

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

BETWEEN:

R (OAO ALISTAIR CLEMENCE)

- and -

LEICESTERSHIRE COUNTY COUNCIL

- and -

Mr T PICK



Claimant

Defendant

Interested Party

CONSENT ORDER

UPON the Claimant's application on 30 July 2021 for permission to bring a claim for judicial review against the Defendant's decision on 18th June 2021 granting planning permission for the erection of poultry units and a linked anaerobic digestion facility at Manor Farm, Beeby under reference 2020/CM/0042/LCC;

AND UPON the Defendant and Interested Party having confirmed that they are prepared to concede the claim on the basis set out in the Schedule to this Order;

AND UPON considering the Schedule to this Order and the material accompanying the Claimant's application;

By consent, IT IS ORDERED THAT

1. This is an Aarhus Convention claim within the meaning of CPR 45.41.
2. Permission to apply for judicial review be granted.
3. The Defendant's decision of 18 June 2021 under reference 2020/CM/0042/LCC be quashed.
4. The Defendant shall pay the Claimant's reasonable costs of and in connection with the claim to be subject to detailed assessment if not agreed.

Signed: 

Signed: 

Signed: 

Date: 02/08/2021

Date: 30/07/2021

Date: 2/8/2021

For Richard Buxton Solicitors,
solicitors for the Claimant

For Leicestershire County
Council, the Defendant

T Pick, the Interested Party



SCHEDULE

Statement of matters relied upon and reasons for the order

1. The Defendant accepts, as alleged in the grounds set out in the Claimant's Letter Before Action dated 6 July 2021, that:
 - (i) The environmental impact assessment was incomplete and unlawful in so far as it failed to assess the potential for odour, air emissions and flies from the spreading of chicken litter across the Applicant's farm-holding as an effect of the proposed development (see *R (Squire) v Shropshire Council* [2019] Env LR 36);
 - (ii) The decision to grant permission was vitiated by the advice at paragraphs 10 and 90 in the version of the Officer's Report made available to the public ("OR") that poultry waste would be utilised in the Anaerobic Digestion Facility ("ADF") and will not leave the site, which was substantially in error;
 - (iii) The decision to grant permission was vitiated by the advice in the OR at paragraph 74 that the scheme 'remains almost identical to the previously approved scheme'. This advice was seriously misleading as in fact the scheme was materially different. Unlike the scheme consented in the July 2016 permission, chicken litter could be utilised across the farm as fertiliser, creating the potential for significant environmental impacts;
 - (iv) The Defendant failed to have regard to the potential for the poultry units to be operated before the ADF is constructed and made operational, which was a material consideration.