

Charity faces fraud allegations over residential planning consent

12 April 2017 by Court reporter, [Be the First to Comment](#)

A religious charity is facing accusations that a residential planning permission that earned it £31 million was procured by fraud.



London's Royal Courts of Justice

The case concerns the former site of the Holy Cross Convent School, in Chalfont St Peter, Bucks, which closed in 2006.

The Holy Cross Sisters Trustees Incorporated, which ran the school, was granted outline planning consent for a mixed-use development of the site by Chiltern District Council in 2010.

That stymied an alternative plan to relocate the existing Chalfont St Peter Church of England School onto the site.

The planning consent was granted on the basis that a 1.3 hectare piece of land – area A – had not been used formally as playing fields in the past.

If it had been, the proposals might have fallen foul of the council's policy to protect existing sports facilities against development.

Sport England fiercely objected to the proposals but councillors were informed that the area had only been used for informal recreation.

A protracted judicial review challenge to the plans failed before the High Court and the Court of Appeal.

And the charity obtained a selling price of about £31 million for the site, on which 60 new houses are now being built.

Now, however, Chalfont St Peter Parish Council is suing the charity for damages and exemplary damages, alleging fraud.

In proceedings issued in August last year, the parish council claims that the charity "conspired" to cause it injury.

The charity faces claims that area A had been used by the school as a formal playing pitch, for both hockey and rounders.

That was "common knowledge among the sisters and staff at the school", the parish council claims.

And it alleges that the charity "made, or allowed to be made on its behalf, representations which they knew to be false".

The charity vehemently denies those accusations and argued at London's High Court that the parish council had left it far too late to sue.

The parish council, it argued, missed "superabundant opportunities" to allege fraud during the earlier judicial review proceedings.

It asked senior High Court official, Master Davison, to strike out the parish council's case.

However, the parish council insists it has evidence, including from former pupils and staff at the school, that area A was used as a playing field.

Ruling on the charity's application, Master Davison noted that allegations of fraud, particularly against charities, are not to be made lightly and it was not his role to make any final findings on the issue.

But, refusing to strike out the parish council's claim, he added: "Suffice it to say that there is credible evidence that area A was in use as a formal playing field right up to the time that the school closed and that this must indeed have been 'common knowledge'."

Master Davison noted that the parish council had launched its case six years after the relevant events and after multiple hearings in the High Court and Court of Appeal concerning the same planning proposals.

The charity said it was "fanciful" to suggest that it had ever intended to harm the parish council and that the latter's case had no real prospect of success.

But Master Davison ruled that the charity had failed to deliver a "knock down blow" to the parish council's case and concluded: "Whilst I sympathise with the position the order now finds itself in, I cannot strike out the claim."

His decision means that the parish council's claim will now go ahead to a full trial unless settlement terms are agreed before then.

Matt Hutchings QC, of Cornerstone Barristers, who is acting for the parish council, said: "This judgment shows that the legal remedies for a 'wrong' grant of planning permission are not limited to judicial review. Other avenues of redress may be available for developers who lose out to their rivals, if they can prove that the planning system was abused by an applicant for planning permission, causing them loss".

Chalfont St Peter Parish Council v Holy Cross Sisters Trustees Incorporated. Case Number: HQ16X02767