



AND COURT OF THE CAYMAN ISLANDS

CAUSE NO: G ____ of 2025

MATTER OF AN APPLICATION FOR LEAVE TO SEEK JUDICIAL

BETWEEN

THE KING

On the application of

DR GAIL ZAPPACOSTA

Applicant

AND

CENTRAL PLANNING AUTHORITY

Respondent

**STATEMENT OF FACTS AND GROUNDS IN SUPPORT OF THE APPLICANT'S
APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW**

To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of Applicant	Dr Gail Zappacosta Buddy Way, Savannah, Cayman Islands
Judgment, order, decision or other proceeding in respect of which relief is sought:	The decision dated 21 July 2025 to dismiss the Applicant's appeal against an Enforcement Notice.
Relief sought:	(1) An order quashing the decision under challenge (certiorari). (2) Such further relief as may be needed to give effect to the Court's judgment. (3) Costs.

Name and address of Applicant's attorney	Nelsons Legal The Grand Pavilion West Bay Road Cayman Islands
Signed:	Dated: 20 th day of October 2025

A. INTRODUCTION AND SUMMARY

1. This claim concerns the Applicant's residential property in Savannah: Block 28E Parcel 152 ("**the Land**"). The Land is a beautiful, ocean-facing area of land.
2. On 15 February 2025, the Applicant allowed family friends to hold their wedding at the Land. The Applicant was a guest at the wedding and received no payment.
3. On 18 February 2025, the Director of Planning issued an enforcement notice alleging that the Applicant had used the Land for commercial purposes and that it was expedient to take enforcement action ("**the Enforcement Notice**").
4. The Enforcement Notice required the Appellant to either obtain retrospective planning permission or cease all "*commercial use*", such that the Applicant would commit a criminal offence if, for example, she were to hold a small yard sale or were to work remotely from home.
5. The Applicant appealed against the Enforcement Notice to the Central Planning Authority ("**the CPA**"). By a decision dated 21 July 2025, the CPA dismissed the appeal. That decision is the target of this judicial review.
6. The Applicant challenges the CPA's decision on the grounds that:
 - (1) Ground 1 – the decision-making process was unfair because the Applicant was not told of the case she had to meet.

- (2) Ground 2 – the decision-making process was unfair because the Planning Department failed to provide the CPA with the Applicant’s written representations.
 - (3) Ground 3 – the decision-making process was unfair because of the CPA’s lack of separation from the body which made the decision under appeal and because of an appearance that its decision to refuse the appeal was pre-determined.
 - (4) Ground 4 – the CPA misdirected itself that commercial use covers a wedding for family friends for which no payment was made.
 - (5) Ground 5 – the CPA failed to consider whether the Enforcement Notice would criminalise lawful activities.
 - (6) Ground 6 – the CPA failed to provide adequate reasons and/or its decision was “process irrational”.
7. The requirement for leave to apply for judicial review is “*no more than a filter to weed out groundless cases*” (*Knibbs v Revenue Customs Commissioners* [2020] 1 WLR 731, para 25) designed to “*protect public bodies against weak and vexatious claims*” (*R v Secretary of State for Trade & Industry ex p Eastaway* [2000] 1 WLR 2222, 2227H, *per* Lord Bingham). This application is plainly not groundless or apt to summary disposal and, accordingly, leave to apply for judicial review should be granted.

B. THE STATUTORY FRAMEWORK

8. Section 18 of the Development and Planning Act empowers the Director of Planning to serve an enforcement notice on the owner and occupier of land if it appears to him that development has been carried out without the grant of planning permission.
9. Section 13(3) defines development to include “*the making of any material change in the use of any building or other land*”. There are two aspects to this. First, there must be a change of use. Second, the change of use must be “*material*”. A change of use does not, of itself, constitute development. The issue of whether a material change of use takes place is

one of fact and degree, assessed by reference to the character of the use of the land (*Westminster City Council v Great Portland Estates plc* [1995] AC 661 at 669G).

10. As originally enacted, the Development and Planning Act provided a right of appeal to the Grand Court against an enforcement notice. That carried with it all of the procedural safeguards associated with judicial proceedings.
11. The appeal right was amended by the Development and Planning (Amendment) Act 2014, such that an appeal under section 19 of the Development and Planning Act is now determined by the CPA. No statutory procedural rights apply to such appeals.
12. The CPA has published informal rules of procedure.¹ Those informal rules do not provide for an applicant to be provided with particulars or evidence of the case against them and sets a limit of 10 minutes for submissions. The informal rules state: “*Written documentation not contained in the CPA or DCB meeting Agenda will not be allowed to be introduced by any party at the meeting*” (para 4.3.5).
13. Section 19(1) of the Development and Planning Act provides that the appeal must be brought “*within fourteen days of service of the notice*”. Section 19(2) of the Development and Planning Act identifies the potential grounds of appeal. So far as material in this case, they include:
 - (1) Statutory ground (a) - the matters alleged in the enforcement notice do not constitute a breach of planning control (*e.g.* there has been no change of use or, if there has been a change of use, it is not material).
 - (2) Statutory ground (e) – the steps required by the enforcement notice exceed what is necessary to remedy any breach of planning control.

