

Case Name: *Campaign to Protect Rural England & Anor v Secretary of State for Communities and Local Government & Ors* [2019] EWCA Civ 1230 (15 June 2019)

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Commentary: An appeal against an order for costs was dismissed in the Court of Appeal.

The appellant sought statutory review of the decision to adopt the Maidstone Borough Local Plan and in the claim form requested the Aarhus cap on costs.

Lang J refused the appellant permission to apply for statutory review but accepted that the claim was subject to the Aarhus cap and ordered that the appellant pay the first defendant (SSCLG), second defendant (the Council) and the interested party's (Roxhill, the promoter of the relevant development at Woodcut Farm, the subject of a policy in the newly adopted plan) costs, all adding up to the Aarhus cap of £10,000.

The appellant objected to the award of more than one set of costs, the quantum of costs and the application of the Aarhus cap in the circumstances where the claim for judicial/statutory review does not get beyond the permission stage.

Lord Justice Coulson held that the general rule is that a claimant who issues and serves proceedings on other parties and whose claim is struck out or refused at an early state will prima facie be liable for those other parties' costs, and no different rules apply to judicial or statutory review cases.

Further there is no rule in planning cases which limits the number of parties who can recover their costs, if the application is refused at the permission stage.

Finally, the Aarhus cap is global and is applied to the costs that have been incurred by the successful defendant or interested parties, at whatever stage the costs assessment is being done.

On this basis, the appeal was dismissed.

Case summary prepared by Town Legal LLP