Neutral Citation No: [2021] NIQB 32	*Ref:* **SCO11453**
	ICOS No: **18/025375/01**
Judgment: approved by the Court for handing down (subject to editorial corrections)*	*Delivered:* **18/03/2021**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

IN THE MATTER OF AN APPLICATION BY RURAL INTEGRITY (LISBURN 03) LIMITED FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

AND IN THE MATTER OF A DECISION OF LISBURN AND CASTLEREAGH CITY COUNCIL

Mr Conan Fegan BL (instructed by Phoenix Law, Solicitors) for the applicant
Mr Stewart Beattie QC and Mr Philip McEvoy (instructed by Cleaver Fulton Rankin, Solicitors) for the proposed respondent

---

SCOFFIELD J

Introduction

[1] By this application, the applicant, Rural Integrity (Lisburn 03) Limited ('the Company'), seeks leave to apply for judicial review of a decision of Lisburn and Castlereagh City Council ('the Council') made on 12 December 2017 whereby it granted planning permission (reference LA05/2017/0633/O) for two infill dwellings and garages at land adjacent to 11 Magheraconluce Lane, Lisburn.

[2] I have today given judgment in a related application for leave to apply for judicial review – *Re Portinode Environmental Limited's Application* [2021] NIQB 31 ('*Portinode*') – which, like this case, has been dogged by a variety of procedural difficulties for quite some time. The two applications were heard together because they are each brought by a company which has been incorporated for the purpose of mounting judicial review litigation with Mr Gordon Duff as a director. They also both form part of a limited sub-group of cases which were reprieved from dismissal when McCloskey LJ considered a broad cohort of cases sharing common features, many of which were brought by companies bearing the words 'Rural Integrity' as part of their name, and dismissed 29 out of 32 of those cases on a variety of related grounds.

[3] Many of the procedural issues arising in this case are common to the *Portinode* case and I do not intend to repeat in this ruling the analysis contained in my judgment in that case, to which the reader's attention is drawn.

The respondent's application to strike out or stay the application for leave

[4] As in the *Portinode* case, the Council in this case has applied for the applicant's application for leave to apply for judicial review to be stayed or struck out on a variety of bases. These include breach of RsCJ Order 5, rule 6 (because the application was initially brought by the company acting otherwise than through a solicitor); abuse of process; lack of standing; and want of prosecution.

[5] The Council's application is grounded on a summons dated 10 December 2020 and an affidavit from its solicitor, Mr Brendan Martyn. At the hearing, Mr Beattie QC adopted *mutatis mutandis* the submissions made by Mr McAteer BL on behalf of the proposed respondent in the *Portinode* case, supplementing them with some brief additional observations related to the facts of the present case; and addressed me principally on the merits of the applicant's application.

[6] For essentially the same reasons as I set out in the judgment in *Portinode*, I propose to take a similar course as I did in relation to that application, namely to dismiss the proposed respondent's strike-out application but not to condemn the proposed respondent in costs for having brought it. I briefly explain my reasoning for this below, after having addressed the merits of the present case, with reference to the particular circumstances which arise in these proceedings.

Merits of the case

[7] This is another case which focuses on Policy CTY8 of PPS21, which relates to 'ribbon development' in the countryside. Policy CTY8 provides:

> "*Planning permission will be refused for a building which creates or adds to a ribbon of development.*
>
> *An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*"

[8] The 'Justification and Amplification' text related to the policy offers further guidance as to what constitutes ribbon development at paragraph 5.33:

> "*For the purposes of this policy a road frontage includes a footpath or private lane. A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.*"

[9] It also includes a strong statement as to why ribbon development is not permitted, at paragraph 5.32:

> "*Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*"

[10] Paragraph 6.73 of the *Strategic Planning Policy Statement for Northern Ireland* (SPPS) appears to be in terms consistent with Policy CTY8. Policy CTY8 was considered by McCloskey J in the *McNamara* case (*supra*): see, in particular, paragraphs [18]-[24]. McCloskey J considered that the general prohibition on ribbon development, taken together with the exception for small gap sites, required a "*juggling act*" to strike the correct balance between the need to protect the rural environment and, simultaneously, to sustain a strong and vibrant rural community.

