

Court of Appeal Rules against Cheltenham Council Appeal on EMF Health Risks

<https://www.bailii.org/ew/cases/EWCA/Civ/2025/259.pdf>

Respondent (Steven Thomas) Wins – technically.

The Court failed to consider key grounds presented in the cases leading to this, but Judge Andrews did agree that the issue of mast siting is 'material' and should have been assessed by the Case Officer (CO) beyond simply accepting an ICNIRP certificate at face value under NPPF 118 (now 123), which seems to be the modus operandi for councils up and down the country when evaluating health risks raised by objectors.

The Court agreed, on the other hand, that had the CO not erroneously felt 'so constrained' [by 118] that he still had full discretion to weigh the siting/exposure risk and either grant or refuse the mast application, without either decision being considered unreasonable. She did however assert that the directives (which include health imperatives) of the EECC are relevant to weighting:

The Judge acknowledged that the European Electronic Communications Code 2018 (EECC) is part of EU retained law, but failed to examine its public health imperative obligations in depth, thereby avoiding an assessment of the breached exclusion zone.

This landmark decision therefore challenges the widespread practice of councils disregarding health risks in planning decisions.

Key Ruling Highlights:

- Lady Justice Andrews, delivering the lead judgment, **dismissed** Cheltenham Borough Council's appeal.
- The ruling confirmed that the planning officer **erred** by not exercising discretion in evaluating EMF impacts on medical implants.
- The court clarified that compliance with ICNIRP guidelines does **not prevent** consideration of risks to medical devices.
- The judgment found that the planning officer **mistakenly** believed ICNIRP guidelines constrained his discretion, leading to a failure to properly assess objections.

Background of the Case

The case arose after Cheltenham Borough Council failed to 'grant' or 'refuse' prior approval for a 5G mast—a mandatory requirement. Instead, the council incorrectly recorded 'no prior approval required' on the decision notice. Concerns raised included:

- The impact of EMFs on vulnerable residents at Lefroy Court retirement home (100m away).
- The mast's proximity (17m) to residential homes within a non-compliant ICNIRP public exclusion zone.

Although the mast was ultimately permitted to remain, the ruling establishes a legal basis for people with medical implants to have their objections properly considered.

Unaddressed Legal Issues & Supreme Court Appeal

Despite this victory, the judgment did not address all grounds of Steven's challenge. Specifically:

- The 'disposal of the incompatible and unacceptable use of land' as a material planning consideration.
- The lawfulness of the council's decision of 'no prior approval required.'
- The evidence of a breached ICNIRP public exclusion zone

Steven argues that these omissions represent a serious procedural and jurisdictional errors, violating his rights under the Human Rights Act and CPR 1.1 (the "overriding objective" of the court). Consequently, he is now escalating the case to the Supreme Court.

Wider Implications: The EECC Breakthrough

The ruling explicitly recognises that the European Electronic Communications Code (EECC) is part of the legal framework. This is significant because:

- Councils nationwide have denied their obligations as EECC competent authorities.
- The ruling confirms councils have responsibilities to assess health risks under EECC regulations.

Support for Supreme Court Actions

It is essential that the Supreme Court grants permission to proceed with both this case and the 'RRR' case to establish our legal right to protection from the harmful effects of wireless radiation. Since late 2019, councils across the UK have been challenged to apply the EECC and fully assess risks but have instead denied having any legal powers to do so, clinging to the restrictive policy. Winning these cases is also crucial to preventing the government from further dismantling essential regulations.

Volunteers Neil McDougall, a retired public health professional with qualifications in town planning, and Karen Churchill have recently filed their ongoing challenge against the UK Government with the Supreme Court on March 15, 2025. Over the past five years, Neil has researched and developed the legal arguments driving both cases. Their case, '*Rights, Regulation, and Remedies*', seeks to address the widespread failure across the UK, including the Cheltenham case, where councils are not properly applying the ICNIRP exclusion zone, are circumventing public health protections by only requiring an ICNIRP certificate, and making prior approval process discretionary.

The growing coverage of this case on local government and legal websites highlights its significance and the rising concern surrounding it. The differing reports expose the troubling ambiguity in how public health considerations are handled within the prior approval process, raising urgent questions about the safeguards meant to protect us.

[Link to BE CIVIL](#)

[Link to Local Government Lawyer Article](#)

Public Call to Action

This ruling challenges the longstanding approach of councils relying solely on ICNIRP certificates while ignoring health-related planning considerations. Residents can take action by:

- **Support the RRR case:** GoFundMe – Litigants in Person Protecting Public Health
- **Oppose new mast applications:** Use this case to highlight councils' legal responsibilities under the EECC.

- **Ensure AIMD (Active Implantable Medical Device) wearers are informed** of public exclusion zones, referencing UKHSA's FOI request (Ref: 20/10/24/LS/427).
- **Demand councils obtain and disclose exclusion zones** when objections related to metal implants are raised.
- **Question local councils** on what measures they are implementing as EECC competent authorities to protect public health.
- **Ask Cheltenham Borough Council** to justify spending nearly £100,000 of taxpayer money on a failed legal battle while ignoring resident safety concerns.
- **Call for independent health impact assessments** before approving any new mast installations.

Stay Informed & Take Action

For regular updates, legal insights, and objection templates, visit www.rfinfo.co.uk.