

In the High Court of Justice of the Isle of Man  
Civil Division - Chancery Procedure

Between

**LANGNESS GOLF COURSE LIMITED**

**Claimant**

*and*

**DEPARTMENT OF ENVIRONMENT, FOOD AND AGRICULTURE**

**Defendant**

*and*

**FORT ISLAND DEVELOPMENTS LIMITED**

**DERBYHAVEN RESIDENTS' SOCIETY LIMITED**

**Interested Parties**

**PRESS SUMMARY OF JUDGMENT DELIVERED ON 20<sup>th</sup> JANUARY 2021**

Langness Golf Course Ltd (LGCL) has brought a doleance claim against the Department for the Environment, Food and Agriculture (DEFA). It sought an order that a planning application made by the owner of the adjacent former Castletown Golf Links Hotel be decided within a fixed period of time. The planning application (for the demolition of the former hotel and its replacement by a mixed hotel and residential development) was made in December 2017 but then amended in October 2018. No decision has yet been made on the application by the Planning Committee. Indeed the application has yet to be referred to the Planning Committee. The application is opposed by LGCL and by the Derbyhaven Residents' Society Limited. Following a hearing in December 2020, the court finds that the delay in deciding the application (caused by DEFA's failure to action the obtaining of an independent hotel viability assessment) is a breach of the legal requirement on DEFA to decide planning applications "as soon as practicable" and "wherever possible" within 8 weeks of the receipt of the application or such further particulars as DEFA may decide should be provided.

However, the court also decides that LGCL, as an objector, has no right to seek an order requiring DEFA to make a decision within the time requested by LGCL. This is because:-

1. There is no legal authority to support the making of such an order. It is therefore without legal foundation.
2. Objectors have no right to appeal against a failure by DEFA to make a planning decision. This may be contrasted with the position of applicants who, since 2019,

have been able to appeal against a non-determination and to agree timescales with DEFA for the determination of planning applications.

3. Such an order if made would place DEFA in an impossible position since its decision-making process is dependent on the steps taken by others. It therefore in reality has no definitive control over the timescale.
4. The real prejudice to LGCL arises from the long-standing dilapidated state of the former hotel and this will not necessarily be ameliorated by the decision on the planning application, particularly if it is refused as LGCL would prefer.
5. DEFA has now provided a way forward in that it has indicated that the Planning Committee anticipates being in a position to consider the application in March 2021.
6. LGCL also claims that DEFA unnecessarily delayed by according undue preference to the developer and by seeking to address with the developer all possible objections to the proposal so as to improve its chances of success. The court rejects this claim on the evidence before it and considers that discussions between applicants and planning officers are a normal part of the planning process both in the Isle of Man and England and Wales. Such discussions ensure that planning officers are able to provide a proper assessment of a planning application for the benefit of the Planning Committee. In any event, any assertion of bias did not form the pleaded basis of the relief sought by the dolence claim, which is founded on the allegation of undue delay.

The dolence claim was therefore dismissed.

#### **NOTE**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [www.courts.im](http://www.courts.im)**