[11] This case focuses on the meaning and application of the exception within Policy CTY8, namely that where there is "*an otherwise substantial and continuously built up frontage*" a "*small gap site*" within that frontage may be granted permission, provided that a number of additional conditions are met (that the proposal "*respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements*"). It might be thought that the policy pragmatically and realistically recognises that where the damage to the rural environment is already done, since a substantial and continuously built up frontage already exists, allowing that frontage to be completed is a small concession to the needs of sustaining the rural community likely to cause little further environmental harm. However, in such a case, care should be taken to ensure that the exception is not interpreted or applied in a way which goes beyond its proper scope and so undermines the policy's objective more generally.

[12] One of the key questions in the present case is whether the application site does indeed fall within an otherwise substantial and continuously built up frontage, which the policy clarifies "*includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*" Although this clarification is not exhaustive, it is obviously designed to give planning authorities a clear steer as to when the 'infill' exception is likely to be in play.

[13] The case advanced by the applicant at the leave hearing focused on the Council's Planning Officer's and Planning Committee's treatment of Policy CTY8, which was the key (but not only) policy consideration in this case. The Planning Officer Report recommended refusal of the application on the basis that the proposed development would be ribbon development along Magheraconluce Lane. As this was a 'local planning application', in the normal course it was delegated to the Council's professional officers under the Council's Scheme of Delegation. However, the matter was 'called in' by the Planning Committee which met on 4 December 2017, and on 12 December 2017 overturned the recommendation of the Planning Officer. It is not clear from the documents presently before me what the planning reason was for referral of the application to the Committee. In any event, the Committee overturned the officer's recommendation (discussed further below) and determined that planning permission should be granted. The only reason given by the Committee for disagreeing with the Planning Officer's recommendation within the minutes of the committee meeting is as follows: "*That the Committee believe that this application complies with CTY8 as there is one continuous roadway.*"

[14] The applicant submits that it is evident from the site location map included in the Planning Officer Report that the development will create a ribbon development along the roadway. It submits that there is no built-up frontage of a line of three or more buildings along the frontage (and that it would be irrational to conclude that there was); but that the development which has been granted permission will *actually create* such a frontage of three or more buildings along the road frontage. This, says the applicant, is precisely what Policy CTY8 and paragraph 6.73 of the SPPS prohibits. The applicant further says that the reason given by the Committee for overturning the Planning Officer's recommendation is not an exception contained in Policy CTY8. Mr Fegan submitted that the policy had been misunderstood or misapplied and/or that the Council's decision was either *Wednesbury* unreasonable or lacking in adequate reasons.

[15] The Council has a policy in relation to departure from officer recommendations, contained in its Protocol for Members of the Planning Committee. The policy at the time noted that such decisions may be subject to legal challenge and that "*members must therefore ensure that the reasons for the decision are set out and based on proper planning reasons.*" The applicant also relies on the assertion that a previous materially identical application (LA05/2016/0760/O) was refused; with no adequate explanation being provided for the apparent inconsistency between the two decisions.

[16] Having considered the site location map and the Planning Officer Report, I am satisfied that this is a case where the modest test for the grant of leave on the merits in judicial review is plainly met.

[17] The site is located on the inside of a right angle bend of Magheraconluce Lane. There are several residential properties located to the east of the site along a private laneway; and there is also a private laneway which runs to the west of the site. The road layout at this junction was described as a 'dog-leg' in the course of the leave hearing. The Planning Officer described it as "*a very particular and unique arrangement of buildings and road/laneway trajectory.*" However, the "*otherwise substantial and continuously built up frontage*" which appears to be being 'infilled' by the grant of permission is between Numbers 11 and 20 Magheraconluce Lane. These properties are on different sides of Magheraconluce Lane as one travels along it. They can be viewed as being on one side of a frontage (or representing a frontage) only if one takes into account two separate private lanes and consider them in conjunction with a small part of Magheraconluce Lane as representing one continuous frontage (or one continuous roadway, in the words of the Planning Committee). In doing so, part of Magheraconluce Lane which breaks up the frontage also has to be left out of account. The Planning Officer described the situation thus:

> "*There is a combination of 3 separate frontages being combined to give one. If one straightened out the Magheraconluce Lane there is only one dwelling presenting a road frontage onto it. Policy defines a substantial and built up frontage as including a line of 3 or more buildings along a road frontage.*"

