

Case Name: *Arun District Council v The Secretary of State for Housing, Communities and Local Government & Ors* [2026] EWHC 1172 (Admin)

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Commentary: Arun District Council (“**Claimant**”) sought permission for a section 288 Town and Country Planning Act 1990 (“**TCPA 1990**”) statutory review claim (“**Section 288 Claim**”) against the decision of the Inspector to allow the appeal and grant planning permission for the demolition and erection of seven dwellings in Pagham, West Sussex. Mr and Mrs Brunton (“**Second and Third Defendants**”) were the applicants for planning permission and the appellants who lodged the appeal, the decision for which permission to challenge is sought.

HHJ Karen Walden-Smith recalled that a Section 288 Claim must be served on (1) the appropriate Minister or Government Department, and (2) where different, the person who would, if “aggrieved by the decision, order, relevant document or action, be entitled to apply to the High Court under section 288”. Persons aggrieved are either (a) the appellant in the planning process, (b) someone who took a sufficiently active role in the planning process, or (c) someone who has a relevant interest in land: ***Eco-Energy (GB) Ltd v Secretary of State for Transport and Durham CC*** [2004] EWCA 1566. The Second and Third Defendants were, therefore, persons aggrieved, and thus ought to have been properly served. That was notwithstanding their indication that they did not wish to take an “active role” in defending the claim in the courts, save for reserving their position should further representations be required by the court; this did not impact on whether the court had jurisdiction to hear a Section 288 Claim. Therefore, the claim form needed to have been properly served on the Second and Third Defendants within the six-week time limit provided for by section 288(4B) TCPA 1990. The Claimant instead served the planning consultant who at no point indicated that he had authority to accept service on behalf of the Second and Third Defendants.

HHJ Karen Walden-Smith noted that the Court could extend time after the relevant period specified for compliance for service of the claim form had expired: CPR 3.1(2)(a). This power could only be invoked—according to CPR 7.6—where (a) the Court had failed to serve the Claim form, or (b) the Claimant had taken all reasonable steps to comply with the service requirements but had been unable to do so, and (c) in either case, the Claimant had acted promptly in making the application. The Claimant knew the contact details of the Second and Third Defendants, and furthermore, a period of 32 days had passed between their proper service and the expiry of the time period for service, which was not “prompt” in the circumstances. The Court declined jurisdiction to hear the claim.

Nonetheless, HHJ Karen Walden-Smith dealt briefly with all four grounds of challenge in case she had erred on the jurisdiction point, concluding that all were unarguable.

Case summary prepared by Adam Choudhury