

IN THE MATTER OF AN APPLICATION FOR PLANNING PERMISSION

BY BURLINGTON DEVELOPMENTS LONDON LIMITED ("THE
APPLICANT") TO THREE RIVERS DISTRICT COUNCIL ("THE
COUNCIL")

CALLED IN UNDER S.77 OF THE TOWN AND COUNTRY PLANNING
ACT 1990

RE. LAND EAST OF OXHEY LANE, CARPENDERS PARK

APPLICANT'S PROVISIONAL OUTLINE COSTS APPLICATION

1. In the past, call-in cases tended to concern applications in relation to which the LPA had either not yet reached a view at the time of call-in, or in relation to which the LPA was minded to grant but the Secretary of State decided that the decision should be made by him/her.
2. The present case is different. The Council's Planning Committee had, by the time of the call-in, already resolved to refuse planning permission. That was the very reason why the application was called-in (in line with recent procedural changes to facilitate the Secretary of State's ability to call in applications that the LPA proposes to refuse).
3. Accordingly, the cost of this inquiry is a direct result of the Planning Committee's resolution to refuse planning permission. Had the Secretary of State not called-in the application, then it would have been refused by the Council pursuant to the Committee's resolution, the Applicant would have appealed and the inquiry costs would still have resulted from the Planning Committee's decision.
4. Had the Planning Committee instead resolved to *grant* permission, in accordance with the professional advice of its professional case officer in their Officer's Report, then permission would thereafter have been

granted without the need for an inquiry.

5. Therefore the Applicant's costs have directly been caused by the Planning Committee's resolution to refuse.
6. That resolution was substantively unreasonable.
7. The Officer's Report provided a comprehensively and compellingly reasoned case for the grant of planning permission.
8. Members had the benefit of counsel advice from both the Applicant's K.C. and counsel instructed by the Council, which confirmed the soundness of the analysis in the Officer's Report.
9. The Secretary of State's direction to include the site in the Council's Regulation 19 local plan was a further affirmation of the principle of development of the site and the sustainability of its location for development of the scale proposed.
10. The Council's written evidence to the inquiry is an unconvincing attempt to contrive a justification for the Committee's refusal to accept its professional advice. The evidence of Ms Fitzgerald and Mr Dawson was not before Members of the Planning Committee. It is an after the event retrofit.
11. Even allowing for that, the best that the Council's retrofitted evidence can do an opposition to the Grey Belt case for planning permission which hangs by two threads:
 - a. the proposition that the situation at the southern boundary of the site means that the site "strongly" rather than "moderately" contributes to Green Belt Purpose A;
 - b. the proposition that the site is not a sustainable location for the purposes of NPPF para. 155(c).

12. These are the thinnest of threads on which to hang an opposition to the application, and they cannot bear the weight the Council places on them.
13. On Green Belt Purpose A, Ms Fitzgerald's analysis is based upon factual misunderstandings and a fundamentally flawed approach to the guidance set out in the PPG. See in particular Mr Allin's rebuttal.
14. On paragraph 155(c), the suggestion that the site is not sustainable is wholly untenable for the reasons set out by Mr Hamshaw and Mr Allin. It is also entirely inconsistent with the Secretary of State's direction to the Council to include the site in its Regulation 19 emerging local plan.
15. The Council accepts Mr Dawson's landscape concerns would not sustain a standalone reason for refusal if the proposed development is properly treated as exempted from inappropriate development by virtue of NPPF para. 155. For the reasons outlined above, it was and remains unreasonable the Council not to treat it as such.
16. Further, and in any event, the Council's refusal to accept the VSC case as also compellingly set out in the Officer's Report was and remains unreasonable too. The range and weight of considerations in favour of granting permission is broad and powerful – the Council's suggestion that they do not clearly outweigh any harm to the Green Belt and any other harm (if the proposed development is judged to be inappropriate and necessitating VSC) is wholly unconvincing.
17. This application is necessary in provisional outline at the current stage of the proceedings, but it is hoped that it will assist the Inspector and the Council in understanding the essence of the intended application for costs. To the extent that the application needs to be updated and/or elaborated in the light of the oral evidence and submissions at the inquiry, this will be done in good time before the inquiry's close.

CHARLES BANNER K.C.

**Keating Chambers
15 Essex Street
London WC2R 3AA**

19th June 2026