



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

CO Ref:  
CO/829/2017

In the matter of an application for Judicial Review

The Queen on the application of

BENN MICHAEL SIMMONS

versus

CROWN COURT AT GUILDFORD

**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 Interested Party

Order by the Honourable Mr Justice Dove

**Permission is hereby refused.**

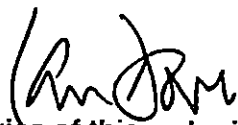
Reasons:

Having considered the papers which have been lodged pursuant to the order of Ouseley J I am satisfied that the Interested Party is correct, and that there is settled authority to the effect that where in a licensing context an authority has adopted a policy, and it is accepted that the policy has been accurately applied in a decision upon a licence, an appeal in respect of that licence based upon the contention that the policy itself is not lawful (because, for instance, as here the policy requires the imposition of a condition which is not reasonably necessary) such an appeal would be bound to fail. An appeal brought upon such a contention is, in reality, a challenge to the legitimacy of the policy itself and not the decision which has been made faithfully applying it. Such a challenge to the policy itself would have to be brought by way of judicial review on public law grounds and promptly after the adoption of the policy. I see nothing in the language of section 47 of the Local Government (Miscellaneous Provisions) Act 1976 which would justify a different approach. The council are entitled to adopt a policy upon what they regard as being "reasonably necessary" to impose as a condition and the claimant's approach would entail that such a policy would forever be open to debate in any appeal upon a licence. In addition to being a surprising outcome, it would have the effect of sidestepping the strict timescales on bringing judicial review. The approach of the court was therefore appropriate and there was no proper basis upon which a case could be stated. Permission must be refused.

The Interested Party has sought costs, but those costs should be confined to the costs of the provision of the acknowledgement of service (and not the hearing as claimed). I summarily assess those costs in the sum of £2,000.

- The costs of preparing the acknowledgment of service are to be paid by the claimant to the defendant, in the sum of £2,000. This is a final order as to costs unless within 14 days the claimant notifies the court and the defendant, in writing, that he objects to paying costs, or objects to the amount now ordered to be paid, in either case giving reasons. If he does so, the defendant has a further 14 days to respond to both the court and the claimant, and the claimant the right to reply within a further 7 days, after which the defendant's claim for costs and any submissions in relation to it will be put before a judge to be determined on the papers, or at a hearing to reconsider the application for permission.

Signed



28:ix:17

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):

Solicitors:

Ref No.

05 OCT 2017

**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 Justice website <https://www.gov.uk/get-help-with-court-fees>