14. So far as material, section 19(3) provides that:

“*On any appeal under this section, the Authority—*

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- (a) if satisfied that grounds (a) ...of subsection (2) have been proven, shall quash the enforcement notice.*
- (b) if satisfied that a variation of the enforcement notice on grounds (e) ...of subsection (2) would be appropriate, may vary the notice accordingly; or*
- (c) in any other case, shall dismiss the appeal”.*

15. Section 21(1) provides that it is a criminal offence to fail to take any steps required by an enforcement notice within the period specified by the notice.

C. RELEVANT FACTS

16. On 15 February 2025, the Applicant hosted a wedding at the Land for family friends. There was no commercial transaction. The Applicant was a guest at the wedding.

17. On 17 February 2025, planning officers visited the property and alleged that the wedding had constituted a commercial event.

18. On 18 February 2025, the Director of Planning issued an Enforcement Notice, stating that it appeared that there had been “*Unauthorized change of use from residential to commercial use without the grant of planning permission*”.

19. The Enforcement Notice failed to identify what “*commercial use*” was alleged to have occurred, failed to provide any reasons as to why this was thought to constitute a *material* change of use and failed to provide any reasons as to why the Director considered it expedient to issue an enforcement notice.

20. The Enforcement Notice required the Applicant to obtain retrospective planning permission or to “*Cease from using the land for commercial use*” within 28 days. Again, there was no attempt to identify or define the “*commercial use*”. The Enforcement Notice was thereby drawn so widely that the Applicant would commit a criminal offence if, for example, she were to hold a small yard sale or to work remotely from home.

21. At the same time, the Director of Planning served the Applicant with a stop notice under section 23 of the Development and Planning Act, requiring her to “*cease all illegal*

development on the land prohibited by the Enforcement Notice” before the Enforcement Notice had taken effect. The stop notice only applied to the period before the requirements of the Enforcement Notice came into force and nothing in this claim for judicial review turns on the stop notice.

22. On 19 February 2025, a planning officer emailed the Enforcement Notice to the Applicant. The covering email stated that examples of prohibited activities include: *“Funerals, weddings, parties, concerts, staff functions, family fun days, events put on by a company or church etc. Please note if you wish to continue having events, planning permission needs to be obtained, otherwise no more events should be happening on the premises”*. It will be noted that the Planning Department thereby appeared to assert that the effect of the Enforcement Notice was that a family party would constitute a criminal offence.

23. By email dated 9 March 2025, the Applicant appealed against the Enforcement Notice. She was not legally represented and expressed the grounds of appeal in the following terms:

“I am contesting this enforcement order CE25-0027, it is unjust. My activities with guests on the 15th - two days earlier 15th February, does not fit the label of a commercial endeavour. I do not understand, the origin of the complaint or how I could possibly be accused of holding a commercial endeavour. I am contesting this enforcement order it is unjust.

I would appreciate a meeting with you, to consider the merits of the facts and the reasons why the accusation of a commercial use is unjust.”

24. On 12 March 2025, the Applicant provided the Director of Planning with a letter from the couple who were married at the Land on 15 February 2025. This recorded, in part:

“I am writing to express my deepest gratitude for your incredible generosity in allowing us to use the seaside land at the end of the Savannah Grand for our wedding on February 15th. Your kindness in granting us permission to celebrate our special day in such a breathtaking location made all the difference, and we are truly appreciative.

We acknowledge that at no point was there a formal contract between us and that you, as the rightful owner of the land, graciously gave your permission without any expectation of payment. Despite our offers, you firmly refused any form of compensation, a testament to your generosity and goodwill.”

25. As noted above, the CPA’s rules of procedure provide that it will only consider documents provided to it as part of the agenda pack prepared by the Department of Planning. However, it appears that the Department of Planning failed to provide the letter to the CPA. There is no reference to it in the agenda pack or the minutes of the meeting.

26. On 17 March 2025, the Director of Planning acknowledged that an appeal had been lodged and informed the Applicant that it would be progressed by the Deputy Director of Planning.

27. On 22 March 2025, the Applicant wrote to the Director of Planning requesting information to help her make sense of the allegations against her. She stated, in part:

“[H]ow do I disprove what I do not know to contend. How was it that I was accused of doing something commercial - what was positioned as a wrongdoing?”

I do not know which person(s) asked Planning to go out to my land - how do I broach their concerns or possibly errant conclusions.”

