

15 June 2022

Dear Northstowe Town Council,

Judicial review of decision to approve 4,000 dwellings and related development at Phase 3A

Dear Councillors,

Thanks to the support of local residents and Longstanton Parish Council, Fews Lane Consortium, a Longstanton-based community action group, has been able to commence judicial review proceedings in regard to the recent decision to grant planning permission for Northstowe Phase 3A.

I am writing to Northstowe Town Council today to ask for the town council's support for this legal action.

What is judicial review?

Judicial review is the process by which an individual or group can ask a judge of the Administrative Court to determine whether a decision of a public authority has been made in accordance with the law.

Why do we think that the decision for Northstowe Phase 3A was not made in accordance with the law?

So far, we have four reasons why we think the decision was unlawful.

- (1) The district council failed to take into account policy CC/7 of its statutory development plan, which concerns adequacy of water supply, sewerage facilities, and the impacts of development on bodies of water and also failed to consider whether the proposed development meets the relevant policy requirements.
- (2) The district council's planning committee was misdirected by officers in regard to the possibility of deferring the decision in order to allow further environmental information to be obtained for consideration, in particular the information that the Environment Agency had advised should be obtained.
- (3) The district council irrationally failed to require the Environmental Impact Assessment ("EIA") to include information on the direct, indirect, and cumulative effects of the development as is required under the EIA Regulations 2017.
- (4) The district council breached its statutory duties under Regulations 29 and 30 of the EIA Regulations 2017 to make and publish a statement of its reasoned conclusions as to the significant effects of the development on the environment.

This list is likely to grow as more evidence about the decision making process becomes available.

What can the court do if it decides a decision was unlawful?

The court can quash the district council's decision to grant planning permission. If a planning decision is quashed, the application is returned to the decision maker to be reconsidered in a lawful manner.

What are we hoping to achieve through legal action?

If the district council were to consider the application again in accordance with the relevant laws, the council would have to obtain further environmental information prior to making a decision. It is highly likely, in our view, that lawful reconsideration of the application would affect the outcome of the decision making process in regard to four important environmental considerations:

- (1) the hydrology of the river terrace deposit aquifer, which feeds groundwater to Kingfisher Pond in Northstowe and a significant numbers of ponds in Longstanton,
- (2) the risk for surface water flooding and/or mixed surface and groundwater flooding affecting the new town of Northstowe itself, areas of Oakington in proximity to Phase 3A, and areas of Cottenham in proximity to Cottenham Lode,
- (3) the flood risk to Swavesey related to the cumulative foul water discharges from Utton's Drove wastewater treatment works, and
- (4) the hydrology of the chalk stream tributaries of the River Cam, which will be adversely affected by increased abstraction to provide potable water to the development.

What can Northstowe Town Council do to help?

Most importantly, we need visible public support from the town council.

This could take the form of a resolution of support for the claim, or, if the town council feels able, a financial contribution to support the legal costs associated with the judicial review.

The overriding strategic objective of the legal action is to enable the planning decision making process for Northstowe Phase 3A to be properly conducted in accordance with the Environmental Impact Assessment Regulations. This process, if properly conducted, provides the appropriate legal and regulatory context within which the groundwater, drainage, and flood risk problems presented by all phases of the development can be considered and addressed.

The judicial review is only one component of a comprehensive strategy to compel the district council and Homes England to fulfil their environmental obligations to the people of Northstowe and its surrounding villages. The second key component of our strategy is to build a broad consensus of political support locally for improved environmental outcomes on the four issues enumerated above. This includes generating, sustaining, and demonstrating support from residents of Northstowe, residents of the surrounding villages, and the town council and parish councils, which represent our communities.

How much has been raised to date to cover the costs of the judicial review, and how much more is needed?

So far, contributions have been received in the amount of £12,500. These funds are on deposit with our solicitors, Hodge, Jones & Allen.

This amount includes £10,000 from local residents and £2,500 from by Longstanton Parish Council.

The total anticipated costs of the judicial review are likely to be around £30,000. This estimate is current and is based upon careful consideration of all the available information.

I anticipate that we will be able to meet the final goal to cover all of the anticipated costs stated above.

What risks are involved if Northstowe Town Council decides to make a financial contribution?

If the claim for judicial review is not successful, liability for the defendant's and interested party's costs lies with the claimant, which is Few's Lane Consortium.

Who is providing legal representation to Few's Lane Consortium in the proceedings?

Susan Ring is a partner at Hodge, Jones & Allen and solicitor advocate who has worked in environmental law since 1997. She is one of the leading lawyers on Environmental Impact Assessment (EIA) issues and has fought, and won, many judicial reviews in the areas of planning law and the EIA Regulations.

Her notable cases have included the landmark *R (Barker) v London Borough of Bromley* [2006] UKHL 52 in the House of Lords (following a reference by the House of Lords to the European Court of Justice) and *R (SAVE Britain's Heritage) v Secretary of State for Communities & Local Government* [2011] EWCA Civ 334 in the Court of Appeal.

Jenny Wigley QC appears regularly in the High Court, Court of Appeal, and Supreme Court in judicial review and statutory review claims including those related to adequate consultation, legitimate expectation, the Habitats Regulations, EIA, SEA, section 106 obligations, planning conditions, permitted development, planning enforcement, interpretation of policy, and adequacy of reasons. Jenny was formerly a solicitor at Stephenson Harwood and was called to the Bar in 2000.

Of notable recent interest, she represented the successful claimant in *Aireborough Neighbourhood Development Forum v Leeds City Council* [2020] EWHC 1461 (Admin), a statutory review challenge to all the green belt allocations in the Leeds Site Allocations Plan.

What if we have further questions?

Please feel free to contact me directly any time. My telephone number and email address are at the top of the first page of this letter. I am also happy to arrange meetings for supporters directly with our solicitors. It is essential to keep all our supporters up to date and involved as the legal claim progresses.

Thank you for considering our campaign for environmental justice for the residents of Northstowe and its surrounding villages.

Yours faithfully,

Daniel Fulton
Director