

Fews
Lane
Consortium
Ltd

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South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge CB23 6EA

Dear Sir/Madam,

Judicial review pre-action protocol letter: Planning application 20/02453/S73 (No. 2)

- (1) South Cambridgeshire District Council (the "**Council**"), South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge CB23 6EA, is the prospective defendant in a claim for judicial review. In light of the Council's current remote working arrangements, this correspondence has been sent by email only.
- (2) The prospective claimant is the Fews Lane Consortium Ltd (the "**Consortium**"), The Elms, Fews Lane, Longstanton, Cambridge CB24 3DP. The Consortium represents the interests of local residents in regards to issues of planning and development.
- (3) This letter concerns planning application 20/02453/S73, which would permit development at Fews Lane, Longstanton, Cambridge CB24 3DP.
- (4) The prospective claimant considers the applicant for planning permission, Landbrook Homes Ltd, to be an interested party. A copy of this letter has been sent to Landbrook Homes Ltd at 36a Church Street, Willingham, Cambridge CB24 5HT.
- (5) Article 13(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the "**2015 Order**") provides that "an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates".
- (6) The 2015 Order was made pursuant to a number of provisions of the Town and Country Planning Act 1990 (the "**1990 Act**"), including the provisions of section 65 of the Act.
- (7) Section 65(5) of the 1990 Act provides that, "A local planning authority shall not entertain an application for planning permission or permission in principle unless any requirements imposed by virtue of this section have been satisfied."
- (8) In addition, section 327A of the 1990 Act states:

“(1) This section applies to any application in respect of which this Act or any provision made under it imposes a requirement as to—
(a) the form or manner in which the application must be made;
(b) the form or content of any document or other matter which accompanies the application.

(2) The local planning authority must not entertain such an application if it fails to comply with the requirement.”

- (9) In *Maximus Networks Ltd v Secretary of State for Communities and Local Government* [2018] EWHC 1933 (Admin), [2019] PTSR 312, Dove J states at [24] that:

“Section 327A of the 1990 Act makes clear that the local planning authority has no discretion to waive or overlook failures to comply with the requirements provided by the legislation for the proper formulation of an application. By implication it makes clear that if a local planning authority were to do so that would amount to an error of law justifying the court’s intervention.”

- (10) A part of the land to which the application relates (which is not *de minimis*) is registered under title No. CB357875 and is owned by Charles Church Developments Limited (Co. Regn. No. 1182689) of Persimmon House, Fulford, York YO19 4FE.
- (11) The ownership certificated submitted by the applicant states that “[a]ll reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner and/or agricultural tenant of any part of the land to which this application relates” and that the steps taken were “Searches in Land Registry and advertising in local newspaper”. These statements appear to be false or misleading in a material particular.
- (12) Regardless, the registered owner of part of the land to which the application relates (Charles Church Developments Limited) has not been notified by the applicant as required under article 13 of the 2015 DMPO, and accordingly, the application can not be entertained by the local planning authority pursuant to sections 65(5) and 327A of the 1990 Act.
- (13) The council should inform the applicant that the application can not be entertained by the council. As the application is due to be considered by the council’s planning committee on Wednesday, an update on the status of this application should be published on the planning committee agenda page on the council’s website.
- (14) Should the council not take the steps stated above, the Few’s Lane Consortium Ltd will apply to the High Court for an order to prohibit the council from entertaining the application, a declaration that the council erred in law, and an order that the council pay the Consortium’s costs in the claim. Injunctive relief may also be sought, including on an urgent basis, if appropriate.
- (15) The Consortium intends to issue proceedings as an Aarhus Convention claim pursuant to Parts 45.41 – 45.45 of the Civil Procedure Rules because the claim challenges the legality of a decision of a body exercising a public function which is within the scope of Article 9(2) of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters agreed at Aarhus, Denmark on 25 June 1998 (the Aarhus Convention).
- (16) The Consortium does not envisage that it will be necessary to propose any variation of the standard limits on recoverable costs as stated in Parts 45.43(2)(b) and 45.43(3) of the Civil Procedure Rules.
- (17) Should it become necessary to issue a claim, a complete statement of the prospective claimant’s financial resources and a statement of financial support received will be provided to the prospective defendant at the earliest opportunity and, in any event, will be served with the claim form. At present, the Consortium’s total assets are less than £25, and the Consortium’s total cash on hand is less than £7.

- (18) The Consortium's address for the response and service of documents is: Few's Lane Consortium Ltd, The Elms, Few's Lane, Longstanton, Cambridge CB24 3DP. The Consortium will accept a pre-action protocol response by email to <dgf@fewslane.co.uk>.
- (19) In the event that legal proceedings become necessary in regards to this prospective claim, please note that the Few's Lane Consortium Ltd does NOT accept service by email.
- (20) Should the Council continue to entertain the application after receiving this letter, it is highly likely that an application for permission for judicial review and/or an application for interim relief will be filed before the usual 14 day period response period has ended. It may be more appropriate, given the urgency of the prospective claim, to discuss the matter by telephone one day early next week.

Kind regards,

Daniel Fulton
Director