

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

CO/2831/2019

BETWEEN:

AVRINA EGGLESTON

Claimant

and

CAMARTHESHIRE COUNTY COUNCIL

Defendant

and

**(1) LISA FEARN
(2) JONATHAN FEARN
(3) LISA FEARN LTD**

Interested Parties



CONSENT ORDER

UPON READING the Claim Form, the Statement of Facts and Grounds and the correspondence between the parties

AND UPON READING the Orders of HHJ Jarman QC dated 2 September 2019 granting permission to apply for judicial review and dated 20 September granting permission to the Claimant to amend her Grounds

AND UPON the Council indicating through its solicitor that it consents to judgment on all the grounds considered by HHJ Jarman QC when permission was granted on 2 September and on 9 October 2019 having issued a Temporary Stop Notice in place until 6 November 2019 which inter alia required Lisa Fearn to cease the use of the café operated by Lisa Fearn Limited known as "Ardal Goffi" situated in Barn A of Allt Y Gog Farm (the café) as a non-ancillary/stand alone café/coffee shop

AND UPON READING the attached Statement of Reasons for the making of this Order and the Consent Order

AND UPON the Claimant, Defendant and Interested Parties agreeing to the terms of this Order

IT IS ORDERED BY CONSENT THAT:

1. The claim for judicial review be allowed;
2. The Defendant's decision of 10 June 2019 is quashed;
3. It is declared that:
 - a. The "amended" Decision Notice issued on 13 February 2018 (but backdated to 10 November 2016) is null and void and of no legal effect; and

- b. The only decision notice lawfully granted on the application for planning permission (Reference W/34462) is the original Decision Notice dated 10 November 2016 (issued by the Defendant under cover of a letter dated 2 May 2017 and entered in the Defendant's online planning register on 22 May 2017);
 - c. The original Decision Notice dated 10 November 2016 governing the lawful use of Barn A (as marked on the Plan attached to this Order) is subject to Conditions numbered 1 to 17 and the accompanying reasons and notes, of which Condition 6 provides that "Barn A shall be used for a cookery school and for no other purpose (including any purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)"
4. The "amended" Decision Notice issued on 13 February 2018 (but backdated to 10 November 2016) is quashed.
5. The decision dated 21 June 2018 to approve the application for the non-material amendment is quashed;
6. To the extent that it is necessary to do so, time is extended for bringing the claim for judicial review;
7. The Defendant pay the Claimant's costs of the proceedings in the amount of £24,000 (including VAT) within 14 days of the Court sealing the consent order.

By the Court

STATEMENT OF REASONS FOR THE MAKING OF THE CONSENT ORDER

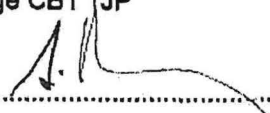
1. This statement sets out the agreed matters justifying the making of a Consent Order for the application for judicial review, the quashing of the Defendant's "amended" Decision Notice issued on 13 February 2018 and the payment of the Claimant's costs by the Defendant (contingent upon the quashing of the "amended" Decision Notice issued on 13 February 2018 and in the agreed sum).
2. The Claimant challenged the Defendant's decision by way of a claim lodged on 22 July 2019 (CO/2831/2019).
3. Permission was granted on all grounds by HH Judge Jarman QC on 2 September 2019 and thereafter on 20 September HHJ Jarman further granted permission for the amendment of grounds in relation to enforcement action against alleged the unlawful activity.
4. The Defendant accepts that once a planning permission has been issued, a local planning authority has no power to issue a further planning permission unless and until the original planning permission is either revoked or quashed by the Court.

5. The Defendant therefore concedes that it did not have power to issue an "amended" decision notice given that it had already issued a decision notice on the application. Once it had issued the original DN, the Defendant was functus officio. The amended decision notice is of no legal effect.
6. The Claimant is entitled to an Order quashing the 10 June 2019 decision, a declaration that the amended decision notice is null and void and of no legal effect and a quashing of that decision. A contingent decision of 21 June 2018 to approve a non-material amendment is also quashed.
7. In the light of the above, and to avoid the need and cost of further litigation, it is requested by all parties to the proceedings that the Court makes the Consent Order without the need for attendance by the Parties.

Signed.....

Dated.....

Richard Buxton Solicitors
for and on behalf of **Avrina Eggleston (Claimant)**
19B Victoria Street
Cambridge CB1 1JP

Signed.....

Dated..... *2nd December 2019*

Steve Murphy
for and on behalf of **Carmarthenshire County Council**
Administration and Law Division
Carmarthenshire SA31 1JP

Signed.....

Dated.....

Morgan LaRoche Solicitors
for and on behalf of the Interested Parties **Lisa Fearn, Jonathan Fearn and Lisa Fearn Ltd**
Bay House, Tawe Business Village Phoenix Way Swansea SA7 9LA

5. The Defendant therefore concedes that it did not have power to issue an "amended" decision notice given that it had already issued a decision notice on the application. Once it had issued the original DN, the Defendant was functus officio. The amended decision notice is of no legal effect.
6. The Claimant is entitled to an Order quashing the 10 June 2019 decision, a declaration that the amended decision notice is null and void and of no legal effect and a quashing of that decision. A contingent decision of 21 June 2018 to approve a non-material amendment is also quashed.
7. In the light of the above, and to avoid the need and cost of further litigation, it is requested by all parties to the proceedings that the Court makes the Consent Order without the need for attendance by the Parties.

Signed.....*Richard Buxton*..... Dated.....*3 Dec 2019*.....

Richard Buxton Solicitors
for and on behalf of Avrina Eggleston (Claimant)
 19B Victoria Street
 Cambridge CB1 1JP

Signed..... Dated.....

Steve Murphy
for and on behalf of Carmarthenshire County Council
 Administration and Law Division
 Carmarthenshire SA31 1JP

Signed.....*Morgan LaRoche*..... Dated.....*2 December 2019*.....

Morgan LaRoche Solicitors
for and on behalf of the Interested Parties Lisa Fearn, Jonathan Fearn and Lisa Fearn Ltd
 Bay House, Tawe Business Village Phoenix Way Swansea SA7 9LA

Nerys Jefford
16.12.19

