

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

IN THE MATTER OF AN APPLICATION FOR STATUTORY REVIEW
B E T W E E N :

(1) FRIENDS OF THE EARTH LTD
(2) SOUTH LAKELAND ACTION ON CLIMATE CHANGE –
TOWARDS
TRANSITION

Claimants

and

SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND
COMMUNITIES

First Defendant

and

WEST CUMBRIA MINING LTD

Second Defendant

and

CUMBRIA COUNTY COUNCIL

Third Defendant

CASE MANAGEMENT DIRECTIONS

UPON THE COURT EXERCISING ITS POWER TO MAKE AN ORDER OF ITS OWN INITIATIVE
UNDER PARAGRAPH 3.3 OF THE CIVIL PROCEDURE RULES

IT IS ORDERED THAT:

1. Paragraph 3 of the case management directions set out in the Order by Thornton J dated 18 May 2023 is varied as follows:
 - a. Time is extended to 17 July 2023 for the Claimant in CO/147/2023 to file and serve any application to serve evidence in reply.
 - b. Time is extended to 10 July 2023 for the Claimant in CO/157/2023 to file and serve any application to serve evidence in reply.
2. The Claimants have leave to file and serve their respective replies.



3. Leave is granted for South Lakeland Action on Climate Change to rely upon the witness statement of Mr McFeeley and for Friends of the Earth Limited to rely upon the second witness statement of Mr Broekhoff.
4. Leave is refused for Friends of the Earth Limited to rely upon the witness statement of Mr Toru.
5. The First Claimant's application for specific disclosure shall be listed for hearing between 3 and 19 October 2023, with a time estimate of 2 hours including time for judgment. The following directions apply in relation to that hearing:
 - a. The First Claimant shall file and serve a skeleton argument at least seven clear days before the hearing;
 - b. At least four clear days before the hearing the First Defendant and other Defendant wishing to participate in the hearing shall file and serve a skeleton argument;
 - c. The First Claimant shall file an agreed bundle of authorities with the Court at least three clear days before the hearing.
6. The rolled-up hearing fixed for 24 – 26 October 2023 is vacated.
7. Save for the determination of the First Claimant's application for specific disclosure addressed in paragraph 1 of this Order, these claims are stayed pending the judgment of the Supreme Court in R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council and others (UKSC 2022/0064).
8. Within 21 days of the Judgment being handed down by the Supreme Court, the Claimants may file and serve amended Statements of Facts and Grounds, if so advised, or inform the Court and other Parties in writing that they do not intend to file amended Statements of Facts and Grounds.
9. Within 21 days of both Claimants' compliance with paragraph 3 of this Order, the Defendants may file and serve amended Detailed Grounds of Defence, if so advised, or inform the Court and other Parties in writing that they do not intend to file amended Detailed Grounds of Defence.
10. The rolled-up hearing will be listed for an available date no less than 28 days after the Defendants' compliance with paragraph 4. The hearing will be listed primarily by reference to judicial availability. Paragraphs 4-10 of Thornton J's case management directions dated 18 May 2023 will apply.
11. Liberty to apply.

Observations:

1. The witness statement of Mr Toru relies upon post decision material which is inadmissible.
2. The court has not been assisted by the plethora of emails from the parties. If any further directions are sought or required the parties should prepare a single joint position statement setting out each point which is agreed and where points are not agreed the submissions of the respective parties. Such a document is easy to circulate and prepare electronically and enables the court to deal with the matter more efficiently.

Signed: Sir David Holgate

Dated: 28 July 2023

BY THE COURT