28. In response, the Planning Department wrote:

“please note that the documents that could be provided to you (outside of the FOI remit) would be the following:

- The relevant Section of the Planning Regulations/Law;*
- The Enforcement Notice”*

29. The implication was that the Applicant was not entitled to know anything about the alleged impacts of the alleged commercial use.

30. By separate email on 24 March 2025, the Applicant asked what information she should bring to the hearing of her appeal.

31. On 24 March 2025, the Deputy Director of Planning responded:

“The enforcement notice was issued for the unauthorized use of the property for commercial use. As you have now appealed the issuance of the notice, the purpose of the appeal hearing is to provide you an opportunity to provide your case to the Central Planning Authority that the terms of the notice are incorrect and that the property is not being used for commercial purposes.”

32. Thus, the Deputy Director provided no explanation as to:

- (1) Why the use of the land for the wedding of a family friend, with no payment, was thought to constitute commercial use.
- (2) What the planning impacts of the use were thought to be.
- (3) Why, as a matter of fact and degree, the impacts were thought to give rise to a *material* change of use.

33. On 30 June 2025, the Applicant wrote to the Deputy Director, stating in part:

“what I hosted as the landowner Feb 16th 2026 was a private gathering/party to the benefit of local Caymanian family celebrating a deeply significant life moment. There was no business enhancement, there was no networking or collaboration, there was no marketing, there was nothing to trade, sell or purchase, there was no product launched, there was no trade show, there were no services or professional relationships for commercial gain or for business growth. There was no advertising There was no branding. Feb 15th had no markings of a commercial event. The couple Alisha and Joshua are simply a young couple wishing to celebrate their significant life moment with loved ones. People who came were asked by specific wedding invitation to friends and family to celebrate the union.

...

I am friends with the Tugman family a well-respected local family and gave permission to hold their wedding to give family and friends the opportunity to share their special

moment in the beauty of Cayman. The gathering itself was a contained gathering with extremely limited noise, parking off-site nor any other nuisance factor to neighbours.

...

[It was] Simply a private party.”

34. Again, it appears that the Department of Planning failed to provide that letter to the CPA. It did not form part of the agenda pack and there is no reference to it in the CPA minutes.

35. The Applicant was not provided with any evidence or further particulars of the alleged breach of planning control in advance of the hearing or at the hearing.

36. Nobody was present at the hearing other than the Applicant and the members of the CPA.

37. The minutes of the hearing record the CPA to have told the Applicant at the hearing that:

“CPA noted... that the neighbours are not happy...”.

“CPA noted that there were people in attendance at this meeting with concerns”.

38. The CPA failed to disclose to the Applicant what these concerns were said to be. In relation to the second comment, it is unclear to which people and to which meeting the CPA was referring. As noted above, there was nobody present at the hearing before the CPA other than the Applicant and the members of the CPA.

39. At the hearing, the CPA directed itself as follows in respect of the meaning of “commercial use”: *“Commercial also applies to events without money changing hands”* (emphasis added). The implication was that the CPA thought that “commercial use” includes non-commercial use. It did not explain why it took that view.

40. At the end of the hearing, without any deliberation and without giving any reasons, the CPA announced that it would dismiss the appeal.

41. On 21 July 2025, the Director of Planning (whose Enforcement Notice was under appeal to the CPA) issued the decision which dismissed the appeal. This stated, in full: *“At a meeting*

of the Central Planning Authority held on June 25, 2025 your application was considered and it was resolved to dismiss the appeal as the appellant did not provide sufficient evidence that this was not a commercial use. In addition, the Authority determined that the use causes negative impacts upon the surrounding neighbourhood”.

42. The Applicant was never told what “*negative impacts upon the surrounding neighbourhood*” she was alleged to have caused.

D. GROUNDS FOR JUDICIAL REVIEW

D.1 Ground 1 – procedural unfairness 1: failure to inform the Applicant of the case she had to meet

43. The Development and Planning Act and the regulations made under the Act make no provision for ensuring the procedural fairness of appeals against enforcement notices. However, as explained by the Court of Appeal of England and Wales:

“That the common law will ‘supply the omission of the legislature’ has not been in doubt since Cooper v Wandsworth Board of Works (1863) 14 CB (NS) 180 (Byles J); see also the more recent decision of the House of Lords in Lloyd v McMahon [1987] AC 625. Accordingly, the duty to act fairly or the requirements of procedural fairness (what in the past were called the rules of natural justice) will readily be implied into a statutory framework even when the legislation is silent and does not expressly require any particular procedure to be followed” (R (Citizens UK) v Secretary of State for the Home Department [2018] 4 WLR 123, para 68, per Singh LJ).

44. In any event, section 19(1) of the Constitution Order provides, so far as relevant: “*All decisions and acts of public officials must be ...procedurally fair.*” Section 28 of the Constitution Order defines “*public official*” to include “*a public or governmental body*”.

