



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

CO/1038/2022

In the matter of an application for statutory review

THE QUEEN

on the application of

CHRISTOPHER HAXBY

Claimant

-and-

HORSHAM DISTRICT COUNCIL and another

Defendant

ORDER by the Honourable Mr Justice Dove

1. The consent order in relation to this matter signed by the Claimant and the Defendant on 5th April 2022 is approved.

Reasons

The consent order has been signed by the claimant and defendant and contains an appropriate explanation for the terms of the order. Whilst the Interested Party has not signed the order I have been advised that they do not object to the making of the order. In the circumstances I am content to approve the making of the order.

Signed Ian Dove

Dated 5th May 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: 09/05/2022

Solicitors: IRWIN MITCHELL LLP
Ref No. FID3423836

BETWEEN:

THE QUEEN (on the application of
CHRISTOPHER HAXBY)

Claimant

and

HORSHAM DISTRICT COUNCIL

Defendant

and

BLACKEDGE PROPERTIES LIMITED

Interested Party

[draft] ORDER

UPON the Claimant's application for judicial review of the Defendant's decision dated 10 February 2022 bearing the reference DC/21/2028 to grant planning permission to the Interested Party

UPON READING correspondence between the parties filed with this draft Order and the accompanying Statement of reasons relied on justifying the quashing order

AND UPON the parties consenting hereto

BY CONSENT IT IS ORDERED that:

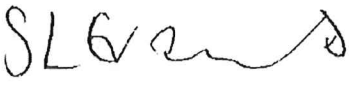
1. The Claimant is granted permission to bring the claim for judicial review
2. The decision of the Defendant dated 10 February 2022 bearing the reference DC/21/2028 to grant planning permission to the Interested Party is quashed.
3. The Defendant does pay the Claimant's costs of the action to be subject of summary assessment if not agreed.

Solicitor for the Claimant: 

Dated: 5/4/2022

Tracy Lovejoy – Senior Associate, Irwin Mitchell LLP

9th Floor, The Colmore Building, 20 Colmore Circus, Birmingham, B4 6AH

Solicitor for the Defendant: 

Dated: 05 April 2022

Sharon Evans, Head of Legal and Democratic Services, Horsham District Council

Parkside, Chart Way, Horsham, West Sussex RH12 1RL

BY THE COURT

BETWEEN:

THE QUEEN on the application of
CHRISTOPHER HAXBY

Claimant

and

HORSHAM DISTRICT COUNCIL

Defendant

and

BLACKEDGE PROPERTIES LIMITED

Interested Party

[draft] STATEMENT OF REASONS RELIED ON JUSTIFYING QUASHING ORDER

1. By a Decision Notice of 10 February 2022 ("the **Decision**") (bearing the reference DC/21/2028), following the recommendation made in the delegated Officer's report ("the **Report**") of February 2022, the Defendant granted conditional planning permission ("the **Permission**") for:

" Change of use of the vacant car showroom (sui generis) to retail unit (Class E(a)) with extensions to the ground floor and associated parking"

("the **Proposed Development**")

2. On 9 March 2022, the Claimant sent the Pre-action Protocol letter to the Defendant and to the Interested Party ("the **PAPL**") (see Annex).
3. The Claimants' grounds of challenge set out in the PAPL are summarised below:

a. Ground 1: : **S. 38 (6) Duty/AONB Duties**: The Council breached its duty under s. 38 (6) of the Planning and Compulsory Purchase Act 2004 by:

- i) Failing to take into account an "obviously material" consideration, namely, to assess and determine the Application's transport and highway safety impacts cumulatively with the Café Application;
- ii) Failing to weigh the potential cumulative harm from both applications in the planning balance;

b. Ground (2): **Reasons**: The Council failed to provide any, or any adequate, reasons for the above failure in the Decision.

4. The Defendant responded on 21 March 2022 (see annex), refusing to concede on the above grounds but instead conceding on the related ground that the Officer Report has dealt with highways and amenity in an inconsistent manner as highways issues are considered on an individual basis but the cumulative impact of the Application and the Café Application on amenity have been considered.

5. Accordingly, the Defendant erred in law, and the Decision Notice falls to be quashed.
6. On 22 March 2022, the Interested Party has confirmed through its director that it does not intend to participate in these proceedings and does not object to the Defendant and Claimant entering into this consent order.
7. The parties reserve their positions regarding the other grounds of the claim.
8. The Defendant agrees to pay the Claimant's costs.

ANNEX

1. Pre-action protocol letter from the Claimant to the Defendant dated 9 March 2022
2. The Permission
3. The Report
4. The Defendant's response to the pre-action protocol letter dated 21 March 2022
5. Email from the Interested Party dated 22 March 2022