

Case Name: *Richardson, R (On the Application Of) v London Borough of Lambeth & Anor* [2023] EWHC 1131 (Admin) (12 May 2023)

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Commentary: This High Court case involved multiple claims brought by the Claimant, an aggrieved individual contesting the Council's various decisions that authorised Five Guys' and London Cocktail Club's use of 182-184 Clapham High Street as A3 (ground floor) and A4 (basement) respectively. He also brought claims against the Secretary of State for their response to the situation. The Council and the Secretary of State in turn made applications for Extended Civil Restraint Orders against the Claimant. All of the Claimant's claims were deemed to be totally without merit, and the ECROs were made in both cases.

The relevant planning history began with a grant of planning permission for the premises in 1998 for change of use of the ground and basement floors from two vacant retail units into a single A3 (food & drink) establishment. Change of use to A4 was deemed authorised under the Use Classes Amendment Order 2005. In 2017, Five Guys acquired the property and applied for prior approval to change the ground floor to A3; this was treated as granted following no response from the Council. Subsequently, the Council granted Five Guys a new premises licence.

Five Guys then split the unit into two separate units, operating the ground floor themselves, and letting out the basement to London Cocktail Club for use as an A4 drinking establishment. These works were deemed not to require planning permission. Following an enforcement investigation in 2020, the Council concluded that the use of the premises was lawful (with the takeaway use of Five Guys being ancillary to its restaurant use). The Council went on to grant planning permission later in 2020 for works to the shopfront (regularising previous unauthorised works).

The Claimant's initial judicial review (against the Council's failure to take enforcement action against the use of the premises) was refused on the papers and then at a renewal hearing by Mr James Strachan KC, who also refused the Claimant's application for permission to appeal to the Court of Appeal. The Claimant then brought a judicial review application alleging bias, on the grounds that Mr Strachan is part of the same chambers as Mr John Steel KC, who appeared on London Cocktail Club's Acknowledgement of Service, but had no apparent further involvement. Sir Ross Cranston, sitting as High Court judge in this case, refused the claim and held it was groundless.

Another judicial review application was made against the Council for failing to investigate or enforce against unauthorised change of use of the premises, fraudulent transfer or a premises licence to Five Guys, and an unlawful grant of permission in 2020 relating to the shopfront. Judicial review applications were also made against the Secretary of State for refusing the Claimant's request to revoke the original permission,

and for not considering the Claimant's request to make an under s104 TCPA 1990. The Claimant also made applications to apply for a declaration that one of the judicial review orders was void for a breach of Civil Procedure Rules, and to set aside all previous judicial review orders.

Sir Ross Cranston held all of the above to be totally without merit. He further stated that "[u]nless the Claimant is restrained from doing so, he will persist in advancing totally without merit claims", and accordingly directed that the ECROs should be made.

Case summary prepared by Jed Holloway