

## Costs Decision

Hearing held on 1 July 2025

Site visit made on 1 July 2025

**by Mr R Walker BA HONS DIPTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 29 July 2025**

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### **Costs application in relation to Appeal Ref: APP/E2001/W/25/3360560**

#### **Land off Ivy Park Road, Goole DN14 6YG**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by East Riding of Yorkshire Council for a full award of costs against Surebay Properties Ltd.
  - The appeal was against the refusal of planning permission for 18 new dwellings with garages and access roads.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council have outlined several reasons for its application for costs. These include a lack of co-operation with regards to the Statement of Common Ground, introducing fresh and substantial evidence at a late stage prolonging the proceedings, and providing information that is inaccurate. Moreover, it is put to me that the appeal follows a recent appeal decision in respect of the same development on the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period. As such, the Council consider the development is clearly not in accordance with the development plan, and there is inadequate supporting evidence to demonstrate that other material considerations mean the decision should have been made otherwise. The appellant has defended itself against the application for costs.
4. During the appeal process the Council adopted the Local Plan Update (LPU). In response the appellant sought to increase the affordable housing provision so as to accord with Policy H2 of the LPU as an exception site. No amendments were made to the design. It is not unreasonable for the appellant to respond in this manner, indeed the Council introduced new reasons for refusal in response to the LPU's adoption. Moreover, it will be seen from my decision that I had accepted the appellant's amendment. That the appellant had not demonstrated a specific local need or provided viability appraisals did not result in unnecessary or wasted expense in the appeal process on the part of the Council.

5. There is no reason why a Statement of Common Ground could not have been agreed, even on a more limited basis if the parties disagreed on what aspects should or should not be included. Not having an agreed statement did not foster an efficient Hearing. But I am not convinced that the parties not being able to reach an agreement amounts to unreasonable behaviour that has led to wasted expense in the appeal as matters of agreement were narrowed prior to the Hearing and agreed during it.
6. The appellant provided a large number of documents in the application, including matters relating to whether there were any reasonable available sites. This followed the Council's pre application advice where it stipulated in relation to application Ref: 22/03365 that it was not aware of the full reason for the withdrawal of this application. In that regard, I do not find it unreasonable for the appellant to seek to argue that the site is not viable for development and thus not reasonably available. The appellant sought to substantiate this position and whilst I have disagreed, this does not equate to unreasonable behaviour.
7. The appellant sought to resolve the outstanding technical flood risk matters in dispute between the main parties by way of a condition requiring a site-specific flood risk assessment. However, the appellant did provide a considerable amount of evidence, including technical evidence, new and older statements, and sought to substantiate its position during the Hearing. Moreover, whilst the same topic was discussed in the previous appeal Hearing, the decision did not go on to conclude on this matter having concluded on the Sequential Test. As such, it was not unreasonable for the appellant, having sought to overcome the Sequential Test, to seek to revisit that topic.
8. It is put to me that the appellant did not provide sufficient information on biodiversity considerations despite it being raised previously. It will be seen from my decision that I largely agree. However, the previous decision was not dismissed on biodiversity grounds. In any case, the deficiencies in the appellant's submission on this matter are not tantamount to unreasonable behaviour, as the appellant did seek to substantiate its position. The submission of the late evidence on newts narrowed the matters in dispute and therefore was not wasted expense in the appeal.
9. Both parties have expressed concerns about each other's evidence and made various assertions to support their arguments, including around the accuracy of each other's accounts and evidence. However, this is part of the appeal process as parties seek to defend their positions and I am not convinced that the extent that the appellant sought to articulate their arguments on the issues, or any inaccuracies made was unreasonable behaviour that led to wasted or unnecessary expense in the appeal.
10. To conclude, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
11. Accordingly, I determine that the costs application should fail, and no award is made.

*Mr R Walker*

INSPECTOR