

IN THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT
PLANNING COURT AT CARDIFF

CO/3110/2021

In the matter of an application for judicial review

BETWEEN:



THE QUEEN
(on the application of MAXINE LEVETT)

Claimant

and

VALE OF GLAMORGAN COUNCIL

Defendant

and

LEGAL & GENERAL (STRATEGIC LAND) LIMITED

Interested Party

ORDER

Before His Honour Judge Jarman QC

sitting in the Planning Court at Cardiff, Administrative Court, High Court of Justice

UPON reading the Statement of Facts and Grounds for judicial review claim and supporting evidence and the Defendant confirming that they will not be defending the claim and the Interested Party not having responded to the judicial review pre-action protocol letter

AND UPON reading the Statement of Reasons justifying the making of this Order as agreed between the Claimant and Defendant

Pursuant to CPR 54.18 (Judicial Review)

IT IS ORDERED THAT:

1. The application for permission for judicial review is granted;
2. The claim for judicial review is allowed on the basis set out in the Statement of Reasons;
3. The planning permission dated 30 July 2021 allocated reference number 2019/00871/OUT described as: "Hybrid application comprising an outline application

for the demolition of existing buildings and erection of 44.75ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, ecological mitigation and ancillary works (all matters reserved aside from access) within Area A and a full application for change of use from agricultural land to country park (Use Class D2) within Area B at Land at Model Farm, Port Road, Rhoose", be quashed;

4. The Defendant shall pay the Claimant's costs of the proceedings on the standard basis to be subject to detailed assessment by the Court if not agreed.

Dated this 4 day of October 2021

BY THE COURT

Statement of Reasons

1. The Claimant challenges the grant of planning permission on four grounds which may be summarised as follows:
 - (i) The Council failed to make available to the public the viability evidence and draft planning obligation;
 - (ii) The Council failed to apply the considerable weight to harm to listed buildings and the conservation area and the advice of its own conservation officer;
 - (iii) The Council misdirected members that the loss of a working farm was not a material consideration;
 - (iv) The Council failed to inform the public promptly of the grant of permission under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, Regulation 29.
2. The Defendant concedes that the decision was unlawful on Ground 1 only and only insofar as the Officer's Report appears to have proceeded on the basis that viability reports cannot be released to the public ("the fundamental data contained within these reports is confidential and contains commercially sensitive information and consequently cannot be released to the public."). This was an error of law.
3. Whilst such reports are capable of being exempt information under paragraph 14 of Schedule 12A of the Local Government Act 1972 (being information relating to the financial or business affairs of any person), this is caveated by the qualification in paragraph 21 that such information is only exempt if, and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. This error is sufficiently fundamental to justify the quashing of the planning permission.
4. Given the Defendant's concession, it is not in the public interest to argue any of the other grounds or the other aspects of Ground 1.

5. The Interested Party has not responded to the pre-action protocol letter.
6. The Defendant's decision notice of 30 July 2021 should therefore be quashed for the reasons set out above.
7. In the light of the above, it is requested that the Court make the Consent Order without the need for attendance by the parties.