

Case summary released by Karen and Neil to support the filing

- **Joint application.** On 25 August 2026, Neil McDougall and Karen Churchill sent their joint application against the United Kingdom to the European Court of Human Rights (ECtHR).
- **Rights breached through the absence of legal certainty and an effective remedy.** The applicants' case is that the Government failed to operationalise the Local Authority or Local Planning Authority public-health protection powers and obligations, while the domestic courts failed to determine who must perform those functions or to provide an effective remedy. That combined failure breached their rights under Articles 6 §1, 8 and 13. The application seeks legal certainty and a procedure requiring site-specific risk and relevant evidence to be examined before authorisation.
- **The missing decision-maker.** The LA/LPA has been identified as the competent authority at the planning stage, but the Government has failed to inform and resource LA/LPAs to perform that role. Consequently, no effective procedure ensures that the European Electronic Communications Code (EECC) public-health protection function is performed before telecommunications development is authorised.
- **The claim was not substantively answered.** The Government argued that the McDougall and Churchill claim was out of time and precluded, and that no further implementation was required because the United Kingdom had adopted ICNIRP consistently with Recommendation 1999/519/EC. It did not answer how the wider procedural standard within the Recommendation, including precaution, scientific updating, site specific risk reconciliation and public health condition setting, was to be performed before authorisation.
- **The bypassed legal power and obligation.** Recitals 105 and 106 place rights to spectrum access and use, and decisions concerning mast sharing, within the EECC framework. Annex I(B)(3) provides the LA/LPA, acting as the competent authority at the planning stage, with the power to attach public-health protection conditions to the network general authorisation, taking utmost account of Recommendation 1999/519/EC. The applicants' case is that this carries the corresponding obligation to examine and reconcile site specific risk and decide whether public health protection conditions are required before proposals are authorised. Treating the operator's ICNIRP declaration as the end of the inquiry bypasses that function.
- **Unresolved conflict between Court of Appeal rulings.** On 13 March 2025, Andrews LJ confirmed in the [Thomas case](#) that the EECC and Annex I public health conditions formed part of the applicable legal framework. In the McDougall and Churchill proceedings, Falk LJ's orders stated that the EECC was not part of English law. The Supreme Court's refusal of permission left that conflict unresolved.

WHY THE EUROPEAN COURT MUST EXAMINE THIS CASE

- **Regulatory failure in practice.** Exclusion-zone information is not ordinarily provided with telecommunications applications because neither the GPDO nor the NPPF requires it to be disclosed or checked. In the unusual Radstock case, where the information was obtained, it demonstrated that applicants can make mistakes

concerning public exclusion zones and that no effective procedure exists for checking or remedying them. Despite Radstock having been reported in full in submissions to the Government and the UK courts, the demonstrated errors have not been investigated or remedied. The Thomas case did not resolve that failure: Thomas presented evidence that the nearest residences fell within the relevant exclusion zone, but Jarman KC found that exclusion-zone information was not required by the GPDO or NPPF and set that issue aside.

- **The missing first step.** No planning stage procedure requires an authority to establish whether a public exclusion zone underpinning the ICNIRP compliance declaration submitted with an application extends into a home or other publicly accessible place.
- **Safety advice that cannot be followed.** UKHSA advises pacemaker wearers to observe the relevant exclusion zone for their safety, yet the location and extent of these zones are not made available to the public.
- **Evidence beyond the declaration.** The public auditory and sensory limit, metal and medical implants, cumulative exposure and environmental evidence all fall within the regulatory gap. The discrepancy between ICBE-EMF evidence of environmental effects and assurances made by telecommunications applicants remains unaccounted for.
- **Objectors' evidence is closed out.** NPPF wording is treated as closing the inquiry once an ICNIRP declaration is supplied, leaving relevant public health and environmental evidence submitted in most objections without an effective route to a decision maker.
- **The unresolved issue returns to Strasbourg.** Action Against 5G placed before the European Court the Government's failure to investigate risk beyond ICNIRP and its related duty to inform the public. The pleadings expressly identified people with metal and medical implants as a vulnerable group whose risks ICNIRP acknowledges but excludes from its scope. The application was declared inadmissible on 30 May 2024 without a merits determination. On 3 May 2024, the Thomas case had demonstrated the practical importance of that deficiency: the LPA had unlawfully discounted metal and medical implant evidence that might have affected siting.

The present application places the unresolved procedural gap and conflicting domestic rulings before the European Court again.