[18] The Planning Officer, having visited the site, concluded that "*the relationship of the buildings with the road frontage (as interpreted) does not conform to the policy test of what constitutes a substantial and continuously built up frontage.*" This was consistent with the recommendation of the different planning officer who had dealt with the earlier planning application at the same site; and was understood by both the officers to be consistent with Planning Appeals Commission authority on the correct approach to Policy CTY8. The Planning Officer in this case also noted that "*the layout drawing to some extent has been manipulated to show a continuous and built up frontage which does not exist on the ground*"; and referred to the previous application which had been refused, in relation to which the present application was a "*repeat application.*"

[19] The Planning Officer report recommended refusal on the basis of Policies CTY8 (discussed above); CTY1 (on the basis that the exception in Policy CTY8 did not apply); CTY13 (integration and design); and Policy CTY14 (rural character). Although the objection in relation to CTY14 appears to have been (to some degree at least) reliant on the conclusion that Policy CTY8 was breached, non-compliance with Policy CTY13 appears to have been a free-standing ground for refusal and does not

appear to have been addressed in the Committee's reasons, which deal only with Policy CTY8.

[20] As to the Committee's consideration of Policy CTY8, it is plainly arguable in my view that the Committee has misdirected itself to the proper interpretation and application of Policy CTY8 in this case; or has acted irrationally in concluding that the exception within the policy was engaged. It also does not appear to have dealt with the free-standing objection on the basis of CTY13 (and, possibly, CTY14), even if Policy CTY8 had been complied with; nor what, if anything, was considered to have changed since the earlier refusal of a materially similar proposal on the same site by the same council. Although these latter points were not addressed in detail in Mr Fegan's argument, they are embraced within the applicant's (admittedly broadly) pleaded case.

[21] In its pleadings, the applicant has also made allegations or raised concerns in relation to several members of the planning committee, relating to issues of procedural fairness and compliance with the councillors' Code of Conduct. These arise from the assertions that Edwin Poots MLA, a senior DUP politician, was an advocate for the grant of permission at the meeting (as recorded in the minutes) and that the Chairman of the Planning Committee was his son, Cllr Luke Poots, whom it is also asserted may have a friendship with the son of the planning applicant; the fact that a DUP councillor, Mr Mackin, voted in favour of the application having (it is asserted) previously lobbied on behalf of the planning applicant by way of letter in a previous application; and the suggestion that, although no recorded vote was taken, analysis of the minutes suggests that the application may have been passed by five DUP members of the committee voting in a block to carry the proposal five to four.

[22] Mr Fegan did not press any of the grounds arising from the above matters at the leave hearing because a complaint has been made to the Northern Ireland Commissioner for Local Government Standards ('the Commissioner') and an outcome is awaited from the Commissioner's investigation. The applicant wished to adjourn the leave hearing in this case pending completion of that investigation but, in light of the delay in the proceedings to date, I was not prepared to do so. In those circumstances, Mr Fegan submitted that it was not possible to pursue those grounds at this stage; but asked that they be stayed to be pursued at a later stage in the proceedings if possible. I am prepared to take that course insofar as issues have been raised which may, if sufficiently evidentially grounded, give rise to arguable grounds of procedural unfairness which it would be proper for this Court to consider in the exercise of its supervisory jurisdiction. If this application for judicial review is pursued by the applicant, however, I am unlikely to be easily persuaded to lift the stay on any additional grounds if to do so would give rise to further delay in the expeditious hearing and determination of the proceedings.

The issue of Order 5, rule 6 non-compliance

[23] The same basic issue arises in this case as arose in the *Portinode* case, namely that the proceedings were improperly commenced by a company purporting to act 'in person' without acting through solicitors. In his March 2020 ruling on this issue - *Re Rural Integrity (Lisburn 01) and Related Limited Companies' Applications* [2020] NIQB 25 – McCloskey LJ also treated the present case as one of "*the newly formed sub-group of three cases*" in respect of which "*in light of the most recent developments the applicant companies in those three cases (only) should have one further and final opportunity to demonstrate compliance with Order 5*", which would "*endure for the finite period of two weeks, ending on 20 March 2020.*" Again, in this case, as in *Portinode*, the applicant company engaged solicitors to act for it within the limited timeframe allowed for this by McCloskey LJ's order. A notice of change of solicitors was filed by Phoenix Law, now acting for the applicant, on 19 March 2020.

