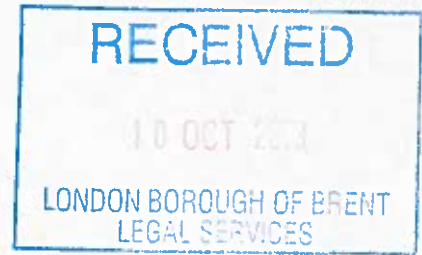




**In the High Court of Justice
Queen's Bench Division
Planning Court**

CO/3401/2018



In the matter of an application for Judicial Review

THE QUEEN

on the application of

FARRUKH RIAZ

Claimant

versus

**(1) LONDON BOROUGH OF BRENT
(2) HARROW CROWN COURT**

Defendants

WILLESDEN MAGISTRATES COURT

Interested Party

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the Acknowledgement of service filed by the First Defendant;

Order by the Honourable Mrs Justice Lang DBE

1. Permission is hereby refused; the application is considered to be totally without merit.
2. The Claimant do pay the First Defendant's costs of preparation of the Acknowledgment of Service in the sum of £6,414, unless within 14 days the Claimant notifies the court and the First Defendant, in writing, that the Claimant objects to paying costs, or as to the amount to be paid, in either case giving reasons. If the Claimant does so, the First Defendant has a further 14 days to respond to both the court and the Claimant, and the Claimant the right to reply within a further 7 days, after which the claim for costs is to be put before a judge to be determined on the papers.
3. The First Defendant's application for a wasted costs order against the Claimant's solicitor is refused.

Reasons:

The claim has been filed more than 3 months after the hearing at Harrow Crown Court on 11 May 2018. There is no good reason for an extension of time.

The Crown Court conducted a full appeal, hearing evidence from witnesses and considering documentary evidence. Applying the criminal standard of proof, it concluded that the First Defendant had established the elements of the offence, and the Claimant's defence under section 179(3) of the Town and Country Planning Act ("TCPA 1990") was not made out.

It is unarguable that the Claimant did not receive a fair hearing at the Crown Court. None of the complaints made, e.g. refusal to adjourn, lack of funds and inadequate representation, are capable of amounting to an arguable breach of the Claimant's rights.

rights under Art 6 ECHR, on the facts of this case.

The Crown Court did not misdirect itself in relation to the enforcement notice. The Crown Court found that the enforcement notice existed, that it was valid, that it took effect on the date specified, and had been served on the Claimant.

As Dove J. explained when refusing the Claimant permission to apply for judicial review on 23 January 2017, the appropriate forum for challenging the validity of the enforcement notice was a statutory appeal under the TCPA 1990, brought within the prescribed time, following the issue of the notice on 25 August 2012. No such appeal was ever brought. Section 285 of the TCPA 1990 prevents the Claimant from challenging the validity of the enforcement notice in other proceedings, on grounds which were open to him in a statutory appeal.

I have designated the claim as totally without merit because the Claimant persists in pursuing hopeless challenges to the enforcement notice.

I have refused the application for a wasted costs order because I am not satisfied that a wasted costs order is likely to be made in this case. Nor am I satisfied that the wasted costs proceedings are justified, given the time and costs involved.

BY VIRTUE OF CPR 54.12(7) THE CLAIMANT MAY NOT REQUEST THAT THE DECISION TO REFUSE PERMISSION BE RECONSIDERED AT A HEARING.

Signed: *Steven A. Lag* 4.10.18

The date of service of this order is calculated from the date in the section below

For completion by the Planning Court

Sent / Handed to the Claimant, Defendant and any Interested Party / the Claimant's, Defendant's, and any Interested Party's solicitors on (date):

Solicitors:

Ref No:

09 OCT 2018



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Our ref: CO/3401/2018
Your ref: LCA/JP/6905/FR

09 October 2018

Dear Sir / Madam,

**Re The Queen on the application of RIAZ v LONDON BOROUGH OF BRENT
and Others**

Permission to apply for judicial review has been refused and notice of that refusal is enclosed. As the application was considered to be totally without merit, you may not request that the decision to refuse permission be reconsidered at a hearing before the Administrative Court [see Civil Procedure Rule 54.12(7)].

Accordingly, I write to inform you that the file in this matter has been closed.

In Civil Cases

Where an application is identified by the Administrative Court as being totally without merit, the route of appeal against the refusal of permission to apply for judicial review is to the Court of Appeal Civil Division. An application to the Court of Appeal for permission to appeal will be determined on paper without an oral hearing [CPR 52.15(1A)].

In Criminal Cases

Where an application is identified by the Administrative Court as being totally without merit, there is no further route of appeal against the refusal of permission to apply for judicial review.

Yours faithfully

A. Bhurani
For Court Manager

CC: defendant and any interested party