

9 December 2020

Ms. Danielle Angelopoulou  
Department of Environment, Food & Rural Affairs  
United Kingdom

Dear Ms. Angelopoulou,

**Re: Communication concerning compliance by the United Kingdom with the provisions of the Convention in connection with planning consent for the redevelopment of a former hospital site (ACCC/C/2015/131)**

During the hearing to discuss the substance of communication ACCC/C/2015/131 at its sixty-eighth meeting (23-27 November 2020), the Committee indicated that following the hearing it would send brief questions for the written reply of the Party concerned. Please now find enclosed the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your replies to the enclosed questions on or before **Wednesday, 23 December 2020**. Please send your reply to [aarhus.compliance@unece.org](mailto:aarhus.compliance@unece.org), copying the communicant. The communicant will likewise have ten working days from the receipt of your answer to provide the Committee with any comments she wishes to make on your reply. Please do not hesitate to contact the secretariat if you have any questions.

Please do not hesitate to contact the secretariat if you require any further information.

Yours sincerely,



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Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office and other international organizations in Geneva  
Ms. Tracy Breakell, communicant of communication ACCC/C/2015/131

Enc: Questions from the Committee to the Party concerned

### Questions from the Committee to the Party concerned

1. During the hearing during the Committee's 68<sup>th</sup> meeting on 26 November 2020, the Party concerned's legal representative referred to the London Borough of Merton's "acknowledgement of service". Please clarify whether this is the document provided by the communicant as annex 2 to her reply to the Committee of 6 June 2016, available on the Committee's website at:

[http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2015-131\\_UK/frCommC131\\_06.06.2016/frCommC131\\_06.06.2016\\_att2\\_response\\_to\\_letter.pdf](http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2015-131_UK/frCommC131_06.06.2016/frCommC131_06.06.2016_att2_response_to_letter.pdf)

If the above document is not the "acknowledgement of service" to which the Party concerned referred during the hearing, please provide a copy of the actual "acknowledgement of service".

2. In paragraph 39 of its response to the communication dated 13 May 2015, the Party concerned stated that:

"in respect of decisions made under the planning acts (for example, a grant of planning permission under The Town and Country Planning Act 1990), 'the claim form must be filed not later than six weeks after the grounds to make the claim first arose' (CPR r.54.5(5))."

In accordance with CPR r.54.5(5), on what date did the grounds for the communicant to challenge the negative screening opinion adopted in March 2012, but not published until July 2014, first arise? Please provide the text of the relevant rules, directions or case law to support your answer.

3. Also in paragraph 39 of its response to the communication, the Party concerned states:  
"A classic example of when the courts have been prepared to extend time, historically, is where the claimant did not become aware that planning permission had been granted until more than 3 months from the date of grant due to (for example) a failure by the Council to comply with publicity requirements for the application, and where the court was satisfied that the claimant had acted promptly on becoming aware of the challenged decision."

Following the publication of the negative screening opinion in July 2014, what timeframe for seeking permission to apply for judicial review would have amounted to acting "promptly"? Please provide the text of the relevant rules, directions or case law to support your answer.

4. By order of 20 March 2015, Mr. Justice Mitting ordered the communicant to pay £5,000 towards London Borough of Merton's costs regarding her unsuccessful application for permission to apply for judicial review.
  - (a) Was there a rule or direction in place in March 2015 that required the judge, when deciding the appropriate sum of costs to be awarded against an unsuccessful claimant in an Aarhus claim, to take into account the procedural stage(s) covered by that particular costs award? If so, please provide the text of that rule or direction.
  - (b) If such a rule or direction is currently in place, please provide the text of the rule or direction presently in force, together with the date of its entry into effect.