[24] As set out in my judgment in *Portinode*, I consider that, the applicant having taken advantage of the final opportunity provided by the Court to put its house in order, it would be wrong for me to dismiss the proceedings on the basis of the issues which were considered by McCloskey LJ at that time (see paragraphs [31]-[32] of my judgment in *Portinode*). That does not mean that there may not be other, different complications for the applicant in this case; but they are to be addressed on their own merits.

Standing

[25] The proposed respondent also objects to the *locus standi* of the applicant to bring these proceedings. It is a requirement of RsCJ Order 53, rule 3(5) that the Court should not grant leave to apply for judicial review unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

[26] Mr Martyn's affidavit helpfully addresses the current position of the applicant company. Although its sole director was originally Mr Duff (from incorporation on 26 January 2017), that later changed. On 20 August 2020, eight other individuals joined Mr Duff as directors. Similarly, on incorporation the company was wholly owned by Mr Duff. However, a confirmation statement dated 20 August 2020 indicates that there are nine shareholders in total, each holding equal shares (with six other shareholders having taken shares by March 2018). It is accepted on behalf of the respondent (in paragraph 18 of Mr Martyn's affidavit) that individuals other than Mr Duff, who are now directors and shareholders of the Company, reside or own property in the vicinity of the application site. Indeed, several of the other directors have addresses on Magheraconluce Lane.

[27] Mr Duff's grounding affidavit of 6 March 2018 describes six other shareholders in the Company who each live on Magheraconluce Lane and states that the Company "*has been formed and is now been [sic] used as a legitimate means for 6 very concerned residents and myself to co-operate and challenge a planning approval which we*

believe will contribute to unnecessary, unlawful and detrimental development and destruction of the Rural Environment adjacent to their homes."

[28] The objects of the Company are "*to challenge excess development within the Castlereagh and Lisburn City Council rural area which undermines the sustainable development of Lisburn. To challenge urban sprawl, ribbon development and all rural development contrary to planning policy.*"

[29] In this case, the proposed respondent draws attention to the fact that the registered address of the applicant is not within the Council's district; nor does it trade within the Council's district (or anywhere else); nor does it have any land interests in the vicinity of the application site. It is not, therefore, "*directly affected*" by the impugned decision, it is argued.

[30] There was no objection to the planning application on the part of Mr Duff or the applicant company; although there *were* objections lodged on the part of three individuals who are now directors of the applicant company, namely Lorna Oliver, Diane Elizabeth McMullan and Samuel Carson McMullan. The applicant's grounding affidavit suggests that other local residents who are now concerned were not notified of the application, which may be a reason why further objections were not provided.

[31] I do not consider that the application for leave ought to be dismissed on the basis of a lack of standing. The fact that the Company does not have its registered office in the Council's district (or at least did not, since that may now have changed) is neither here nor there. The question is whether the company has sufficient interest in public law terms, which is not determined by its place of registration but on broader considerations. The many instances of NGOs being permitted to challenge planning decisions even though they have no physical presence in the area affected is but one example.

[32] As discussed in the *Portinode* case, there is nothing wrong in principle with a company being used as a vehicle for objectors opposing a planning application or mounting legal proceedings, provided its use does not amount to an abuse of the process of the Court. In this case, as in *Portinode*, and looking at the matter as things now stand, I am satisfied that the company is being supported and used by a variety of local residents who would have standing to bring a challenge to the impugned permission in their own right. They cannot be dismissed as mere busybodies. My conclusion would likely be different if the company was being used by Mr Duff alone with no engagement or participation by residents who are clearly potentially affected by the development which is permitted by the impugned decision. Provided the additional issues to which the use of a company for these purposes give rise can be dealt with satisfactorily – principally the issues of representation and security for costs – there is no reason not to permit its shareholders and directors who are plainly legitimately interested in the decision under challenge to use a corporate vehicle to pursue their case.

Delay

[33] As in the *Portinode* case, the applicant purported to issue proceedings within the 3 month time limit set out in RsCJ Order 53, rule 4. The impugned decision was made on 12 December 2017 and the proceedings were commenced on 7 March 2018. The requirement that such proceedings be commenced "*promptly and in any event within three months*" of the grounds of challenge having first arisen was amended to provide a straightforward three month time limit by virtue of the Rules of the Court of Judicature (Northern Ireland) (Amendment) 2017 (SR 2017 No 213), made on 24 October 2017 but coming into operation on 8 January 2018. This amendment applied to proceedings lodged on or after 8 January 2018 and, so, the present proceedings benefit from the relaxation in the judicial review time limit: see rule 1(2). Accordingly, subject to the question of whether the proceedings commenced were, or should now be ordered to be, a nullity, the proceedings were commenced within time.

