



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

AC-2024-LON-002033



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In the matter of an application for judicial review

THE KING

on the application of

ROBERT KLEIBER

Claimant

-and-

SECRETARY OF STATE FOR TRANSPORT

Defendant

-and-

TRANSPORT FOR LONDON

Interested Party

**Notification of the Judge's decision on the application for permission to
apply for judicial review (CPR 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the
Acknowledgement of Service filed by the Defendant and Interested Party

ORDER by Dan Squires KC sitting as a Deputy Judge of the High Court

1. The application for permission to apply for judicial review is refused.
2. The Claimant has permission to rely upon his replies of 18 July 2024 and 24 July 2024.
3. The costs of preparing the Acknowledgement of Service are to be paid by the Claimant to the Defendant, summarily assessed in the sum of £5827.87.
4. Paragraph 3 above is a final costs order unless within 14 days of the date of this Order the Claimant files with the Court and serves on the Defendant a notice of objection setting out the reasons why he should not be required to pay costs (either as required by the costs order, or at all). If the Claimant files and serves notice of objection, the Defendant may, within 14 days of the date it is served, file and serve submissions in response. The Claimant may, within 7 days of the date on which the Defendant's response is served, file and serve submissions in reply.
5. The directions at paragraph 4 apply whether or not the Claimant seeks reconsideration of the decision to refuse permission to apply for judicial review.

(a) If an application for reconsideration is made, the Judge who hears that application will consider the written representations filed pursuant to paragraph 3 above together with such further oral submissions as may be permitted, and decide what costs order if any, should be made.

(b) If no application for reconsideration is made or if an application is made but withdrawn, the written representations filed pursuant to paragraph 4 above will be referred to a Judge and what order for costs if any, should be made will be decided without further hearing.

Reasons

1. The Claimant seeks to challenge two special directions issued under the Road Traffic Regulation Act 1984 ss 64 and 65(1) authorising traffic signage for the purpose of the London Ultra Low Emission Zone ("ULEZ"). The authorisations were issued on 7 August 2018 and 30 July 2022.
2. I have considered the documents lodged by the parties. For the reasons below I do not grant permission.
3. Firstly, the claim has been brought long out of time and I do not consider there are good reasons to extend time.
4. Civil Procedure Rules ("CPR") 54.5(1) requires that claims be brought promptly and, in any event, within 3 months of the grounds for making the claim arising. The present claim was brought on 31 May 2024, approaching 6 years after the August 2018 authorisation and approaching 2 years after the July 2022 authorisation. The Claimant states that the grounds of challenge were not "apparent" until he was informed by the London Tribunals Adjudicator on 27 March 2024 that if he wished to challenge the directions he should do so by way of judicial review proceedings. Time begins to run for the purpose of judicial review proceedings from the date a decision was made and not when a claimant becomes aware that he or she has grounds to challenge it. In the present case the challenge was brought long outside the three months stipulated by CPR 54.5. I do not consider that there is good reason to extend time. That is so, in particular, given the obvious impact on good administration if the signage for the ULEZ scheme was found to be unlawful so long after the relevant authorisations were given.
5. Second, I do not consider that any of the Claimant's grounds are arguable. The claim is put in different ways, but essentially the Claimant's case is that the relevant signage is required to state that charges apply within the ULEZ. I do not consider that to be arguable. I do not consider that it is arguable that there is a legal obligation on the Defendant to state on the signage that charges will apply whether by reason of any legislation or because of the way signage in other parts of the country operate. Nor do I consider it arguable that the relevant directions needed to be made by statutory instrument.

6. Given that I have refused permission there is no basis for granting a cost-capping order which can only be made if permission is granted.
7. As to the Claimant's application for anonymity and for limiting third party access to the court files, he states that there is significant public interest in the ULEZ scheme and expresses concern that his family may require protection from "media attention and association with ... extreme views" (which I take to refer to the "extreme views" of some who oppose ULEZ). I do not consider that the Claimant has provided sufficient evidence of risk of harm to himself or his family to outweigh the requirements of open justice. If the Claimant renews his judicial review claim and has evidence supporting anonymity or limiting public access to the court files, that can be considered at the renewal hearing.
8. I award the Defendant its costs of submitting its Summary Grounds of Defence. The Interested Party, who also submitted Summary Grounds of Defence, sought its costs. I do not consider this to be an appropriate case for awarding two sets of costs.

Signed *Dan Squires KC*

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

For completion by the Administrative Court Office

Sent / Handed to

either the Claimant, and the Defendant [and the Interested Party]
or the Claimant's, and the Defendant's [and the Interested Party's] solicitors

Date: **5th August 2024**

Solicitors:
Ref No.

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court under CPR 54.12, you must complete and serve the enclosed Form 86B within 7 days of the service of this order.

A fee is payable on submission of Form 86B. **For details of the current fee please refer to the Administrative Court fees table at <https://www.gov.uk/court-fees-what-they-are>.**

Failure to pay the fee or submit a certified application for fee remission may result in the claim being struck out.

The form to make an application for remission of a court fee can be obtained from the gov.uk website at <https://www.gov.uk/get-help-with-court-fees>