



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

CO Ref:

CO/2446/2017

In the matter of an application for Judicial Review

The Queen on the application of NIGEL DAVIES

versus ADDERBURY PARISH COUCIL



**Application for permission to apply for Judicial Review  
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the file in CO/2184/2017 including my Order of today refusing permission in those other judicial review proceedings

Order by HHJ PURLE QC

**Permission is hereby refused.**

Reasons: The refusal of permission in CO/2184/2017 makes this claim academic as that claim is now at an end. In any event, I cannot see how any reasonable observer could have concluded that there was a real possibility of bias affecting the decision to defend the proceedings or in the choice of solicitors. A fair minded and informed observer would have recognised that the restrictive covenants were required by the section 106 Agreement, that the differences in wording were insignificant, and that the proceedings were out of time. Such involvement as individual Councillors may have had or been perceived to have had in the history of the covenant would not be seen by a fair minded and informed observer as giving rise to any real risk of bias. This conclusion is made stronger as the claim in CO/2184/2017 was to any informed observer evidently without merit. The fact also that the solicitors had some prior contact with Councillor Bratt would not be seen as a disqualifying factor by a fair minded and informed observer. It is commonplace for individuals to recommend solicitors who have acted for them previously.

*7 July 2017*  
*CP*

- Case is considered to be totally without merit: as well as now being wholly academic, the claim is in my judgment without any foundation at all.

**BY VIRTUE OF CPR 54.12(7) THE CLAIMANT MAY NOT REQUEST THAT THE DECISION TO REFUSE PERMISSION BE RECONSIDERED AT A HEARING.**

Note: this Order supersedes any Order previously made (if different) as the only copy maintained by the Court suggests that the previous Order was originally prepared and may have been issued in the wrong form, namely in a form appropriate for a refusal of permission only, without certification as totally without merit. As the case was considered by me to be wholly without merit, the copy in my records has been reissued in the appropriate form under the slip rule. The court cannot presently locate the Order as originally signed by me

Signed:

*[Handwritten signature]*

*23 August 2017*  
*originally 7 July 2017*

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

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Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date): 25/8/17

Solicitors:

Ref No



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

CO Ref:

CO/2184/2017

In the matter of an application for Judicial Review

The Queen on the application of NIGEL DAVIES

versus ADDERBURY PARISH COUCIL

**Application for permission to apply for Judicial Review  
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant AND the Acknowledgement of service filed by the Defendant

Order by HHJ PURLE QC

**Permission is hereby refused.**

Reasons: The claim is not a public law claim (still less an Aarhus Convention claim). The claim relates to private law rights in relation to land which was burdened with a restrictive covenant upon its transfer to the Defendant, in line with (though not in precisely the same terms as) a section 106 Agreement to which the Defendant was not a party. This is evident from the 1 April statement itself, the TR1 dated 7 November 2016 and the section 106 Agreement dated 19 June 2014. In addition, as the transfer occurred at the beginning of November 2016, this claim is well out of time. I need not in those circumstances consider in these proceedings whether there is anything in the challenge to the Defendant's instruction of solicitors as the baselessness of the claim is evident from the documents filed by the Claimant.

- Case is considered to be totally without merit: not only is the claim not arguable, but there is no recognisable public law claim at all and no act of the Defendant capable of being timeously impugned.

Signed

*C. Purle* 7 July 2017 4.37pm

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**BY VIRTUE OF CPR 54.12(7) THE CLAIMANT MAY NOT REQUEST THAT THE DECISION TO REFUSE PERMISSION BE RECONSIDERED AT A HEARING.**

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

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Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date): 8/8/17  
Solicitors:  
Ref No.