

R (Bharat Hindu Samaj)
v
Peterborough City Council and UKIM
High Court | Day 5 | 16 July 2026

Court Update After The Final Day

Peterborough City Council and IP's inconsistent evidence under fire after five days of shifting explanations. High Court hears claims that Cabinet was kept in the dark, the Hindu community was not consulted, and opportunistic arguments that did not reflect formal bid evidence were made to justify an unlawful decision. High Court hears claims that Cabinet was kept in the dark, the Hindu community was not consulted, and opportunistic arguments that did not reflect formal bid evidence were made to justify an unlawful decision.

Peterborough City Council's (PCC) handling of the proposed sale of the New England Complex (NEC) came under sustained attack during the final day of a five-day High Court hearing, as counsel for Bharat Hindu Samaj accused the Council of relying on shifting explanations, incomplete information and opportunistic arguments advanced after the event.

The Court heard that Cabinet was never approached by the Property Board to approve the 'Best and Final Offer' (BAFO) process, was not told crucial details about the successful bidder's redevelopment proposals, and was not fully informed of the Hindu community's concerns before deciding on BAFO. The Court also heard that the Council's and the Interested Party's (IP's) accounts of when redevelopment might begin changed significantly during the proceedings and differed from what was communicated in the formal bid documents.

Justice Morris has reserved judgment. However, the final day laid bare the failings of PCC, including how Cabinet was misled over the sale, key information that should have been disclosed to members but was not and, as a consequence, how the decision reached was unlawful.

BHS argues on the legality of the process, not the outcome reached.

PCC and the IP repeatedly responded to BHS's case by suggesting that BHS was arguing that the Council had no option but to sell the entire property to the Hindu organisation.

Toby Fisher, counsel for BHS, said that was a "straw man". BHS's challenge, he said, concerned the legality of the process—not a demand for a predetermined result.

"The straw man has been held up [that] we say the only option is [that] the Council had to sell to us. That's not our case." – Toby Fisher, counsel for BHS

The Court heard that a lawful application of equality duties by the Cabinet could have resulted in a range of possible choices. Cabinet could have demanded more information, reconsidered whether the BAFO process was the best outcome, negotiated directly with BHS, considered a Community Asset Transfer (CAT) or explored selling the complex in parts.

BHS's case was that those choices were never properly presented because Cabinet was led to believe that the decision to sell—and the method of sale—had already been settled. BHS's counsel argued that this was not a decision for PCC's Property Board officers, but for Cabinet to make.

Cabinet 'was not given the full picture'

Another key concern was what Cabinet was actually told before approving the disposal.

"Cabinet was not provided with any information about the nature of UKIM's proposals. It was not even told that UKIM proposed a comprehensive redevelopment, let alone when that comprehensive redevelopment was expected to start or finish." – Toby Fisher, counsel for BHS

Mr Fisher said Cabinet received bare scores but no proper qualitative assessment of what either bidder proposed, the disadvantages of the bids or the consequences for existing occupiers. The IP argued that, if this were true, it would mean providing Cabinet with the entirety of the bidding materials.

In response, Mr Fisher said:

"To burn [the IP's] straw man, look at the officers' own evaluation of the bid."

BHS argued that, while not perfect, this material would have allowed Cabinet to understand what was being proposed and why one bid had been preferred. Instead, the elected decision-makers were asked to approve the sale without being told that UKIM proposed a comprehensive redevelopment or when it might begin.

Inconsistent 2035 redevelopment claims

One of the sharpest contradictions or "opportunistic arguments" that emerged during the hearing concerned 2035—the date that PCC and the IP argued redevelopment was due to commence.—the date initially put before the Court as the point at which redevelopment was planned

At the hearing on 11 June, PCC's counsel Catherine Rowlands said:

"There is also an email from the IP about their intentions in relation to the development, which is not planned until 2035, nine years from now."

Justice Morris sought direct confirmation:

"So my note is, in the short to medium term, the Landlord and Tenant Act protections were very real because the IP was not going to redevelop the site, the property, for some considerable time, until 2035. Okay. That is your case?"

Ms Rowlands answered "Yes."

By 13 July, however, PCC's position had changed. Ms Rowlands told the Court:

"It is not part of my case that redevelopment will not take place until 2035."

She later said:

"This date of 2035 is taking too much importance."

The Council's case was subsequently narrowed to a much smaller proposition: UKIM could not immediately "change the locks", as stated by Ms Rowlands, and did not intend to displace BHS immediately after acquiring the site.

The judge recalled that he had asked a specific question about the 2035 position and identified why it mattered:

“This point turns on the question of whether redevelopment is within their sights or a long way off.”

That question goes to the heart of PCC’s claimed protection against displacement. If redevelopment was a distant possibility, BHS might have meaningful security. If redevelopment was intended in the short or medium term, the purchaser could seek to oppose renewal of BHS’s tenancy.