[34] For the same reasons given in *Portinode* (see paragraphs [57]-[63] of that judgment), I consider these proceedings to have been commenced irregularly, but not such as to have been a nullity from commencement.

[35] The Council nonetheless relies on the delay in the proceedings to date and submits that the removal of the promptitude requirement in relation to the *commencement* of an application for leave to apply for judicial review does not dilute the requirement to *progress* them expeditiously thereafter. Support for that proposition can be found, in particular, in the case of *Murphy v Institution of Civil Engineers* [2018] NICA 12. It might be that the statements in that case about the need to proceed with expedition require to be treated with a little caution, since they related to proceedings commenced when the promptitude requirement was still included in Order 53, rule 4; and the judgment of Stephens LJ made clear that the requirement to *proceed* with expedition was a "*necessary corollary*" of, and a "*corresponding obligation*" to, the promptitude requirement in the Rules relating to the initiation of proceedings (see paragraph [22] of the judgment). Nonetheless, the statement of principle that public law proceedings should be disposed of promptly holds good as a general proposition, both as a reflection of the principle of legal certainty and the principle of good administration.

[36] However, one must also recognise that, once judicial review proceedings have been lodged, the applicant itself is no longer in sole control of the speed with which the proceedings are progressed. That is partly because significant responsibility for managing the case moves to the Court in the exercise of its case management powers; but also because progress will be dependent (at least to some degree) on issues such as court resources, judicial availability and that of the parties' representatives, and steps to be taken by other parties such as proposed respondents or notice parties. That is not to say that there will not be cases where a judicial review application should be dismissed for want of prosecution; nor to downplay

the importance of expedition and finality in the public law sphere. It is simply a recognition that, although the applicant bears a responsibility to act reasonably and seek to drive the litigation on, matters are not entirely in the applicant's own hands.

[37] The respondent issued a summons on 22 August 2019 seeking that a number of the Rural Integrity cases be struck out – although not this case. It selected five cases in order to avoid duplication and costs (albeit that only one summons was issued). In any event, all of the relevant cases came to a head in the March 2020 ruling of McCloskey LJ to which I have already made reference.

[38] The respondent in this case takes a different approach to the proposed respondent in the *Portinode* case in relation to delay from March 2020. At that point, as urged by McCloskey LJ, the applicant secured legal representation. There then followed a further hiatus which was due, at least in part, to the interruption to court business caused by the Covid-19 pandemic and the 'first lockdown' in Northern Ireland. In this case, the respondent contends that there is no good reason for the failure to progress the matter since March 2020; whereas in *Portinode*, the respondent was inclined to accept that delay from that point was not the fault of the applicant, albeit that the applicant should be fixed with its consequences.

[39] On balance, for essentially the same reasons as caused me to take this course in *Portinode* (see paragraphs [64]-[65] and [67]), I do not consider that the delay between initiating the proceedings (albeit irregularly) and the leave hearing should result in the proceedings being set aside or leave being refused. This period is significantly less than the 4½ years delay in the *Murphy* case, on which the Council relied; there were a variety of factors which gave rise or added to the delay, notwithstanding that the case was being actively case managed for most of that time; the applicant acted within time when given a 'final opportunity' to instruct legal representatives in March 2020; and, in the period after March 2020, it would have been open to the Council to bring its strike-out application, and seek to press it on for hearing, more quickly than it did. (I make no criticism of the Council in respect of this last point; but it is a consideration which is properly to be balanced in the overall assessment.)

[40] I am conscious that there is a third party in these proceedings also, the beneficiary of the impugned permission, Mrs Vivienne Campbell, who has made representations to the Court through her solicitor. Some of the prejudice on which she relies consists of costs incurred in seeking to obtain the planning permission, which do not arise from any delay on the part of the applicant. Her and her family's plans to sell one of the sites with the benefit of planning permission and develop the other have not been able to be progressed in light of the legal challenge, which is properly raised as ongoing prejudice but which is a common feature of planning judicial reviews. Mrs Campbell also contends that she has felt upset and nervous as a result of the involvement of her neighbours in this litigation. That is not a matter, in my view, which is a relevant consideration in terms of any prejudice caused by delay. It arises from the proceedings having been taken and, again, is a common

feature of planning judicial reviews (or, indeed, opposed planning applications or appeals) where neighbours have opposing views as to whether a particular permission should be granted. As in the *Portinode* case, however, I reiterate that the case, if pursued by the applicant, should proceed with expedition; and that the issue of delay may be a relevant consideration at the remedies stage (should the question of remedy arise).

