

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

CO/3987/2016

BETWEEN:



R.
(on the application of
STORE PROPERTY INVESTMENTS LTD)

Claimant

- and -

ARUN DISTRICT COUNCIL

Defendant

- and -

(1) SDB INVESTMENTS LTD
(2) COMMERCIAL DEVELOPMENT PROJECTS LTD
(3) MARKS & SPENCER PLC

Interested Parties

CONSENT ORDER

UPON permission being granted to apply for judicial review in this matter at an oral hearing on 27 October 2016;

AND UPON the Defendant reviewing its defence;

AND UPON the court noting the 'Statement of Reasons' appended to this order;

IT IS HEREBY ORDERED BY CONSENT THAT:

1. The claim for judicial review is allowed on Ground 1.
2. The decision that is challenged in the claim, namely the Defendant's decision on 27 June 2016 to grant planning permission for a retail development with associated features on a site south of New Road (A259) and east of Brook Lane, Angmering (Council Reference: A/23/15/OUT), is quashed.
3. Application A/23/15/OUT is remitted to the Defendant to be reconsidered.
4. The Defendant is to pay the Claimant's reasonable costs of these proceedings up to and including the date of this order, to be subject to detailed

assessment if not agreed and capped in any event at £35,000 given that this is an Aarhus Convention claim for the purposes of CPR 45.43.

5. The hearing of the claim listed for 30 March 2017 be vacated.

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ADMINISTRATIVE COURT OFFICE
BY CONSENT ORDER AS ASKED

09 FEB 2017
[REDACTED]

By the Court

STATEMENT OF REASONS

1. In this claim for judicial review, the Claimant challenges the decision of Arun District Council ("the Council") on 27 June 2016 to grant (i) full planning permission for a retail unit (Class A1) with an area of 1,487sqm and related works; and (ii) outline planning permission for a public house (Class A4) with an area of 561sqm ("the Permission") on a site south of New Road (A259) and east of Brook Lane, Angmering ("the Angmering Site").
2. The Permission was obtained by SDB Investments Ltd and Commercial Development Projects Ltd – the First and Second Interested Parties respectively – with the expectation that the retail unit would be occupied by a 'Simply Food' store operated by Marks & Spencer Plc (the Third Interested Party) ("M&S").
3. The Claimant is a property investment company with holdings in two settlements in the Council's District: Rustington and Littlehampton. It is the lessee of premises in Avon Road, Littlehampton, which were until recently occupied by a Waitrose food store ("the Avon Road Site"). Waitrose vacated the Avon Road Site to move to a new site in the centre of Rustington.
4. The Claimant is aggrieved that the Permission was granted on the Angmering Site, which is not in a town centre, given its belief that the Avon Road Site offered a "sequentially preferable site", in policy terms, for the Interested Parties' proposals.
5. The claim is made on 2 grounds, the first of which concerns the Defendant's application of the sequential test. Having reviewed the papers again following the grant of permission to apply for judicial review, the Council accepts that there is force in the argument that the report prepared by its officers on the planning application did not reflect the latest advice that the Council had received on the application from its retail consultant, DPDS, by letter dated 20 August 2015. The Council accepts that this advice was arguably inconsistent with advice previously given by DPDS on the same application and that officers should have attempted to

resolve that inconsistency in their report. By not doing so, the Council accepts that the members of the Planning Committee arguably failed to take a relevant matter into account and that the decision to grant the Permission should therefore be quashed due to an error of law.