the decision was right. The court decided this approach was wrong, and that he should not have replaced his own view of the merits for that of the council.

How did the court clarify the correct approach to take?

The court held that it was not for the district judge to make up his own list of objectives, in a similar way that the Licensing Act 2003 (LA 2003) laid down objectives by which licensing decisions were to be judged. No objectives for renaming are laid down by PHA 1925 and the question of the appropriate name was essentially one for the council having regard to the objectives it considered most important. Only if the court could say that the decision was wrong regarding the council's reasoning and conclusions could it interfere.

What are the practical implications of this decision?

There was no decided authority on PHA 1925, ss 18 and 8. Magistrates' courts had taken different approaches. As mentioned above, PHA 1925, s 8 merely says that on an appeal being made 'the court may make such order in the matter as they consider reasonable'.

The decision now sets out the correct approach a court should take in relation to a council's decision to rename streets in its area, and the council can decide on the aims for renaming and that its view of what should be done is not just a consideration, but the determinative one unless it can be shown to have gone wrong. It is likely to make challenges under the sections difficult to mount.

It is also likely to be of wider relevance in relation to other statutory provisions where no test is laid down by the statute itself, but a right of appeal is given in these sorts of circumstances.

Steven Gasztowicz QC is a barrister at Cornerstone Barristers, where he specialises in land and property matters, public law (local government, planning, and regulatory work) and contract and other civil litigation. He advises and represents local authorities, companies and private individuals.

Interviewed by Jane Crinnion.