# A day in the High Court of Justice

## Overview

Bundles, Summary Grounds of Defence, permission stage and substantive stage, rolled-up hearing—these are just some examples of the terminology that is common place when a case is heard in the High Court of Justice. Why am I writing about this? The answer is simple - because I wanted to share with you [The Environmentalist readership] my experience of spending a day at a judicial review rolled-up hearing held in the High Court of Justice, in London, during December last year. The hearing was about a flood alleviation scheme in Essex and the local planning authority for the area in which the scheme would be located is Chelmsford City Council.

## Background

A judicial review is the name given to the High Court procedure for challenging administrative action i.e. the legality and propriety of the decision making process. In this case, permission was being sought by the Claimants to challenge the decision of Chelmsford City Council to grant planning permission (12/0132/FUL) on 16th February 2013 [CB/55-65] for the Environment Agency’s Chelmsford Flood Alleviation Scheme: River Wid Flood Storage Area. The Claim was filed (made) in May 2013 and there were several grounds (reasons) stated as to why the application was being made. The hearing was a rolled-up hearing as permission to proceed with a judicial review was undertaken in conjunction with a full court hearing meaning that relevant statements had already been exchanged between the parties.

The Environment Agency, as developer, was named as an Interested Party in the case. As an interested party, a Witness Statement was prepared and the Environment Agency was represented at the hearing by a Barrister. Our Barrister was supported by representatives from our legal team and project team.

As one of the grounds for the claim related to the contravention of the requirements of the Environmental Impact Assessment Regulations, I attended the hearing to listen to the evidence being presented and to provide any clarification required on matters arising in relation to the Environmental Statement and subsequent Regulation 22 Request Document.

## In the Courtroom

The hearing itself was held in Court 19 in the Queen’s Bench Division - one of three Divisions of the High Court that deals with different types of civil actions, including applications for judicial review. Supported by over 70 judges, the Queen’s Bench Division is administered in the central office at the Royal Courts of Justice in London. On the morning of the hearing, all three parties assembled outside the allocated court to wait for it to be unlocked and talked in low voices. The court itself was smaller than I expected but the ceiling, much higher. We all sat opposite the area occupied by the Judge and administrators of the court in one of four wooden benches approximately five metres in length. The three Barristers representing the Claimants, the Defendants (Chelmsford City Council) and the Interested Party (the Environment Agency) assembled in the front row of benches with the relevant papers. I could sit in either the third or fourth row of benches as the second row was occupied by the relevant solicitors. I noticed the network of cables that was suspended from the ceiling with a number of microphones on the end as we waited for the Judge to be announced and arrive in court.

Following the formalities, the Claimants’ Barrister introduced all the parties in the case and confirmed which paperwork (bundles) had been submitted and should be referred to. There were some minor changes with one replacement document being provided to the Judge as it had been noted that a page was missing from the previous version. During the rest of the day, I observed, listened and made notes of the proceedings.
A number of post-it notes were used to convey messages by all parties between the benches throughout the day. Occasionally, additional drawings were also sourced and passed forward for either the relevant Barrister to refer to, or, to provide copies to the Judge. A total of three days were allocated for the rolled-up hearing but, in the end, only one day was needed for all three parties to present their case. At the end of that day, the Judge informed us that the judgement would be given in two days time at 2pm.

**Conclusion**

Having had the opportunity to attend a hearing, I would encourage you to take a similar opportunity, should it arise. I consider the time I spent in court to be one of the most fascinating experiences I have had, to date, during my 20 year career in the environmental industry. I felt very privileged to be able to experience for myself how the court system works in such an important building. It was as formal as I expected it to be although I had to keep rather still to prevent the bench I was sitting on from creaking and making too much noise. At times, I found it difficult to hear what the Judge was saying despite the number of microphones suspended in the courtroom.

If you do get such an opportunity, I would advise you to have access to all the relevant papers to enable you to follow the dialogue better – I found I had to fully concentrate on listening to the discussion (as it moved at such a fast pace) whilst quickly finding the document and location references being given to the Judge to refer to the text being considered. Thus, with much page turning and swapping over of files and documents by those present, it was often a challenge to keep up and make a note of key points or arguments before the discussion moved on to the next point being made.

The benefit of having good figures and location plans to show visually what was proposed, where and the extent should not be underestimated. This was of particular interest at the start of the hearing to set the context.

Lastly, the experience provided me with a useful insight into how the law is applied in such situations. Whilst guidance is, of course, helpful, it reminded me of how important it is to both know (i.e. be familiar with) and work with what is set out in the relevant regulations that transpose the relevant Directive. The relevance of some statements was often challenged in relation to how they applied to the law. Relevant case law was also referred to in response to some of the statements made – another reminder of the importance of keeping up to date with legal developments and case law.

_Claire Vetori, April 2014._

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