Toby Fisher further provided pointed to factual evidence that there was nothing in the IP’s formal bid documents or in what was put forward to Cabinet to suggest that redevelopment would not happen until 2035, and that everything in fact indicated that the redevelopment process would commence once the site was acquired. As highlighted by Mr Fisher, this gave little protection against eviction and was the opposite of what had previously been put forward to Cabinet as a mitigating factor through tenancy law.

“To the extent that Cabinet relied on advice that 1954 Act tenancies were a “key mitigation” for displacement risk, it had no relevant understanding of the fact that UKIM intended to redevelop; was entitled to resist renewal under section 30(1)(f) of the 1954 Act on the grounds of redevelopment; or when UKIM’s redevelopment was likely to commence.”

Toby Fisher, counsel for BHS, further argued that the IP’s claimed intention not to redevelop until 2035 affected the formal scores awarded to BHS and the IP in the bid evaluation:

“That was then relevant when it came to comparative bid evaluation: officers noted that the fact that the Claimant was reliant on securing external finance and managing phased refurbishments could “potentially extend timelines.” That was considered to be a negative aspect of the Claimant’s bid. By contrast, and presumably on the basis of the officers’ understanding that the IP had a 5-year redevelopment plan, and sufficient funds to deliver it, officers recorded no concerns about what is now claimed to be a redevelopment timeline that extends well beyond 2035.”

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A false impression—to the Council or the Court?

BHS relied on the bidder’s contemporaneous documents. They referred to transition planning within **30 days of exchange** (, not completion),, short-term licences lasting approximately six to twelve months, relocation assistance and statutory compensation.

Mr Fisher said those documents were wholly inconsistent with the suggestion that redevelopment would not begin for another nine years.

“Read as a whole, the evidence the IP provided to PCC officers in support of their bid strongly indicated an intention to commence redevelopment works at the property as soon as possible after completion, subject to planning and financing.”

He then delivered one of the most serious submissions of the hearing:

“Either the bid conveyed a false impression about its redevelopment intentions to the Council, or a false impression has been conveyed to this Court.”

It crystallised BHS’s case that the account presented during the litigation could not be reconciled with the documents used to secure the Council’s approval.

The ‘rabbit from the hat’

PCC also relied on events occurring after Cabinet’s decision, including BHS’s later service of a statutory notice, to argue that the temple’s security of tenure was real rather than illusory.

BHS said the point arrived extremely late and could not rewrite what officers or Cabinet understood when the sale was approved.

“This argument has been raised extremely late in the day. Unfortunately for the Defendant, it is not the rabbit from the hat the Defendant considers it to be.” – Toby Fisher, counsel for BHS

Mr Fisher said post-decision events could not retrospectively supply Cabinet with information it never had:

“Ex post facto evidence provided by way of submission does not change the fact that neither officers nor Cabinet had any information before them at the time of the decision to justify a conclusion that the 1954 Act protections were real on account of the fact that no redevelopment was likely for an extended period.”

In plain terms, BHS argued that PCC could not repair the original decision by constructing a new explanation after the sale had already been approved.

PCC admitted it: no consultation with the Hindu community

The hearing also focused on PCC’s equality assessment and its failure, according to BHS, to confront the religious consequences of displacement. The transcripts of PCC’s own meetings reveal that the absence of consultation was not speculation. It was admitted in public.

At the January Scrutiny hearing, Councillor Hilliar asked ward councillor Asim Mahmood a direct question: “Did you consult with the Hindu community using the building in your ward?”

“The short answer to that is no.” – Councillor Asim Mahmood, Labour, North Ward

When Councillor Hilliar asked whether, given their responsibility to represent the whole ward and the high-profile nature of the decision, it would have been reasonable for ward councillors themselves to reach out and seek engagement, his answer was again unequivocal:

“No.” – Councillor Asim Mahmood, Labour, North Ward

He said councillors felt that approaching the situation would be “uninviting” and that there appeared to be a barrier to communication. He nevertheless maintained that it was appropriate for him to support the disposal despite not being fully engaged with the temple, its community or how the building was being used.

The same issue returned when Cabinet reconsidered the sale on 10 February. A BHS member asked why no consultation phase with BHS—the affected community—had been initiated before the Council moved from negotiation to competitive bidding or as part of the bid process. Councillor Mohammed Jamil's answer did not dispute the lack of formal consultation. Instead, he said:

“Formal consultation—a formal consultation—is not a mandatory requirement of the equality impact assessment process.” – Councillor Mohammed Jamil, Cabinet Member for Finance & Corporate Governance, Labour

He said the Council had relied on information from relevant services, community officers and the bidding process, and referred to the need to preserve fairness and impartiality between bidders.

When challenged that a desk-based equality assessment excluding proactive consultation with the affected community was flawed and legally vulnerable, Councillor Jamil replied:

“I am satisfied that our officers acted within the rules and within the spirit of the law and the law itself when deciding how the process was going to proceed with this.”

