



**In the High Court of Justice
King's Bench Division
Administrative Court**

AC-2025-BHM-000260



In the matter of an application for judicial review AC-2025-BHM-000260

THE KING

on the application of

RICHBOROUGH ESTATES LIMITED

Claimant

-and-

HINKLEY AND BOSWORTH BOROUGH COUNCIL

Defendant

-and-

MARKET BOSWORTH PARISH COUNCIL

Interested Party

Notification of the Judge's Decision (CPR 54.11, 54.12)

Following consideration of the documents lodged by the parties.

ORDER BY HIS HONOUR JUDGE JARMAN KC

Sitting as a judge of the High Court

1. Permission: Permission to apply for judicial review is refused.
2. Costs: The Claimant must pay the cost of the Defendant and of the Interested Party in preparing the Acknowledgement of Service and Summary Grounds of Defence, summarily assessed in the sum of £3,840 and £3,600 respectively.
3. Further provision as to costs:
 - (a) Where the Claimant does not make a valid request for reconsideration of the decision to refuse permission to apply for judicial review (see notes below):
 - (i) Within 14 days of the date of this Order, the Claimant may file and serve a notice of objection (maximum 3 pages) showing why the order in paragraph 2 should not be made. The notice should include any objections to the principle that costs should be paid and/or as to the amount assessed.
 - (ii) If the Claimant does not file and serve a notice of objection within that period, paragraph 2 is a final order and the Claimant must

pay the sum specified within 14 days of the date of this Order (in accordance with CPR 44.7(1)(a)).

(iii) If the Claimant files and serves a notice of objection in accordance with (i) above:

- the other party may, within 14 days after the date on which the notice is served, file and serve submissions in response (maximum 3 pages);
- if the other party files and serves on the Claimant submissions in response, the Claimant may, within 7 days after the date on which the other party's submissions in response are served, file and serve reply submissions (maximum 3 pages);
- the Court will determine what costs order to make on the papers;
- any costs ordered must be paid within 14 days of the date of the Court's order (in accordance with CPR 44.7(1)(a)), unless the Court specifies another date.

(b) Where the Claimant makes a valid request for reconsideration (see notes below):

(i) Paragraph 2 does not become final as respects the costs payable to any party unless, insofar as it relates to that party:

- the Claimant withdraws the application for permission; or
- permission to apply for judicial review is refused on all grounds after a hearing.

(ii) If the Claimant wishes to contend that the order in paragraph 2 should not be made even if permission is refused on all grounds, the Claimant must within 14 days after the date of this Order file and serve (together with the request for reconsideration) a notice of objection (maximum 3 pages). The notice should include any objections to the principle that costs should be paid and/or as to the amount assessed.

(iii) If the Claimant files and serves a notice of objection in accordance with (ii) above:

- the other party may, within 7 days after the date on which the notice is served, file and serve submissions in response (maximum 3 pages);
- if the other party files and serves on the Claimant submissions in response, the Claimant may, within 7 days after the date on which those submissions are served, file and serve reply submissions (maximum 3 pages);

- the Court will determine what costs order to make at or after the permission hearing;
 - any costs ordered must be paid within 14 days of the date of the Court's order (in accordance with CPR 44.7(1)(a)), unless the Court specifies another date.
4. Renewal directions: Where the Claimant makes a valid request for reconsideration (see notes below), the following directions apply:
- (a) The permission hearing is to be listed with a time estimate of 1 hour, including submissions by the parties and an oral judgment by the judge. If the Claimant considers that more time should be allowed, the time estimate must be included with the request for reconsideration of permission.
 - (b) Within 21 days of the service of this Order, the Claimant must file and serve an electronic copy of the Permission Hearing Bundle, prepared in accordance with the guidance on the Administrative Court website and containing the following documents:
 - (i) the Claim Form, Statement of Facts and Grounds and any evidence or other documents filed with the Claim Form;
 - (ii) any Acknowledgment of Service, Summary Grounds of Defence and any accompanying documents served by any Defendant and/or Interested Party;
 - (iii) any Reply or other document served by any party to the proceedings at the paper permission stage;
 - (iv) this Order;
 - (v) the renewed application for permission to apply for judicial review (on Form 86B);
 - (vi) any other document the Court would be likely to consider material to its decision on permission to apply for judicial review.
 - (c) If the Claimant fails to comply with sub-paragraph (b), permission will be determined on the basis of the renewal notice and the documents before the Court at the paper stage, unless at the hearing the Court otherwise directs.
 - (d) At least 7 days before the date listed for the hearing, the Claimant must file and serve:
 - (i) a skeleton argument, maximum 10 pages;
 - (ii) an electronic bundle containing any authorities which the Court needs to read at the hearing (the Authorities Bundle: see para. 22.1.2 of the Administrative Court Judicial Review Guide); and