45. What fairness requires depends on the context (*R v Secretary of State for the Home Department, Ex p Doody* [1994] 1 AC 531, 560, per Lord Mustill). Here, the Enforcement Notice interferes with property rights and gives rise to criminal liability. Accordingly, a high standard of fairness is required in this context.

46. It does not matter who, if anyone, was responsible for the unfairness. The question of whether the decision-making process was fair is to be judged objectively by the Court (*R (Citizens UK) v Secretary of State for the Home Department* [2018] 4 WLR 123, para 75, *per* Singh LJ).

47. The Court of Appeal of England and Wales has summarised what fairness requires in the context of planning appeals, as follows:

“(1) Any party to a planning inquiry is entitled (i) to know the case which he has to meet and (ii) to have a reasonable opportunity to adduce evidence and make submissions in relation to that opposing case. (2) If there is procedural unfairness which materially prejudices a party to a planning inquiry that may be a good ground for quashing the inspector's decision” (*Hopkins Developments Ltd v Secretary of State for Communities and Local Government* [2014] PTSR 1145, para 62, *per* Jackson LJ)

48. The procedure in this case was not fair because:

- (1) A central question for the purposes of determining whether there was a breach of planning control was whether the alleged change of use was material in planning terms. That turns on the planning impacts of the alleged use and is a question of fact and degree.
- (2) That question could only be properly assessed on evidence as to the planning impacts of the alleged use.
- (3) Fairness required the Department of Planning and/or the CPA to tell the Applicant what the alleged adverse planning impacts were and the evidence relied on. For example, was it said that the wedding had adverse noise impacts, adverse parking impacts etc? If so, what was the evidence of this?
- (4) The Applicant was not told in advance of the hearing what the material planning impacts were said to be or what evidence the Department of Planning relied on. She did

not know the case she had to meet. Indeed, the Applicant was not even told at the hearing what the “*concerns*” were or why the neighbours were “*not happy*”.

(5) That failure was particularly striking given that the Applicant had asked in advance of the hearing to be told the case against her (see, in particular, her email of 22 March 2025).

(6) It appears, from the CPA’s reference to the concerns of neighbours, that it considered material that was not made available to the Applicant.

49. In those circumstances, the procedure in this case was unfair.

D.2 Ground 2 - procedural unfairness 2: failure to provide the CPA with the Applicant’s submissions

50. As noted above:

(1) It is the CPA’s procedure that documents must be provided in advance so that they can be included in the agenda pack. Further documents will not be accepted on the day. The agenda pack is prepared by the Department of Planning.

(2) The Applicant provided the Department of Planning with two significant documents: the letter from the couple who were married (sent on 12 March 2025) and the Applicant’s representations sent on 30 June 2025. These documents explained that the wedding was non-commercial and that the planning impacts of the wedding were minimal. The documents were therefore material to the questions of (i) whether the wedding gave rise to a change of use of the Land and (ii) if so, whether the change of use was material in planning terms.

(3) The Department of Planning failed to provide those documents to the CPA, and the CPA therefore failed to take them into account.

51. That was procedurally unfair.

D.3 Ground 3 - procedural fairness 3: lack of independence and/or predetermination

52. There was a very close relationship between the appellate body (the CPA) and the body which took the decision under appeal (the Planning Department):

- (1) The Planning Department prepared the agenda pack for the CPA.
- (2) As set out under ground 2 above, the Planning Department omitted from the agenda pack the material that supported the appeal.
- (3) It appears that Planning Department officials discussed the case with members of the CPA in advance of the appeal hearing because there was nothing in the appeal brief to explain the CPA's references to "*the neighbours are not happy...*" and "*there were people in attendance at this meeting with concerns*".
- (4) The CPA announced its decision without deliberating.
- (5) The CPA's reasons were given by the Planning Department (in the decision letter dated 21 July 2025).

53. Those circumstances gave rise to unfairness, a perception of lack of independence, an appearance of bias (arising from the close connection between the appellate body and the body whose decision was under appeal) and/or an appearance of predetermination.

D.4 Ground 4 - misdirection on the meaning of commercial activity

54. The Enforcement Notice alleged that there had been a change of use of the Land from residential to commercial. On an objective reading, the allegation was that the Land had been used to generate a profit because:

- (1) That is the ordinary meaning of the adjective "*commercial*"; and
- (2) That is how the expression is used in the Development and Planning Regulations. All the references to commercial activity in the Regulations are to profit-generating activity

(see, for example, regulation 13). In the Regulations, non-commercial and recreational activities fall under the heading of “*institutional*” use (see regulation 14).

55. The CPA misdirected itself that “*commercial also applies to events without money changing hands*” and that a wedding for family friends constitutes commercial use.

