

Case Name: *Dawes, R (On the Application Of) v Birmingham City Council* [2021] EWHC 1676 (Admin) (21 June 2021)

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Commentary:

This was a successful challenge by way of judicial review against a General Vesting Declaration (GVD) executed by Birmingham Council to vest in the Council the Claimant's property in Sutton.

The GVD was made pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the background to the CPO was in the Council's Private Sector Empty Property Strategy 2013-2018, which seeks to address the problem of housing shortage in the City.

The Claimant, Dawes, had acquired properties for investment in 2003 and in 2015 the Council had received complaints that one of the properties had been empty for many years and was in poor condition. Several events occurred before the CPO was finally sealed in 2018 and in 2019 the Claimant's father returned a mutual undertakings document to the Council purporting to bear the signature of the Claimant. The Claimant denied that she had signed the document, but this did not affect the validity of the GVD. On two occasions the Council had written to the Claimant setting a deadline to bring the property into a reasonable state for occupation and to secure the occupation of the property, making it clear that they would be making a GVD immediately if she failed to address these issues.

The Claimant advanced six grounds of challenge, but only three of these were granted permission to proceed. These were that the Council had acted in breach of a Tameside duty to make reasonable inquiries beforehand to ascertain the condition of the property and whether it was in occupation; failed to consider the Public Sector Equality Duty; and failed to assess whether the GVD would breach the Article 8 rights of the Claimant and her son. The Claimant also drew attention to her personal circumstances and their health problems in that she had been diagnosed with PTSD and her son suffered from autism and dyspraxia.

The Court held that the Council had failed to carry out an internal inspection of the property to check on its condition, use and occupation of the property despite works to the property having been undertaken, but refused to uphold the other claims. The decision to quash the GVD rested predominantly on the unusual events and circumstances of the case.

Case summary prepared by Lida Nguyen