

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

PLANNING COURT

BEFORE MR JAMES STRACHAN KC (Sitting As A Deputy Judge Of The High Court)

BETWEEN:

R (on the application of MR ALAN PEARCE)

Claimant



and

WEST BERKSHIRE COUNCIL

Defendant

and

ALLIANCE LEISURE SERVICES LIMITED

Interested Party

ORDER

UPON hearing Counsel for the Claimant and Counsel for the Defendant, the Interested Party neither appearing nor being represented

AND UPON reading the written documents filed and lodged at Court

IT IS ORDERED that:

1. The Claimant has permission to apply for Judicial Review on the following grounds only:
 - a. on Ground 1 as it was articulated at the renewal hearing, namely and specifically an allegation that:
 - (i) members of the Defendant were materially misled by the officer's report in so far as it directed them to treat the planning application as a "stand alone proposal" with "no formal link" with the Faraday

Road Site and that the future of the Faraday Road Site formed “no part” of the consideration of the planning application; or

- (ii) the Defendant erred in law by treating, on the one hand, the proposed development as a replacement for the provision at the Faraday Road Site, but on the other hand treating the proposed development as a “stand alone proposal” and in failing and expressly refusing to consider or compare the implications of the proposed development for the Faraday Road Site;
- b. on a limited part of Ground 2, as articulated at the oral renewal hearing, namely and specifically that in light of paragraph 6.20 of the report to the Western Area Planning Committee dated 15 December 2021 referring to the need to provide additional pitch provision within 2 years, the Council erred in law in its approach to policy CS18 of the Local Plan and/or paragraph 99(b) of the National Planning Policy Framework in failing to impose any condition or section 106 obligation to secure such provision .

Save as set out above, permission to apply for judicial review on any other ground is refused.

Costs

2. The costs order made by Mr Tim Smith sitting as a Deputy High Court Judge dated 14 June 2022 is set aside.
3. The claim is an Aarhus Convention claim for the purposes of Part 45 of the Civil Procedure Rules, subject to the costs caps set out in CPR Rule 45.43(2) and (3) for the Claimant and the Defendant respectively.
4. The Defendant has permission, by 4pm on 1 September 2022, to make an application pursuant to CPR Rule 45.44 for the variation of the Aarhus costs caps, if so advised.

Directions

5. The claim is to be listed for hearing with a time estimate of one day.
6. Any party who wishes to contest or support the claim must file and serve any detailed grounds and any written evidence or documents not already filed in a paginated and

indexed bundle (in both hard copy and electronic copy) within 35 days of this order. The Defendant may rely on its summary grounds as the detailed grounds; if doing so, it should inform the ACO and the other parties in writing within the time set for filing the detailed grounds.

7. The Claimant must file and serve a skeleton argument not less than 21 days before the substantive hearing.
8. The Defendant and any other party wishing to make representations at the substantive hearing must file and serve a skeleton argument not less than 14 days before the substantive hearing.
9. The parties must agree the contents of a paginated and indexed bundle containing all relevant documents required for the hearing of the judicial review. This bundle must be lodged with the Court in both electronic and hard copy form by the parties not less than 28 days before the date of the final hearing. Each party (or the solicitor acting for each party) shall certify that the hearing bundle and any core bundle meets the requirements of this paragraph.
10. Not less than 7 days before the date of the hearing (or the warned date), the parties shall file: (a) an agreed list of issues; (b) an agreed chronology of events (with page references to the hearing bundle); and (c) an agreed a list of essential documents for the advance reading of the court (with page references in the hearing bundle to the passages relied on) and a time estimate for that reading.
11. The parties must agree the contents of a bundle containing the authorities to be referred to at the hearing. This bundle is to be lodged by the parties with the Court in both electronic and hard copy form no later than 7 days before the date of hearing.
12. Electronic versions of all bundles required by these directions shall be prepared by the Claimant in accordance with the Guidance on the Administrative Court website.

Dated 18 August 2022

Signed



MR JAMES STRACHAN KC 16 September 2022

By the Court