- (iii) if requested by the Court, a hard copy version of the Permission Hearing Bundle and Authorities Bundles.
- (e) At least 7 days before the date listed for the hearing, any party other than the Claimant intending to participate in the hearing must file and serve any skeleton argument, maximum 10 pages.
- (f) If a party fails to comply with sub-paragraph (b), (d) and/or (e), the Court may have regard to the failure when considering any question about costs at the hearing.

REASONS

- (1) The role of a neighbourhood development plan and of an examiner dealing with the draft of the plan were summarised by Lindblom LJ in *R(DLA Delivery Ltd) v Leeds City Council* [2017] EWCA Civ 58. Section 38(A)(2) of the Planning and Compulsory Purchase Act 2004 defines such a plan as "a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan". Once made, a neighbourhood development plan becomes part of the development plan (section 38(3)(c) of the 2004 Act), in accordance with which planning applications must be determined unless material considerations indicate otherwise (section 38(6)). Lindblom LJ also observed that the role of an examiner into the plan is relatively limited.
- (2) As the examiner in this case acknowledged, she was required under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 to establish whether, amongst other matters, the policies of the plan are in line with the requirements of Section 38A of the 2004 Act and whether the plan meets basic conditions, including whether it has regard to national policies and guidance and is in general conformity with the strategic policies of the development plan for the area. In carrying out her examination, she reviewed written submissions, including those from the Claimant, and responses and evidence.
- (3) The Defendant's request to the examiner for clarification of paragraph 6.14.4 of the plan was the subject of public debate between the Defendant as the decision maker and the Interested Party as promoter. Even if it is arguable that the Claimant should have been involved, the request resulted in a minor amendment to the explanatory memorandum for clarification purposes and not to policy. As the Claimant's submissions to the examiner acknowledged, such memoranda amount to guidance only and do not have the force of policy.
- (4) In respect of policy BD/4, the examiner noted tensions with NPPF but used her planning judgment, as she was entitled to do, to proceed on the basis that weight given to the harm to a designated asset will be greater than that given to harm to a non-designated asset.
- (5) As for policy CE3, the examiner was entitled in the exercise of her planning judgment to take into account the most recent landscape review. Her reference to conserving, and where appropriate, enhancing the character of the landscape does not amount to a blanket ban but applies where proposed development has a significant adverse impact on an important view, vista or the character of the parish, unless it can be demonstrated how that development is appropriate and considered sustainable development, and can integrate with the character of the landscape.

- (6) It is clear that the examiner had appropriate regard to national policy and guidance and also clear that she was entitled to conclude in her planning judgment that the plan was in general conformity with the strategic policies of the development plan.
- (7) None of the grounds is arguable.

Signed: HHJ Jarman KC
November 2025

Date: 28

Requests to reconsider permission at a hearing pursuant to CPR
54.12

Where the Claimant wishes to request reconsideration of the refusal of permission at a hearing:

- (a) The request must be made by completing and filing Form 86B within 7 days after the date of service of this Order.
- (b) A fee is payable on filing Form 86B. Details of the current fees are at <https://www.gov.uk/court-fees-what-they-are>. The form to make an application for remission of a court fee can be obtained at <https://www.gov.uk/get-help-with-court-fees>.
- (c) If the Claimant does not pay the fee or submit a certified application for fee remission, paragraph 1 of this Order is final.

The date of service of this Order is calculated from the date in the section below

For completion by the Administrative Court Office

Sent to:

The Claimant / The Claimant's solicitors []

The Defendant / The Defendant's solicitors []

The Interested party / The Interested Party's solicitors []

Date:

Ref No.