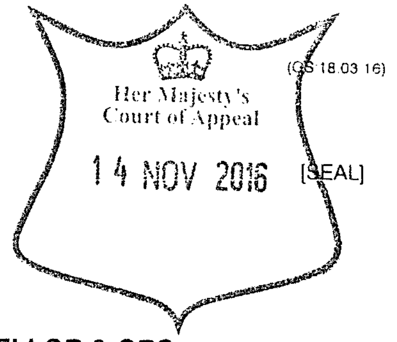
FORM 269G1

IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C1/2016/3501



(GS 18.03.16)

[SEAL]

The Queen, on the application of

VENN –v– THE LORD CHANCELLOR & ORS

ORDER made by the Rt. Hon. Lord Justice Lewison

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal against:

i) a decision by the High Court to refuse permission to apply for judicial review of a decision of the Upper Tribunal; or

ii) a decision by the High Court to refuse permission to apply for judicial review where the application has been recorded as totally without merit.

Decision: granted or refused. An order granting permission may limit the issues to be heard or be made subject to conditions.

Permission to appeal: ☐ **Granted** ☒ **Refused**

OR

Permission to apply for judicial review: ☐ **Granted**

Where permission to apply for judicial review is granted, the application should be returned to the Administrative Court ☐

OR

There are special reasons (set out below) why the application should be retained in the Court of Appeal ☐

Reasons

The essence of the claim (as ground 1 of the relief sought makes clear) is that HMG is in breach of the Aarhus Convention. But as the Acknowledgment of Service correctly explains, and as the judge correctly held, that is not a claim that is justiciable in the domestic courts. The attempt to side step this point by concentrating on delay does not avoid this barrier to the claim for JR.

Article 6 of the ECHR is not engaged. The Appellant had access to a fair and impartial tribunal under a system of costs allocation and recovery which is compatible with the ECHR. I also agree with the judge that the points relating to this ground could have been made to the Court of Appeal on the application for a PCO. The grounds associated with this head amount to a collateral attack on the decisions of the Court of Appeal; and thus amount to an abuse of process.In short, the judge was right to refuse permission for the reasons that he gave.

Where permission has been granted, any directions to the parties (including, if appropriate, any abridgement of the 35 day time limit for filing evidence provided for in CPR 54.14)

Where permission has been refused, the applicant may not request the permission decision to be reconsidered at an oral hearing: Rule 52.15(1A)(b)

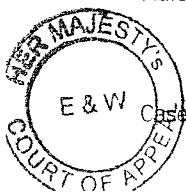
Signed: Kim Lewison

Date: 3 November 2016

Note:

Rule 52.3(6) provides that permission to appeal may be given only where –

a) the Court considers that the appeal would have a real prospect of success; or
b) there is some other compelling reason why the appeal should be heard.



Case Number: C1/2016/3501

By the Court

DATED 3RD NOVEMBER 2016
IN THE COURT OF APPEAL

ORDER

Copies to:

Richard Buxton Environmental & Public Law
19b Victoria Street
Cambridge
CB1 1JP
Ref: VEL-1.0002/PS

Government Legal Department
Dx 123242
Kingsway 6
Ref: JOE SULLIVAN

Lower Court Ref: CO29962016