D.5 Ground 5 - failure to consider whether the enforcement notice exceeded what was necessary

56. Enforcement notices cannot lawfully restrain existing use rights, including ancillary use rights: *Mansi v Elstree Rural District Council* (1965) 16 P&CR 153.

57. Some commercial activity is liable to be ancillary to residential use. For example, holding a small yard sale or working remotely from home.

58. However, the Enforcement Notice made it a criminal offence to conduct any commercial use of the Land, regardless of its nature, regardless of its scale and regardless of its planning impacts. On the face of the Enforcement Notice it would therefore be a criminal offence, for example, to hold a small yard sale.

59. Thus, even if (contrary to ground 4) the Planning Department was right to conclude that the wedding on 15 February 2025 constituted a material change use, there was (at least) a strong argument that the Enforcement Notice went too far.

60. This was a case in which an unpresented appellant submitted that the enforcement notice was unjust and, on the face of the Enforcement Notice, there was an obvious case for concluding that the Enforcement Notice went too far. In those circumstances, it was incumbent on the CPA to consider whether it was appropriate for the Enforcement Notice to be varied pursuant to statutory ground (e). It failed to do so. The agenda pack, the minutes of the CPA’s meeting and the terms of the decision letter indicate that it gave this no thought at all.

D.6 Ground 6 – inadequate reasons and/or process irrationality

61. The giving of reasons for a planning decision “*is a salutary safeguard to enable interested parties to know that the decision has been taken on relevant and rational grounds and that any applicable statutory criteria have been observed*” (*Save Britain’s Heritage v Number 1 Poultry Ltd* [1991] 1 WLR 153, 170, per Lord Bridge).
62. As to the standard of reasons required: “*The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the ‘principal important controversial issues’, disclosing how any issue of law or fact was resolved*” (*South Bucks District Council v Porter (No 2)* [2004] 1WLR 1953, para 36, per Lord Brown).
63. Here, the reasons given in the decision letter dated 21 July 2025, read in the context of the CPA’s minutes, do not tell the Appellant why she lost on the principal important controversial issues. Why did the CPA think that a wedding for family friends, for which there was no payment, constituted a commercial use? What impacts on neighbours did the CPA think that the wedding had caused which meant that it constituted a material change of use?
64. Separately from the duty to provide adequate reasons, “*process rationality*” requires that “*the process of reasoning should contain no logical error or critical gap*” (*R (KP) v Secretary of State for Foreign, Commonwealth and Development Affairs* [2025] EWHC 370 (Admin), para 56). In the absence of any explanation in the decision-letter as to why the CPA thought that a wedding for family friends, for which there was no payment, constituted a commercial use, what the impacts of the wedding were, and why those impacts were thought sufficient to result in a material change of use, there was a critical gap in the CPA’s reasoning which rendered the decision “*process irrational*”.

E. RELIEF

65. The Applicant seeks:

- (1) An order quashing the CPA's decision.
- (2) Such further or other relief as is needed to give effect to the judgment of the Court.
- (3) Costs.

F. CONCLUSION

66. For the reasons set out above, the Applicant seeks leave to apply for judicial review.



ND COURT OF THE CAYMAN ISLANDS

CAUSE NO: G266 of 2025

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BETWEEN

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ORIGINATING APPLICATION FOR JUDICIAL REVIEW

A. INTRODUCTION AND SUMMARY

1. This claim concerns the Applicant's residential property in Savannah: Block 28E Parcel 152 ("**the Land**"). The Land is a beautiful, ocean-facing area of land.
2. On 15 February 2025, the Applicant allowed family friends to hold their wedding at the Land. The Applicant was a guest at the wedding and received no payment.
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4. The Enforcement Notice required the Appellant to either obtain retrospective planning permission or cease all “*commercial use*”, such that the Applicant would commit a criminal offence if, for example, she were to hold a small yard sale or were to work remotely from home.
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 - (1) Statutory ground (a) - the matters alleged in the enforcement notice do not constitute a breach of planning control (*e.g.* there has been no change of use or, if there has been a change of use, it is not material).
 - (2) Statutory ground (e) – the steps required by the enforcement notice exceed what is necessary to remedy any breach of planning control.
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ited by the Enforcement Notice” before the Enforcement Notice had taken effect. The stop notice only applied to the period before the requirements of the Enforcement Notice came into force and nothing in this claim for judicial review turns on the stop notice.

21. On 19 February 2025, a planning officer emailed the Enforcement Notice to the Applicant. The covering email stated that examples of prohibited activities include: “*Funerals, weddings, parties, concerts, staff functions, family fun days, events put on by a company or church etc. Please note if you wish to continue having events, planning permission needs to be obtained, otherwise no more events should be happening on the premises*”. It will be noted that the Planning Department thereby appeared to assert that the effect of the Enforcement Notice was that a family party would constitute a criminal offence.
22. By email dated 9 March 2025, the Applicant appealed against the Enforcement Notice. She was not legally represented and expressed the grounds of appeal in the following terms:

“I am contesting this enforcement order CE25-0027, it is unjust. My activities with guests on the 15th - two days earlier 15th February, does not fit the label of a commercial endeavour. I do not understand, the origin of the complaint or how I could possibly be accused of holding a commercial endeavour. I am contesting this enforcement order it is unjust.

