Case Name: *Green Lane Association Ltd v Central Bedfordshire Council* [2025] EWHC 2251 (Admin) (02 September 2025)

Full case: Click here

Commentary: This was adetermination of an application made by the Central Bedfordshire Council ("**Defendant**") for a declaration that the claim made by Green Lane Association Limited ("**Claimant**") should not be classed as an Aarhus claim under the Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ("**Aarhus Convention**"). As part of this proceeding, the Defendant had made an application for an extension of time in relation to its application to file a challenge to the nature of the claim as an Aarhus Convention claim.

The Claimant had challenged an order made by the Defendant under the Road Traffic Regulation Act 1984 ("**RTRA**"). Importantly, the Claimant had complied with the rules to raise an Aarhus claim whereas the Defendant did not dispute the claim at the appropriate time. Instead, the Defendant raised the matter 21 days after receiving the AoS form. Judge Ridge rejected the Defendant's application on the basis that the breach of the clear procedure rule was serious and significant, the lack of good reason, and the timing of the application.

Further, Judge Ridge considered whether the whether the claim falls within the Aarhus Convention provisions due to it being a dispute under the RTRA. Judge Ridge determined it was able to be captured by the Aarhus Convention due to the RTRA having regard to matters regarding protection and regulation of the environment.

Facts

On 20 March 2025, the Defendant made an experimental traffic regulation order which introduced a blanket prohibition on the use by all motorised vehicles of a byway open to all traffic known as Sandy Lane, Apsley Heath (the "**Order**"). The Order came into effect on 27 March 2025.

The Claimant challenged the making of the Order under Paragraph 35 of Part VI of Schedule 9 to the RTRA. The Order has also been challenged through other proceedings brought by Trail Riders Fellowship. Both the Claimant and the Trail Riders Fellowship (together the "**Claimants**") are organisations that seek to promote access to the countryside by various means including using motorised vehicles. The Claimants had asserted their respective claims were Aarhus Convention claims.

On 24 June 2025, Dan Kolinsky KC, sitting as a Deputy High Court Judge gave case management directions for the hearing of the Claimants matters and the Aarhus dispute together. On 31 July 2025, the Defendant's application for a declaration in relation to the Aarhus claims was put before Judge Karen Ridge. On the morning of the hearing, Judge Ridge was informed an agreement had been made between the

Defendant and the Trail Riders Fellowship and subsequently approved the order in those proceedings in which the claim was agreed to be an Aarhus Convention claim and the default costs cap was varied.

Despite resolution for the other matter, the issue of the status of the claim for the Claimant's proceedings remained unresolved.

The Defendant applied for an extension of time (CPR 3.9) to file an application to challenge the nature of the claim as an Aarhus Convention claim and in relation to its application to vary the default costs cap (CPR 46.27). Counsel for the Defendant accepted that it was necessary to apply for an extension of time but argued that the Defendant's pre-action protocol response on 15 April 2025 foreshadowed that the Defendant did not accept the claim was an Aarhus claim. Despite the acknowledgement of service filed 1 May 2025 not indicating a challenge to the claim, Counsel for the Defendant states the application for challenging the grounds was made on 22 May 2025, with a Summary Grounds of Defence being filed on 27 May 2025.

Submissions

Counsel for the Defendant submitted a retrospective application can be made to challenge the Aarhus claim (with reference to *Wesson v Cambridgeshire CC* [2024] EWHC 1068 (Admin) in this case the claimant was permitted to fila a statement of financial resources late when it should have been filed and served with a claim). Notwithstanding this, Counsel for the Defendant provided no reasoning for the late challenge to the Aarhus claim but determined it had little to no impact on the principle of reasonable predictability, the procedural timetable and the dispute being determined at an early stage.

Counsel for the Claimant opposes the application for relief from sanctions directing that the rules make clear that if the Claimant has complied with the requirements for filing financial resources then the default costs cap automatically applies unless the Defendant has contested that the claim is an Aarhus claim. Further, that the variation to the costs cap can only be made at a later stage if there is a significant change in circumstances. Counsel for the Claimant also argues that the breach was serious and significant and there has been no good reason offered by the Defendant, and it is not just to allow an extension of time.

Analysis

Judge Ridge outlines that public interest in the protection of the environment is firmly established under Article 9(3) the Aarhus Convention which requires that party states ensure that members of the public have access procedures to challenge acts and omissions by private persons and public authorities "which contravene provisions of its national law relating to the environment". The Aarhus Convention is designed to ensure

environmental claims are not prohibitively expensive in a way that would disincentivise claimants from bringing valid claims. To support this purpose, the regime seeks to provide reasonable predictability at the earliest opportunity and to determine whether a claim is captured by Aarhus costs protection.

Judgment

Judge Ridge made clear the Claimant had complied with the rules and the Defendant was on notice that the Claimant had sought the benefit of costs protection under the Aarhus Convention. The application disputing the claim was only made 21 days after the filing of the AoS form and during this time the Claimant had no knowledge that the claim was in dispute. Judge Ridge considered this breach to be "serious and significant". Judge Ridge determined that due to the nature of the breach, the lack of good reason, and the timing of the application, the relief should not be granted and the application to extend time for both applications should be refused.

For completeness, Judge Ridge considered whether the claim falls within the Aarhus Convention provisions. Judge Ridge referred by to the test applied in *HM Treasury v Global Feedback Ltd* [2025] EWCA Civ 624 in which Holgate L.J stated "an essential question is whether the claimant is able to allege that the defendant has contravened a national legal provision for the protection or regulation of the environment. That will depend upon the wording, context and purpose of the provision under which the defendant has acted".

Section 122 of the RTRA outlines the functions of strategic highways companies or local authorities under the Act as being to secure the expeditious, convenient and safe movement of traffic and ensure suitable parking provision. While Judge Ridge acknowledges this does not expressly refer to the environment, when the section is read as a whole there is direction for other matters to be considered. These other matters include amenities of the locality, national air quality strategy, regulation and use of roads by heavy vehicles and other matters. Judge Ridge determined that each of the grounds (with the possible exclusion of the final ground) made by the Claimant alleges contraventions of national law which relate to the protection or regulation of the environment and falls under the Aarhus Convention. Judge Ridge therefore refused the Defendant's application accordingly.

Case summary prepared by Poppy Mitchell-Anyon