

Report to Faversham Town Council – 8th September 2025

Update on Judicial Review – Ham Road Development

1. Purpose of Report

To provide members with an update on the judicial review proceedings and to set out the projected budget required to take the case through to the permission stage.

2. Current Position

The First Defendant (the Secretary of State) has submitted their Acknowledgement of Service and Summary Grounds of Resistance (SGR), confirming their intention to contest the Council's claim.

The Second Defendant (Swale Borough Council) has confirmed that they will not contest the claim.

The Third Defendant (the developer) has filed their Acknowledgement of Service and Summary Grounds of Resistance.

The developer has asked to be granted a separate £10,000 costs allowance in the event that the claim is unsuccessful. This would mean that if the Council were to lose, it would owe £10,000 to the Secretary of State and £10,000 to the developer. This effectively doubles the potential adverse costs liability to £20,000.

3. Next Steps – Reply and Advising Stage

The next stage is for the Council's legal team and counsel to review the Defendants' responses and prepare a Reply. This is the Council's final opportunity to present arguments before the judge decides whether to grant permission for a full hearing. The deadline for this is Thursday 4th September 2025.

4. Renewal Hearing (if required)

If permission is refused on the papers, the Council has the right to request a Renewal Hearing. This would involve a short hearing before a different judge to argue that permission should be granted.

Although this may not be required, provision has been included in the budget.

5. Budget to Permission Stage

The estimated budget for the next stages is set out below.

Total Budget Range (to Permission Stage)

- Without Renewal Hearing: £6,250 – £6,650 + VAT

- With Renewal Hearing: £27,500 – £33,000 + VAT + up to £1,400 disbursements

6. Next Phase

If permission is granted, the case will move forward to preparation for a full hearing at the High Court. This decision is expected to be received mid to late October.

7. Recommendation

That the Council:

1. Notes the budget estimates to the permission stage of the proceedings.
2. Notes the additional risk raised by the developer's application for a separate £10,000 costs allowance, and that this will be resisted.
3. Authorises the Town Clerk to continue to liaise with the Council's legal representatives and report back to members with updates.

Louise Bareham

Town Clerk

01.09.25