I would appreciate a meeting with you, to consider the merits of the facts and the reasons why the accusation of a commercial use is unjust.”

23. On 12 March 2025, the Applicant provided the Director of Planning with a letter from the couple who were married at the Land on 15 February 2025. This recorded, in part:

“I am writing to express my deepest gratitude for your incredible generosity in allowing us to use the seaside land at the end of the Savannah Grand for our wedding on February 15th. Your kindness in granting us permission to celebrate our special day in such a breathtaking location made all the difference, and we are truly appreciative.

We acknowledge that at no point was there a formal contract between us and that you, as the rightful owner of the land, graciously gave your permission without any expectation of payment. Despite our offers, you firmly refused any form of compensation, a testament to your generosity and goodwill.”

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24. As noted above, the CPA's rules of procedure provide that it will only consider documents provided to it as part of the agenda pack prepared by the Department of Planning. However, it appears that the Department of Planning failed to provide the letter to the CPA. There is no reference to it in the agenda pack or the minutes of the meeting.
25. On 17 March 2025, the Director of Planning acknowledged that an appeal had been lodged and informed the Applicant that it would be progressed by the Deputy Director of Planning.
26. On 22 March 2025, the Applicant wrote to the Director of Planning requesting information to help her make sense of the allegations against her. She stated, in part:

"[H]ow do I disprove what I do not know to contend. How was it that I was accused of doing something commercial - what was positioned as a wrongdoing?"

I do not know which person(s) asked Planning to go out to my land - how do I broach their concerns or possibly errant conclusions."

27. In response, the Planning Department wrote:

"please note that the documents that could be provided to you (outside of the FOI remit) would be the following:

- The relevant Section of the Planning Regulations/Law;*
- The Enforcement Notice"*

28. The implication was that the Applicant was not entitled to know anything about the alleged impacts of the alleged commercial use.
29. By separate email on 24 March 2025, the Applicant asked what information she should bring to the hearing of her appeal.
30. On 24 March 2025, the Deputy Director of Planning responded:

“The enforcement notice was issued for the unauthorized use of the property for commercial use. As you have now appealed the issuance of the notice, the purpose of the appeal hearing is to provide you an opportunity to provide your case to the Central Planning Authority that the terms of the notice are incorrect and that the property is not being used for commercial purposes.”

31. Thus, the Deputy Director provided no explanation as to:

- (1) Why the use of the land for the wedding of a family friend, with no payment, was thought to constitute commercial use.
- (2) What the planning impacts of the use were thought to be.
- (3) Why, as a matter of fact and degree, the impacts were thought to give rise to a *material* change of use.

32. On 30 June 2025, the Applicant wrote to the Deputy Director, stating in part:

“what I hosted as the landowner Feb 16th 2026 was a private gathering/party to the benefit of local Caymanian family celebrating a deeply significant life moment. There was no business enhancement, there was no networking or collaboration, there was no marketing, there was nothing to trade, sell or purchase, there was no product launched, there was no trade show, there were no services or professional relationships for commercial gain or for business growth. There was no advertising There was no branding. Feb 15th had no markings of a commercial event. The couple Alisha and Joshua are simply a young couple wishing to celebrate their significant life moment with loved ones. People who came were asked by specific wedding invitation to friends and family to celebrate the union.

...

I am friends with the Tugman family a well-respected local family and gave permission to hold their wedding to give family and friends the opportunity to share their special moment in the beauty of Cayman. The gathering itself was a contained gathering with extremely limited noise, parking off-site nor any other nuisance factor to neighbours.

...

[It was] Simply a private party.”

33. Again, it appears that the Department of Planning failed to provide that letter to the CPA. It did not form part of the agenda pack and there is no reference to it in the CPA minutes.
34. The Applicant was not provided with any evidence or further particulars of the alleged breach of planning control in advance of the hearing or at the hearing.
35. The minutes of the hearing record the CPA to have told the Applicant at the hearing that:

“CPA noted... that the neighbours are not happy...”.

“CPA noted that there were people in attendance at this meeting with concerns”.

