

In the matter of an application by Noeleen McAleenon for Judicial Review (AP) (Appellant) (Northern Ireland)

Case ID: UKSC 2023/0092

Case summary

Issues

In respect of an established nuisance, was there an available and effective alternative remedy in private law such as to oust an application for judicial review against the public authorities?

Facts

At the material time, the appellant resided in a property located in the area of the first respondent, Lisburn & Castlereagh City Council ("LCCC"), and in the vicinity of the Mullaghglass landfill site. The site is occupied and operated by Alpha Resource Management Ltd ("Alpha"). The appellant claims that she has suffered various physical symptoms and a deterioration in her mental health caused by a nuisance odour carried by emissions emanating from the site from early 2018. The appellant did not bring an action against Alpha but claims that it is responsible for the alleged toxic emissions.

The appellant complained to LCCC, the Northern Ireland Environment Agency ("NIEA") and the Minister of the Department of Agriculture, Environment & Rural Affairs ("DAERA"). The appellant claims (i) LCCC breached its statutory duties by failing to conduct proper investigations into complaints of nuisance odour, and (ii) failings by NIEA and DAERA in relation to the fixing of emission guidelines, limits, or standards for the permit under which the site operated. The appellant also claims that the respondents' failures have violated her right to a family and private life secured by article 8 of the European Convention on Human Rights.

The appellant applied for judicial review in the High Court against the respondents. While the High Court held that there was no effective alternative remedy, it dismissed the application. It held that the respondents had a wide statutory discretion that had not been exercised irrationally, and that the interference with the appellant's rights under article 8 was justified as the respondents had approached the matter with due diligence and had given proper consideration to competing interests. The Court of Appeal dismissed the appellant's appeal on the ground that there was an effective alternative remedy available against Alpha. The appellant now appeals to the Supreme Court.

Judgment appealed

[\[2023\] NICA 15](#)

Parties

Appellant(s)

Noeleen McAleenon

Respondent(s)

Lisburn and Castlereagh City Council

(1) Northern Ireland Environment Agency (2) The Minister, Department of Agriculture, Environment and Rural Affairs

Alpha Resource Management Ltd

Belfast City Council

Appeal

Justices

Lord Lloyd Jones, Lord Briggs, Lord Sales, Lord Stephens, Lady Simler

Hearing start date

25 June 2024

Hearing finish date

25 June 2024

Watch hearing

25 June 2024 [Morning session](#) [Afternoon session](#)