

Case No:

Neutral Citation Number: [2011] EWHC 2794 (QB)

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand
London WC2A 2LL

Monday, 15 August 2011

BEFORE:

MRS JUSTICE NICOLA DAVIES

BETWEEN:

R (GROVE PARK COMMUNITY GROUP)

Applicant

- and -

(1) LONDON BOROUGH OF LEWISHAM
(2) STUART JACKSON
(3) DAIRE GILMORE

Respondent

MR P STOOKES (instructed BY Richard Buxton Environmental & Public Law) appeared on behalf of the Claimant

Approved Judgment

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(Official Shorthand Writers to the Court)

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1. MRS JUSTICE NICOLA DAVIES: This is an application by the Grove Park Community Group against the defendant the London Borough of Lewisham and the interested parties, being Stuart Jackson and Darie Gilmore. It is for an interim injunction that the interested party be prohibited from demolishing the Baring Hall Hotel, Baring Road, London SE 12.
2. The application arises in this way: on 10 August 2011 the head of planning at the London Borough of Lewisham indicated, in respect of the application made by those acting on behalf of the interested parties, that in respect of an application for prior approval of demolition the council had, and I quote, "No objection in principle".
3. On 11 August 2011 a planning committee of the same council refused planning permission but held that it had no power to deal with the application for demolition.
4. The short point before the court today is that it is said that the notice dated 10 August 2011, which may or may not grant prior approval, is unlawful. Having heard the arguments cogently and succinctly put on behalf of the applicant I am satisfied that there is a real issue to be tried on this point.
5. The reason for this without notice application is that it is the understanding of the applicants that demolition of the property is to begin either today or tomorrow. Those who presently act on behalf of the applicants were instructed last Friday, that is Friday, 12 August. They contacted the agents acting on behalf of the interested parties, to put them on notice of today's proceedings. I am told they attempted to communicate with them again this morning but no response has been received. I am satisfied that proper efforts have been made to alert those who act on behalf of the interested parties to these proceedings.
6. Satisfied as I am that there is a real issue to be tried, it seems to be in principle that this is an application which can be granted subject to a short return of dates. However, I am concerned that the draft form of the audit does not contain the normal undertaking. The reason for that is a simple one, it is that the applicant, a non-profit making organisation, does not have the funds to give such an undertaking. I am grateful to Mr Stookes, on behalf of the applicant, who has provided details of the applicant's financial position and it is clear that they cannot give the undertaking.
7. However, I take account of the fact the interested parties were on notice of today's proceedings, albeit through less than formal channels and, therefore, it is highly unlikely that they would have taken positive steps prior this morning to put in place procedures to commence the demolition of the property. The sensible course would have been to await the outcome of today's proceedings. In those circumstances it is certainly my view that any prejudice that is likely to have been suffered is limited indeed and I seek to limit that still further by giving a return date on this application within seven days of today, namely 22 August.
8. I have also been informed, and there will be an undertaking to this effect: that proceeding for permission to apply for judicial review will be issued by 4.00pm tomorrow.

9. In the circumstances I am prepared to grant the application in the terms sought. It is, as I have stressed, an interim application. There will be a return date here a week from today with a time estimate of two hours. My thanks to Mr Stookes for the assistance which he has given the court today.