36. The CPA failed to disclose to the Applicant what these concerns were said to be. In relation to the second comment, it is unclear to which people and to which meeting the CPA was referring. As noted above, there was nobody present at the hearing before the CPA other than the Applicant and the members of the CPA.
37. At the hearing, the CPA directed itself as follows in respect of the meaning of “commercial use”:
“Commercial also applies to events without money changing hands” (emphasis added). The implication was that the CPA thought that “commercial use” includes non-commercial use. It did not explain why it took that view.
38. At the end of the hearing, without any deliberation and without giving any reasons, the CPA announced that it would dismiss the appeal.
39. On 21 July 2025, the Director of Planning (whose Enforcement Notice was under appeal to the CPA) issued the decision which dismissed the appeal. This stated, in full: *“At a meeting of the Central Planning Authority held on June 25, 2025 your application was considered and it was resolved to dismiss the appeal as the appellant did not provide sufficient evidence that this was not a commercial use. In addition, the Authority determined that the use causes negative impacts upon the surrounding neighbourhood”.*
40. The Applicant was never told what “negative impacts upon the surrounding neighbourhood” she was alleged to have caused.

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D. GROUNDS FOR JUDICIAL REVIEW

D.1 Ground 1 – procedural unfairness 1: failure to inform the Applicant of the case she had to meet

41. The Development and Planning Act and the regulations made under the Act make no provision for ensuring the procedural fairness of appeals against enforcement notices. However, as explained by the Court of Appeal of England and Wales:

“That the common law will ‘supply the omission of the legislature’ has not been in doubt since Cooper v Wandsworth Board of Works (1863) 14 CB (NS) 180 (Byles J); see also the more recent decision of the House of Lords in Lloyd v McMahon [1987] AC 625. Accordingly, the duty to act fairly or the requirements of procedural fairness (what in the past were called the rules of natural justice) will readily be implied into a statutory framework even when the legislation is silent and does not expressly require any particular procedure to be followed” (R (Citizens UK) v Secretary of State for the Home Department [2018] 4 WLR 123, para 68, per Singh LJ).

42. In any event, section 19(1) of the Constitution Order provides, so far as relevant: *“All decisions and acts of public officials must be ...procedurally fair.”* Section 28 of the Constitution Order defines “public official” to include *“a public or governmental body”*.
43. What fairness requires depends on the context (*R v Secretary of State for the Home Department, Ex p Doody* [1994] 1 AC 531, 560, *per* Lord Mustill). Here, the Enforcement Notice interferes with property rights and gives rise to criminal liability. Accordingly, a high standard of fairness is required in this context.
44. It does not matter who, if anyone, was responsible for the unfairness. The question of whether the decision-making process was fair is to be judged objectively by the Court (*R (Citizens UK) v Secretary of State for the Home Department* [2018] 4 WLR 123, para 75, *per* Singh LJ).
45. The Court of Appeal of England and Wales has summarised what fairness requires in the context of planning appeals, as follows:

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“(1) Any party to a planning inquiry is entitled (i) to know the case which he has to meet and (ii) to have a reasonable opportunity to adduce evidence and make submissions in relation to that opposing case. (2) If there is procedural unfairness which materially prejudices a party to a planning inquiry that may be a good ground for quashing the inspector’s decision” (Hopkins Developments Ltd v Secretary of State for Communities and Local Government [2014] PTSR 1145, para 62, per Jackson LJ)

46. The procedure in this case was not fair because:

- (1) A central question for the purposes of determining whether there was a breach of planning control was whether the alleged change of use was material in planning terms. That turns on the planning impacts of the alleged use and is a question of fact and degree.
- (2) That question could only be properly assessed on evidence as to the planning impacts of the alleged use.
- (3) Fairness required the Department of Planning and/or the CPA to tell the Applicant what the alleged adverse planning impacts were and the evidence relied on. For example, was it said that the wedding had adverse noise impacts, adverse parking impacts etc? If so, what was the evidence of this?
- (4) The Applicant was not told in advance of the hearing what the material planning impacts were said to be or what evidence the Department of Planning relied on. She did not know the case she had to meet. Indeed, the Applicant was not even told at the hearing what the “concerns” were or why the neighbours were “not happy”.
- (5) That failure was particularly striking given that the Applicant had asked in advance of the hearing to be told the case against her (see, in particular, her email of 22 March 2025).
- (6) It appears, from the CPA’s reference to the concerns of neighbours, that it considered material that was not made available to the Applicant.

47. In those circumstances, the procedure in this case was unfair.

D.2 Ground 2 - procedural unfairness 2: failure to provide the CPA with the Applicant’s submissions

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48. As noted above:

- (1) It is the CPA's procedure that documents must be provided in advance so that they can be included in the agenda pack. Further documents will not be accepted on the day. The agenda pack is prepared by the Department of Planning.
- (2) The Applicant provided the Department of Planning with two significant documents: the letter from the couple who were married (sent on 12 March 2025) and the Applicant's representations sent on 30 June 2025. These documents explained that the wedding was non-commercial and that the planning impacts of the wedding were minimal. The documents were therefore material to the questions of (i) whether the wedding gave rise to a change of use of the Land and (ii) if so, whether the change of use was material in planning terms.
- (3) The Department of Planning failed to provide those documents to the CPA, and the CPA therefore failed to take them into account.

