



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

CO Ref:CO/3134/2011

In the matter of an application for Judicial Review

The Queen on the application of

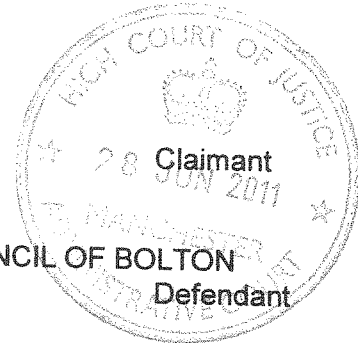
MARCUS SIMMONS

versus

THE METROPOLITAN BOROUGH COUNCIL OF BOLTON

ARMSTRONGS AGGREGATES LIMITED

Interested Party



NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)

Following consideration of the documents lodged by the Claimant and the Acknowledgments of service filed by the Defendant and the Interested Party

Order by the Honourable Mr Justice Charles

1. Permission is hereby granted on the basis that the court dealing the substantive hearing may consider whether the claim was made promptly or without undue delay for the purpose of deciding what, if any, relief should be granted
2. As to the costs of the Claimant, the Defendant and the Interested Party up to and including a substantive hearing:
 - a. the Claimant's total liability for costs is to be limited to £10,000 plus VAT, and
 - b. the total that the Claimant can recover in respect of his costs is limited to £20,000 plus VAT
3. The parties have permission to apply within 7 days of service of this order to vary of discharge the order in paragraph 2 above. If such an application is made:
 - a. it is to be listed for an oral hearing with a time estimate of 2 hours,
 - b. each party is to lodge a skeleton argument, and any evidence relied on in respect of it, at least 7 days before the hearing, and
 - c. if any party wishes to rely on any further evidence in answer that is to be served at least one day before the hearing and will only be admitted with the permission of the judge who hears the application.

Observations:

1. In my view, the Claim Form raises arguable grounds for judicial review (Ground 3 having been withdrawn).
2. In my view, for the reasons advanced by the Claimant grounds for the exercise of the discretionary jurisdiction to make a protected costs order exist and such an order should be made. But, the "representative nature" of the

Claimant's challenge and it seems wide support from others for it means that it would be fair (a) for him to look to others to provide support for the payment of his costs win or lose, and (b) for a limitation to be placed on the costs that can be recovered by the Claimant to recoup himself and those who have supported him for their expenditure on and in respect of the proceedings. I have based the costs limits on the Claimant's estimate of costs (absent the hybrid conditional fee arrangement).

3. If possible, any application to vary of discharge the protected costs order should not become a trial of the substantive issues and so I have given it a short time limit (subject to the directions of the judge who hears it).

Case management directions

- The defendant and any other person served with the claim form who wishes to contest the claim or support it on additional grounds must file and serve detailed grounds for contesting the claim or supporting it on additional grounds and any written evidence, within 14 days of service of this order.
- Any reply and any application by the claimant to lodge further evidence must be lodged within 14 days of the service of detailed grounds for contesting the claim.
- The claimant must file and serve a trial bundle not less than 2 weeks before the date of the hearing of the judicial review.
- The claimant must file and serve a skeleton argument not less than 7 days before the date of the hearing of the judicial review.
- The defendant and any interested party must file and serve a skeleton argument not less than 4 days before the date of the hearing of the judicial review.
- The claimant must file an agreed bundle of authorities, not less than 2 days before the date of the hearing of the judicial review.

Listing Directions

The application is to be listed for 2 days; the parties to provide a written time estimate within 7 days of service of this order if they disagree with this direction.

Case NOT suitable for hearing by a Deputy High Court Judge*

Criminal case NOT suitable for hearing by a Single Judge*

Directions as to venue, if applicable:

The case should if practicable be heard in Manchester or the North West by a judge with experience of planning law.



Signed

For completion by the Administrative Court Office

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendants, and any interested party's solicitors on (date):

Solicitors:
Ref No.

Notes for the Claimant

- To continue the proceedings a further fee of £180.00, or a certified Application for Fee Remission if appropriate, must be lodged within 7 days of the service on you of this order. Failure to pay the fee or lodge a certificate within that period may result in the claim being struck out.
- You are reminded of your obligation to reconsider the merits of your claim on receipt of the defendant's evidence.