



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

**CO/147/2023 & CO/157/2023**

**In the matter of linked applications for judicial review**

**CO/147/2023**

**THE KING**

**on the application of**

**FRIENDS OF THE EARTH LIMITED**

**Claimant**

**-and-**

**(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND  
COMMUNITIES**

**(2) WEST CUMBRIA MINING LIMITED**

**(3) CUMBRIA COUNTY COUNCIL**

**Defendants**

**CO/157/2023**

**THE KING**

**on the application of**

**SOUTH LAKELAND ACTION ON CLIMATE CHANGE – TOWARDS  
TRANSITION**

**Claimant**

**-and-**

**(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND  
COMMUNITIES**

**(2) WEST CUMBRIA MINING LIMITED**

**(3) CUMBRIA COUNTY COUNCIL**

**Defendants**

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

Following consideration of the papers lodged in preparation for the renewed  
applications for permission listed for hearing on 23 May 2023.

## **ORDER by the Honourable Mrs Justice Thornton**

1. The renewed applications for permission to apply for judicial review, listed for a one day oral renewal hearing on 23<sup>rd</sup> May 2023 are adjourned, to be relisted in court as a “rolled-up hearing”. If permission to apply for judicial review is granted at that hearing, the Court will proceed immediately to determine the substantive claim.
2. The applications are to be listed for 3 days. The parties must provide a written estimate within 7 days of service of this order if they disagree with this time estimate. In fixing a hearing date priority will be given to judicial availability over the availability of counsel.
3. The claims remain designated as “significant” pursuant to CPR PD 54D Section III.
4. The costs orders made by Sir Ross Cranston on 8 April 2023 are set aside. Pursuant to Section VII of CPR 45; in each claim, the costs recoverable against the Claimant may not exceed £10,000 and the costs recoverable against the Defendants may not exceed £35,000.
5. The claim will be administered and the hearing will take place at the Royal Courts of Justice.

### **Case Management Directions**

1. The Claimants must, within 7 days of the date of service of this Order, file an undertaking to pay the continuation fee if permission to apply for Judicial Review is granted
2. The Defendants and any other person served with the Claim Form who wishes to contest the claim or support it on additional grounds shall, within 35 days of the date of service of this Order, file and serve (a) Detailed Grounds for contesting the claim or supporting it on additional grounds, and (b) any written evidence that is to be relied on. For the avoidance of doubt, a party who has filed and served Summary Grounds pursuant to CPR 54.8 may comply with (a) above by filing and serving a document which states that those Summary Grounds shall stand as the Detailed Grounds required by CPR 54.14.
3. Any application by the Claimant to serve evidence in reply shall be filed and served within 14 days of the date on which the Defendant serves evidence pursuant to 1(b) above.
4. The Claimant must file and serve a Skeleton Argument not less than 21 days before the date of the hearing of the judicial review.
5. The Defendant and any Interested Party must file and serve a Skeleton Argument not less than 14 days before the date of the hearing of the judicial review.

6. Not less than 7 days before the hearing (a) the parties must agree the contents of a hearing bundle containing only pages or extracts from documents referred to in the skeletons or to be referred to in oral submissions plus the whole of the decision letter and (b) the Claimant must file it with the Court. An electronic version of the bundle shall be prepared and lodged by the Claimant in accordance with the Guidance on the Administrative Court website.
7. Not less than less than 7 days before the date of the hearing the parties must agree and the Claimant must file a bundle of authorities. An electronic version of the bundle shall be prepared by the Claimant in accordance with the Guidance on the Administrative Court website.
8. Not less than 5 days before the hearing each party must re-issue its skeleton fully cross-referenced to the agreed bundles.
9. No less than 24 hours before the beginning of the hearing the parties must agree and send to the judge's clerk a draft timetable for their submissions.
10. The judge must have at least 2 days for pre-reading.

### **Observations**

1. On starting to read into the case and considering the extent of the issues raised by the grounds of renewal as well as the 1 day allocated for the renewal hearing, it is apparent that the guidance in *R (Ben Hoare Bell Solicitors) v Lord Chancellor* [2015] 1 WLR 4175 at [47] *et seq*, applies.

*“.....It is also sometimes apparent that a permission hearing of the usual length of half an hour would not suffice, yet by the time a half day or more has been set aside to resolve arguability in a document heavy case, some planning cases come to mind, the whole case would be nearing resolution. Yet to conclude that the case was arguable only for most of the argument to be repeated on another day before another judge for want of an hour or two would be a complete waste of time”.*

2. Accordingly, the appropriate method for dealing with the renewed applications for permission is by way of a rolled up hearing.
3. The Claimants must not take advantage of this order for a rolled up hearing to argue all of the grounds currently pleaded without undertaking a careful review of the merits of each of those grounds in the light of the responses provide by the defendants, both the material already filed and the material still to be filed. That obligation is a continuing obligation.
4. The Claimants must continue to coordinate their submissions so there is no repetition.



Signed: Mrs Justice Thornton DBE

Dated: 18.05.2023

**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: 18/05/2023

Solicitors: LEIGH DAY SOLS

Ref No.

**Notes for the Claimant**

To continue the proceedings a fee is payable.

**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 Justice website <https://www.gov.uk/get-help-with-court-fees>

You are reminded of your obligation to reconsider the merits of your claim on receipt of the defendant's evidence.