



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

CO/3011/2021

**In the matter of an application for judicial review**

**THE QUEEN**

**on the application of**

**TRANSPORT ACTION NETWORK LIMITED**

**Claimant**

**-and-**

**SECRETARY OF STATE FOR TRANSPORT**

**Defendant**

**Notification of the Judge's decision on the application for permission to  
apply for judicial review (CPR 54.11, 54.12)**

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

**Order by the Honourable Mrs Justice Lang DBE**

1. The application for permission to apply for judicial review is refused.
2. This is an Aarhus Convention claim within the meaning of CPR 45.41. The Claimant's liability for the costs incurred by the Defendant is limited to £10,000, and the Defendant's liability for the costs incurred by the Claimant is limited to £35,000.
3. The Claimant do pay the Defendant's costs of preparing the Acknowledgment of Service, which are summarily assessed in the sum of £14,072, but limited to £10,000, pursuant to the order at paragraph 2 above. This is a final order unless within 14 days of the date of this Order the Claimant files with the Court and serves on the Defendant a notice of objection setting out the reasons why it should not be required to pay costs (either as required by the costs order, or at all). If the Claimant files and serves notice of objection, the Defendant may, within 14 days of the date it is served, file and serve submissions in response. The Claimant may, within 7 days of the date on which the Defendant's response is served, file and serve submissions in reply. A Judge will then make a final determination on costs, either on the papers, or at a hearing of any renewed application for permission.

**Reasons**

The grounds are unarguable and have no realistic prospect of success.

**Ground 1:** There is no evidence to support this grave allegation.

**Ground 2:** The allegation that the Defendant misdirected himself as to the

correct approach to section 11(2) and (3) of the Planning Act 2008 is based upon a partial reading of the briefings which is unarguable.

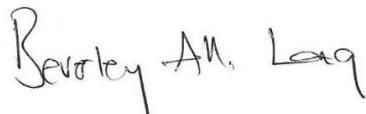
**Ground 3:** The Claimant has no prospect of success in establishing that it would be unlawful to take account of current traffic forecasts and current carbon budgets/reduction targets, as that is required by the NN NPS.

**Ground 4:** It is unarguable that the Defendant misunderstood the terms of the Transport Decarbonisation Plan when making the Suspension Decision (despite having just decided to publish it,) and/or that he was misled by the briefings he received.

**Ground 5:** It is unarguable that the Defendant's decision not to suspend the NN NPS was irrational, given the breadth of the Defendant's discretionary judgment, and the high threshold for establishing irrationality.

**Ground 6:** The Defendant's exercise of judgment as to the effect of suspension on scheme sponsors and private sector developers was a legitimate exercise of judgment, and does not disclose any arguable error of law.

Signed:



Dated: 20.12.21

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

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**For completion by the Administrative Court Office**

Sent / Handed to

**either** the Claimant, and the Defendant [and the Interested Party]

**or** the Claimant's, and the Defendant's, [and the Interested Party's] solicitors

Date: 21/12/2021

Solicitors: LEIGH DAY

Ref No: RWS/JEK/00239263/3

**Notes for the Claimant**

If you request the decision to be reconsidered at a hearing in open court under CPR 54.12, you must complete and serve the enclosed Form 86B within 7 days of the service of this order.

A fee is payable on submission of Form 86B. **For details of the current fee please refer to the Administrative Court fees table at**  
<https://www.gov.uk/court-fees-what-they-are>.

Failure to pay the fee or submit a certified application for fee remission may result in the claim being struck out.

The form to make an application for remission of a court fee can be obtained from the gov.uk website at <https://www.gov.uk/get-help-with-court-fees>