PCC's own published issue record identified the consultation process as involving “Property Board, CLT and CPF”. It did not identify BHS, Mandir worshippers or Peterborough's wider Hindu community as consultees.

Toby Fisher's submission to the High Court therefore echoed what had already been admitted in the Council chamber:

“Despite the Claimant's express and persistent requests, there was zero engagement with the Claimant or with the Hindu community of Peterborough on the potential impacts.”

The concern was not new. In January, the Council's own Scrutiny Committee concluded by a majority that Cabinet had not possessed the full material information required to make its decision. It sent the matter back and demanded the scoring methodology, full scoring details and equality impact assessments.

The Committee also said the Council should actively ensure that the BHS community was not displaced and left without a home.

BHS argued that when the decision returned to Cabinet, the community was still not meaningfully consulted about the impact of placing a Hindu temple under the ownership of another organisation with plans to redevelop the site.

A discrimination argument—with five minutes to go on Day 5

PCC argued that refusing to sell to the IP for reasons connected with religion could itself amount to unlawful discrimination. BHS said this misrepresented its case: it had never asked the Council to reject a purchaser because it was Muslim. This is also a point BHS feels is being misrepresented by certain individuals who want to advance a religious confrontation narrative.

Mr Fisher said Cabinet could have demanded more information, changed the disposal process or considered a split sale without making any decision on the basis of the IP's religion. When PCC advanced the discrimination argument near the end of the five-day hearing, the judge asked whether it appeared in PCC's written submissions. After being told it had been made orally, he observed:

“A little bit late in the day, with five minutes to go.” – Justice Morris

‘Did they say that?’

The judge also questioned how the IP’s intentions were being presented. When he was told what UKIM supposedly intended to do with the property in the period before 2035, Justice Morris asked:

“Did they say that?”

He added:

“I might have expected to see neutrally what was stated by your client about what they intended to do.”

The remarks were made during argument and were not findings of misconduct. They nevertheless highlighted the Court’s concern to distinguish what the documents actually said from the interpretation later placed upon them.

A temple is not a shop

The final reply ended by bringing the case back to what BHS says has been lost in the technical arguments: the proposed displacement concerns a consecrated Hindu temple, not an ordinary commercial tenant.

“A consecrated Hindu temple is not merely a building from which religious activities are conducted. Once consecrated, it becomes sacred in itself.”

“The deities and idols are not items that can simply be packed up, transported and reinstalled as though this were an ordinary relocation exercise.”

“This is not a shop or business where, with enough notice, one can transfer stock, goodwill or a customer base to alternative premises and carry on elsewhere.”

Mr Fisher said the difference between displacement after six months or eighteen months did not answer the real harm. The community would still live under the shadow of the temple’s dismantling, the removal of consecrated deities and the loss of a sacred space around which its religious life had been built.

The cost of a shifting case

BHS said the late arguments, altered positions and post-decision explanations had increased the complexity and expense of the litigation.

“My clients are expending a huge amount of money as a consequence of the defendants’ conduct in this litigation.” – Toby Fisher, counsel for BHS

Mr Fisher indicated that BHS might make submissions concerning unreasonable conduct when it came to costs. BHS feels the conduct has been unreasonable and, given that this is from a public body, it has a right to expect better conduct. From the hearing, it was also unclear why the IP had to take part in these proceedings when Peterborough City Council was expending huge amounts of taxpayers’ money on a large legal team. It could perhaps raise questions about the confidence the IP had in PCC’s position. In total, there were four barristers in opposition to Mr Fisher over a period of five days at the High Court.

Judge acknowledges importance of case

At the conclusion of the five-day hearing, the judge thanked everyone attending court for the courteous and calm manner in which they had conducted themselves, despite the difficult heat. He acknowledged that the case had occupied five full days of detailed argument and indicated that any further written submissions must be strictly focused. Toby Fisher separately drew the Court's attention to the huge public support for BHS and the considerable public interest in both the Council's decision and the outcome of the claim.

It must also be observed that, throughout the five days, members of UKIM and BHS engaged with one another informally, warmly and courteously while sitting in close proximity in court. Both communities recognised the importance of the matter and demonstrated through their conduct that this case should not be portrayed as a Hindu-versus-Muslim dispute. The proceedings concern the legality of the Council's decision-making—not relations between the two faith communities.

Judgment reserved

At the close of the hearing, Justice Morris said five days in court had been sufficient, although there might be one or two focused loose ends. He indicated that if the defendants maintained that UKIM would still have won under an alternative weighting of the bid scores and the sensitivity testing, they should provide the calculations.

The judge reserved judgment.

Until that judgment is delivered, the central questions remain unanswered: Was Cabinet given the information it needed? Were the equality consequences confronted honestly and rigorously? Did the claimed tenancy protection bear any relationship to provide any meaningful protection given the redevelopment plans? And can explanations developed after the decision rescue a process that BHS says was unlawful from the start?