49. That was procedurally unfair.

D.3 Ground 3 - procedural fairness 3: lack of independence and/or predetermination

50. There was a very close relationship between the appellate body (the CPA) and the body which took the decision under appeal (the Planning Department):

- (1) The Planning Department prepared the agenda pack for the CPA.
- (2) As set out under ground 2 above, the Planning Department omitted from the agenda pack the material that supported the appeal.
- (3) It appears that Planning Department officials discussed the case with members of the CPA in advance of the appeal hearing because there was nothing in the appeal brief to explain the CPA's references to "*the neighbours are not happy...*" and "*there were people in attendance at this meeting with concerns*".
- (4) The CPA announced its decision without deliberating.

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(5) The CPA's reasons were given by the Planning Department (in the decision letter dated 21 July 2025).

51. Those circumstances gave rise to unfairness, a perception of lack of independence, an appearance of bias (arising from the close connection between the appellate body and the body whose decision was under appeal) and/or an appearance of predetermination.

D.4 Ground 4 - misdirection on the meaning of commercial activity

52. The Enforcement Notice alleged that there had been a change of use of the Land from residential to commercial. On an objective reading, the allegation was that the Land had been used to generate a profit because:

(1) That is the ordinary meaning of the adjective "*commercial*"; and

(2) That is how the expression is used in the Development and Planning Regulations. All the references to commercial activity in the Regulations are to profit-generating activity (see, for example, regulation 13). In the Regulations, non-commercial and recreational activities fall under the heading of "*institutional*" use (see regulation 14).

53. The CPA misdirected itself that "*commercial also applies to events without money changing hands*" and that a wedding for family friends constitutes commercial use.

D.5 Ground 5 - failure to consider whether the enforcement notice exceeded what was necessary

54. Enforcement notices cannot lawfully restrain existing use rights, including ancillary use rights: *Mansi v Elstree Rural District Council* (1965) 16 P&CR 153.

55. Some commercial activity is liable to be ancillary to residential use. For example, holding a small yard sale or working remotely from home.

56. However, the Enforcement Notice made it a criminal offence to conduct any commercial use of the Land, regardless of its nature, regardless of its scale and regardless of its planning impacts. On the face

of the Enforcement Notice it would therefore be a criminal offence, for example, to hold a small yard sale.

57. Thus, even if (contrary to ground 4) the Planning Department was right to conclude that the wedding on 15 February 2025 constituted a material change use, there was (at least) a strong argument that the Enforcement Notice went too far.
58. This was a case in which an unpresented appellant submitted that the enforcement notice was unjust and, on the face of the Enforcement Notice, there was an obvious case for concluding that the Enforcement Notice went too far. In those circumstances, it was incumbent on the CPA to consider whether it was appropriate for the Enforcement Notice to be varied pursuant to statutory ground (e). It failed to do so. The agenda pack, the minutes of the CPA's meeting and the terms of the decision letter indicate that it gave this no thought at all.

D.6 Ground 6 – inadequate reasons and/or process irrationality

59. The giving of reasons for a planning decision “*is a salutary safeguard to enable interested parties to know that the decision has been taken on relevant and rational grounds and that any applicable statutory criteria have been observed*” (*Save Britain's Heritage v Number 1 Poultry Ltd* [1991] 1 WLR 153, 170, per Lord Bridge).
60. As to the standard of reasons required: “*The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the 'principal important controversial issues', disclosing how any issue of law or fact was resolved*” (*South Bucks District Council v Porter (No 2)* [2004] 1WLR 1953, para 36, per Lord Brown).
61. Here, the reasons given in the decision letter dated 21 July 2025, read in the context of the CPA's minutes, do not tell the Appellant why she lost on the principal important controversial issues. Why did the CPA think that a wedding for family friends, for which there was no payment, constituted a commercial use? What impacts on neighbours did the CPA think that the wedding had caused which meant that it constituted a material change of use?

62. Separately from the duty to provide adequate reasons, “*process rationality*” requires that “*the process of reasoning should contain no logical error or critical gap*” (*R (KP) v Secretary of State for Foreign*,

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Commonwealth and Development Affairs [2025] EWHC 370 (Admin), para 56). In the absence of any explanation in the decision-letter as to why the CPA thought that a wedding for family friends, for which there was no payment, constituted a commercial use, what the impacts of the wedding were, and why those impacts were thought sufficient to result in a material change of use, there was a critical gap in the CPA's reasoning which rendered the decision "*process irrational*".

E. RELIEF

63. The Applicant seeks:

- (1) An order quashing the CPA's decision.
- (2) Such further or other relief as is needed to give effect to the judgment of the Court.
- (3) Costs.

F. CONCLUSION

64. For the reasons set out above, the decision of the CPA should be quashed.