



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

AC-2024-LON-003698



In the matter of an application for judicial review

THE KING on the application of **KINGSTON PARISH COUNCIL**

AC-2024-LON-003698
Claimant

-and-

ARUN DISTRICT COUNCIL

Defendant

SEAWARD PROPERTIES LIMITED

Interested Party

Notification of the Judge's decision on the application for permission to apply for judicial review (CPR 54.11, 54.12)

Following consideration of the documents lodged by the Claimant and the Acknowledgements of Service filed by the Defendant and the Interested Party

ORDER by Mr C M G Ockelton sitting as a judge of the High Court

1. The application for permission to apply for judicial review is refused.
2. The application is certified as totally without merit.
3. This is an Aarhus claim and the claimant's liability to pay costs is capped at £10,000
4. Costs of preparing the Acknowledgement of Service are to be paid by the Claimant to the Defendant, summarily assessed and capped at £5,000 and costs of preparing the Acknowledgement of Service are to be paid by the Claimant to the Defendant, summarily assessed and capped at £5,000.
5. Paragraph 4 above is a final costs order unless within 14 days of the date of this Order the Claimant files with the Court and serves on the receiving parties a notice of objection setting out the reasons why it should not be required to pay costs (either as required by the costs order, or at all). If the Claimant files and serves notice of objection, the receiving parties (or either of them) may, within 14 days of the date it is served, file and serve submissions in response. The Claimant may, within 7 days of the date on which the response is served, file and serve submissions in reply, and the matter will be put before a judge for determination on the papers.

Reasons

1. There is nothing in the point raised in the single ground. The position in both decisions was that there would be a loss of grade 1 farming land, which would require justification as a departure from policy. The first decision was that, taken as a whole, the scheme there presented did not justify that departure. The second decision was that a different scheme, taken as a whole, did have benefits outweighing the departure from policy. The second decision was

- also underpinned by an investigation into the question of the extent to which it was realistic to find an alternative location.
2. There is no conceivable arguable basis for saying that the decision-maker needed to 'grapple with' the previous decision. There was no grappling to be done. It was merely a matter of history and demonstrated (if demonstration were necessary) that different proposals may lead to different outcomes. The previous decision did not arguably mean that the policy in question should be given any greater weight in a subsequent consideration of any new application in respect of the same site.
 3. The latter is the only basis upon which it could be said that there was an error of law that might have made a difference to the decision. Accordingly there is no legitimate basis upon which this claim could succeed: it is bound to fail.

CPR 54.12(7) APPLIES. THE CLAIMANT MAY NOT REQUEST THAT THE DECISION TO REFUSE PERMISSION TO APPLY FOR JUDICIAL REVIEW BE RECONSIDERED AT A HEARING.

Signed *C M G Ockelton*

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

For completion by the Administrative Court Office

Sent / Handed to

either the Claimant, and the Defendant [and the Interested Party]
or the Claimant's, and the Defendant's [and the Interested Party's] solicitors

Date: **13th February 2025**

Solicitors:

Ref No.