Protective costs order and security for costs

[41] I am satisfied that this is a case which comes within the purview of the Aarhus Convention, as the applicant's Order 53 statement contends. The applicant is accordingly entitled to a protective costs order (PCO) pursuant to the terms of the Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013 (SR 2013/81), as amended ('the Aarhus Costs Protection Regulations').

[42] As in *Portinode*, I do not consider that any proper basis for departing from the standard order contemplated in regulation 3 of the Aarhus Costs Protection Regulations has been established. I have not been provided with any information about the means of the various shareholders of the applicant company but, as in *Portinode*, it again appears that there are a number of concerned residents with an interest in the outcome of this litigation who may, should they so wish, be in a position to provide funding on a collective basis. In light of the delay in the proceedings to date, I am again not sympathetic to the suggestion that the terms of the PCO should only be determined at some later point after the applicant has filed additional evidence seeking to persuade the Court to reduce its maximum costs liability. There has been more than adequate opportunity to file such evidence to date.

[43] The Council in this case has also applied for an order for security for costs, pursuant to RsCJ Order 23, rule 1 and/or Order 53, rule 8. It does so on the basis that the applicant is a company; that there is reason to believe that it will be unable to pay the respondent's costs if ordered to do so in light of the company's apparent impecuniosity at present; and that, having regard to all of the circumstances of the case, it is just that the applicant give security for the respondent's costs: see Order 23, rule 1(1)(e) and 1(3). In Mr Martyn's affidavit, the proposed respondent, having considered the relevant company documents, submits that the applicant is "*a non-trading, dormant company, with no assets.*" In light of the history described above and the obvious attempt to use a corporate vehicle for the primary, if not sole, purpose of avoiding costs liability, along with the lack of resources presently available to the applicant company, I consider that the respondent's concerns in this regard are well founded. I propose to grant an order for security for costs in the amount of the potential costs liability to the respondent (excluding VAT).

Conclusion

[44] In summary, therefore:

(a) I dismiss the proposed respondent's application to stay and/or strike out the application for leave to apply for judicial review. I make no order for costs between the parties in respect of that application. Although the respondent has been unsuccessful in its application, it was raising issues which were proper to be raised and which were brought on the applicant's head by its own means of commencing these proceedings.

(b) I grant the applicant leave to apply for judicial review on the grounds summarised at paragraphs [13]-[14] and [20] above. These probably equate to the grounds set out at paragraphs 17-18 and 20-21 of the applicant's Order 53 statement of 6 March 2018 (read with the issues identified at paragraphs 4-10 and 13 of that statement), seemingly drafted by Mr Duff and signed by him in his capacity as a director of the applicant. However, if the substantive application for judicial review is to be pursued, I direct that a draft amended Order 53 statement is provided by the applicant's representatives refining the relief sought and pleading appropriately only those grounds on which leave has been granted. The new proposed amended Order 53 statement is to be served alongside the notice of motion for consideration and approval by the Court.

(c) Pursuant to regulation 3 of the Aarhus Costs Protection Regulations, I order that any costs recoverable from the applicant shall not exceed £10,000 and that any costs recoverable from the respondent shall not exceed £35,000 (both sums exclusive of VAT).

(d) Crucially, leave is granted *only on condition that* the applicant lodge the sum of £10,000 in court as security for the respondent's costs within 14 days of the date of this judgment. In the event that this condition is not complied with, the grant of leave will lapse.

(e) If the case is to be pursued, the applicant's notice of motion is to be issued and served within 14 days of the grant of leave pursuant to RsCJ Order 53, rule 5(5); and should be served on Mrs Campbell pursuant to rule 5(3).

(f) The case will be treated as requiring expedition from this point and a (remote) case management review hearing will be arranged, as necessary, shortly after the giving of security for costs and service of the notice of motion for the purpose of further timetabling the proceedings to a prompt hearing.