Case Name: *Harrison, R (on the application of) v London Borough of Barnet & Ors* [2021] EWHC 2789 (Admin) (20 October 2021)

Full case: Click Here

Commentary:
The Court refused permission to challenge by way of judicial review the London Borough of Barnet's grant of planning permission for the erection of two three storey buildings to provide four self-contained semi-detached dwellings (plus associated works) at 39 a/b Flower Lane, London NW4.

Relying on section 65 of the Town and Country Planning Act 1990, the Claimant first submitted that the planning application was defective for various reasons including: (1) the site address had been wrongly given as 39 Flower Lane rather than '39 a/b'; (2) the applicants' names had not been given on the form and a trading name had been used; and (3) certificates were not properly served. In dismissing this first submission, Mr Justice Knowles did not consider any of the Claimant's criticisms of the application form to be arguable: (1) the address was correctly specified elsewhere and no-one was in any doubt about the site address; (2) there is nothing wrong or unusual in using a trading name and no requirement to name the actual ultimate developer because planning permission runs with the land; and (3) there was no evidence that persons who needed to be notified of the application were not notified.

The Claimant next submitted that the proposed development would infringe a restrictive covenant and an easement in various ways. However, this was dismissed because private rights such as these are "not relevant to, and no bar to, an application for planning permission". In addressing the Claimant's related criticism of the application form, Mr Justice Knowles agreed with the Council that Section 8 of the form is concerned with public rights of way only and not private rights of way.

The Claimant also submitted that members were misled, criticising officers' approach to overdevelopment, selective citation by the officers of previous planning applications, failure to properly take into account the Council-run autism centre adjacent to the site the users of which gather at the entrance to the access driveway (in conflict with the Council's Public Sector Equality Duty) and failure to take into account the long and narrow driveway with no room for cars to pass or a fire engine to turn. Mr Justice Knowles considered that matters had been adequately dealt with by the officers in their report, there was no evidence of some of the Claimant's allegations and that the Claimant's other criticisms were clearly matters of planning judgment.

Mr Justice Knowles concluded that there was no arguable ground of challenge to the Council's decision, including that there was no basis for the Claimant's further accusations of bad faith or bias on the part of the Council, and refused permission on that basis.

Case summary prepared by Nikita Sellers