



**In the High Court of Justice
King's Bench Division
Administrative Court**

CO/2786/2022

In the matter of an application for judicial review

THE KING

on the application of

**COUNCILLOR PATRICIA STRACK ON BEHALF OF THE WOODCOCK
HILL VILLAGE GREEN COMMITTEE**

Claimant

-and-

**SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL
AFFAIRS**

Defendant

-and-

**(1) LAING HOMES
(2) HERTSMERE BOROUGH COUNCIL**

Interested Parties

**Notification of the Judge's decision on the application for permission to
apply for judicial review (CPR 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant, the Acknowledgement of service and summary grounds filed by the Defendant and the first interested party and the letters of 12th and 16th August 2022 (Defendant) and 15th August 2022 (Claimant).

And upon the parties having filed a draft consent order in relation to the Claimant's application for Aarhus convention costs protection leaving only the issue of the amount of the costs cap for the Claimant to be determined by the Court.

ORDER by the Honourable Mr Justice Cotter

1. The application for permission to apply for judicial review is granted.
2. In relation to the costs of these proceedings until the handing down of judgment:
 - a. Any liability of the Claimant to pay costs in this action is capped at £7,500 in total, inclusive of VAT; and

- b. Any liability of the Defendant or either Interested Party to pay costs in this action is capped at £35,000 in total for each such party, inclusive of VAT.
3. Liberty to apply to discharge or vary paragraph 2 of this order.
4. The application is to be listed for 1 day the parties to provide a written time estimate within 7 days of service of this order if they disagree with this direction.

Observations

After some hesitation I have concluded that both grounds are arguable. Specifically, it is arguable that the Inspector fell into error as the interests of the neighbourhood identified at the time of registration (members of which have the rights to indulge in lawful sports and pastimes on the land) should take “precedence” over other the impact other areas. Also that although some consideration may be given to the effect on other areas as part of wider public interests, to equate the weighting (as the Inspector expressly did) would negate that precedence.

As for the second ground it is arguable that the Inspector fell into error in his approach to whether the land would be maintained in the future and if so how this affected the balancing exercise.

The position in relation to the Claimant’s application for Aarhus costs protection is an unusual one (given the express reservation of the issue of whether this is an Aarhus claim or not in the draft order but also a failure to reach a fully concluded agreement as to the terms of the order). I have taken the pragmatic approach (in order to save further costs being incurred) that the correspondence amounts to an agreement that the sole issue before the Court is the amount of the Claimant’s cap.

The current funding available towards the claim is £5,200, but further funding (specifically crowdfunding) is a reasonable assumption. However a £10,000 cap is likely to mean that the costs were prohibitively expensive.

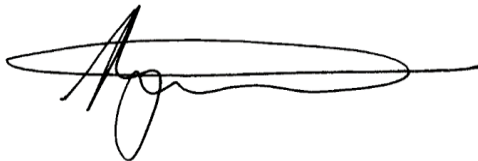
Case Management Directions

1. The Defendant and any other person served with the Claim Form who wishes to contest the claim or support it on additional grounds shall, within 35 days of the date of service of this Order, file and serve (a) Detailed Grounds for contesting the claim or supporting it on additional grounds, and (b) any written evidence that is to be relied on. For the avoidance of doubt, a party who has filed and served Summary Grounds pursuant to CPR 54.8 may comply with (a) above by filing and serving a document which states that those Summary Grounds shall stand as the Detailed Grounds required by CPR 54.14.
2. Any application by the Claimant to serve evidence in reply shall be filed and served within 21 days of the date on which the Defendant serves evidence pursuant to 1(b) above.
3. The parties shall agree the contents of the hearing bundle and must file it with the Court not less than four weeks before the date of the

hearing of the judicial review. An electronic version of the bundle shall be prepared and lodged in accordance with the Guidance on the Administrative Court website. The parties shall, if requested by the Court lodge 2 hard-copy versions of the hearing bundle.

4. The Claimant must file and serve a Skeleton Argument not less than 21 days before the date of the hearing of the judicial review.
5. The Defendant and any Interested Party must file and serve a Skeleton Argument not less than 14 days before the date of the hearing of the judicial review.
6. The parties shall agree the contents of a bundle containing the authorities to be referred to at the hearing. An electronic version of the bundle shall be prepared in accordance with the Guidance on the Administrative Court website. The parties shall if requested by the Court, prepare a hard-copy version of the authorities bundle. The electronic version of the bundle and if requested, the hard copy version of the bundle, shall be lodged with the Court not less than 3 days before the date of the hearing of the judicial review.
7. If permission has been granted on some grounds but refused on others, the Claimant may request that the decision to refuse permission be reconsidered at a hearing by filing and serving a completed Form 86B within 7 days after the date this order is served on the Claimant. The reconsideration hearing will be fixed in due course. However, if all parties agree and time estimates for substantive hearing allow, the reconsideration hearing may take place immediately before the substantive hearing. The Administrative Court Office must be notified within 21 days of the service and filing of Form 86B if the parties agree to this course.

Case suitable for hearing by a Deputy High Court Judge



Signed: Mr Justice Cotter

Dated: 16 September 2022

The date of service of this order is calculated from the date in the section below

For completion by the Administrative Court Office

Sent / Handed to

either the Claimant, and the Defendant [and the Interested Party]

or the Claimant's, and the Defendant's, [and the Interested Party's] solicitors

Date: 21/09/2022

Solicitors: RICHARD BUXTON SOLICITORS

Ref No: (WHVG1/1)MM

Notes for the Claimant

To continue the proceedings a fee is payable.

For details of the current fee please refer to the Administrative Court fees table at <https://www.gov.uk/court-fees-what-they-are>.

Failure to pay the fee or submit a certified application for fee remission may result in the claim being struck out.

The form to make an application for remission of a court fee can be obtained from the Justice website <https://www.gov.uk/get-help-with-court-fees>

You are reminded of your obligation to reconsider the merits of your claim on receipt of the defendant's evidence.