



**In the High Court of Justice
Queen's Bench Division
Planning Court**

CO Ref:
CO/2441/2020

In the matter of an application for Judicial Review

The Queen on the application of MIKE KENT

versus EAST SUFFOLK COUNCIL
(FELIXSTOWE FERRY GOLF CLUB LTD, Interested Party)

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the Acknowledgements of service filed by the Defendant and the Interested Party]

Order by Mr C M G Ockelton, Vice President of the Upper Tribunal,
Sitting as a Judge of the High Court

Permission is hereby refused.

Reasons

- 1 Ground 1 is simply wrong. So far from there being a mistake as to whether the development would be in accordance with the development plan and existing policies, it is clear that everybody concerned was perfectly aware that it was not in accordance with them and had to be considered on that basis.
- 2 Grounds 2-4 in general seek to read the Officer's Report (a) in isolation, and (b) as though it were drafted in the same way as a statute. As the authorities make clear, neither approach is permissible. They are unarguable for that reason. In addition, ground 3 clearly misinterprets NPPF para 172.
- 3 Ground 5 would not provide a reason for the quashing of the permission, which is the only remedy sought. In any event the 'tailpiece' is not arguably unlawful.
- 4 The above reasons are expanded in greater detail in the Summary Grounds attached to the Acknowledgments of Service, particularly that of the Interested Party, with which I agree.
- 5 The defendant and the Interested Party agree that this is an Aarhus claim. The Interested Party seeks an Order that the limit be £10,000 on the basis of lack of information as to the claimant's resources. However, this is a case where the two responses do include a considerable measure of duplication and in my judgment the appropriate and proportionate Order in respect of costs is that below. If the application is renewed to a hearing there will no doubt be an opportunity to consider resources and other matters in conjunction with that.

The costs of preparing the Acknowledgments of Service are to be paid by the claimant to the defendant, in the sum of £ 1,600 and to the interested party in the sum of £3,400, unless within 14 days the claimant notifies the court and the defendant or interested party as appropriate, in writing, that he objects to paying costs, or as to the amount to be paid, in either case giving reasons. If he does so, the defendant or interested party has a further 14 days to respond to both the court and the claimant, and the claimant the right to reply within a further 7 days, after which the claim for costs is to put before a judge to be determined on the papers. If the claimant seeks reconsideration, costs are to be dealt with on that occasion.

Signed *C M G Ockelton*

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

For completion by the Planning Court

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date): 25/09/2020

Solicitors: ASHTONS LEGAL

Ref No: SL/RW/291947-0001

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court under CPR 54.12, you must complete and serve the enclosed FORM 86B within 7 days of the service of this order. A fee is payable on submission of Form 86B. **For details of the current fee see the Court website <https://www.gov.uk/court-fees-what-they-are>**. Failure to pay the fee or lodge a certified Application for Fee remission may result in the claim being struck out. The form for Application for Remission of a Fee is obtainable from the Justice website <https://www.gov.uk/get-help-with-court-fees>.