



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

CO Ref:
CO/3088/2020



In the matter of an application for Judicial Review

The Queen on the application of MARGARET WHITE

versus GLOUCESTER COUNTY COUNCIL

**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 Acknowledgement of service filed by the Defendant

Order by His Honour Judge Jarman QC sitting as a judge of the High Court

Permission is hereby refused.

Reasons:

1. The remedy sought relates to the detail of the location of the all weather pitch for the proposed school, the diversion of the right of way and additional tree planting. This sort of detail is for the defendant as the planning authority, not for the court, whose review is limited to whether the grant of permission is unlawful on public law grounds. The claimant indicates in her response that if these are not acceded to in full then a quashing of the permission is sought.
2. Whilst it is true that the planning officer in her report did not refer to the site as a valued landscape this was clearly referred to in the comments of the parish council which were set out in full in the report as was paragraph 170 of the NPPF which was said to require planning decisions to protect and enhance valued landscapes.
3. The report referred to the Landscape Visual Impact Assessment of the potential effects on the existing landscape character, landscape components and features and visual amenity. It noted that the County Landscape Advisor initially expressed concern about the loss of vegetation and the impact of the proposed development when viewed from the AONB to the south, and that he was pleased to see significant improvements made in the retention of vegetation which significantly improve the retention of the important visual connectivity with the AONB. The report referred to the inspector's decision in granting permission for 25 dwellings to the east of the site saying that this would involve no harm to the AONB due to the distances involved and the small size of that development together with its proximity to the urban edge of Cheltenham. The report acknowledge that the site would be visible from the AONB and would be a greater consolidated mass than the recently granted residential development, but that that would be set against the backdrop of existing buildings within the townscape. The requirement of the Joint Core Strategy that green infrastructure of local and strategic importance will be conserved and enhanced was also referred to. It was concluded that the biodiversity offset land would further enhance the green wedge and that in the planning balance the proposal broadly accords with the aims of the JCS.
4. As for the impact on the medieval settlement, a scheduled monument, to the south east the relevant paragraphs of the NPPF were set out in the report, as were the comments of Historic England. Some harm to the significance of this

monument was acknowledged, reducing the amount of open fields associated with it. However, it was also noted that the proposal would retain two fields close to the monument which will be an enhancement to the historic environment as well as the natural environment. The harm was assessed at the lower end of less than substantial and whether that was outweighed by the public benefits and proposed mitigation was a matter of planning judgment.

5. That judgment was in the context that the need for the school was not in issue and the site was allocated for such a purpose in the draft emerging local plan. On a fair reading of the report as a whole each of the matters referred to in the grounds was adequately dealt with and those grounds are not arguable.

- The costs of preparing the acknowledgment of service are to be paid by the claimant to the defendant, in the sum of £4200.00. This is a final order as to costs unless within 14 days the claimant notifies the court and the defendant, in writing, that she objects to paying costs, or objects to the amount now ordered to be paid, in either case giving reasons. If she does so, the defendant 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 defendant's claim for costs and any submissions in relation to it will be put before a judge to be determined on the papers, or at a hearing to reconsider the application for permission.
- Where the claimant seeks a reconsideration of the application for permission the above order now made as to costs will be final unless the Claimant files the written representations referred to above or further order is made by the Court either at a permission hearing or as a consequence of the parties settling the claim and reaching agreement as to costs.

Signed



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

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

Solicitors:

Ref No.

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 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>