



Costs Decision

Inquiry held on 10, 11, 12, 13 & (virtually) 18 September 2024

Site visits made on 10 & 12 September 2024 and 6 November 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Costs application in relation to Appeal Ref: APP/B1930/W/24/3343986 Land Between Caravan Site and Watling Street, Park Street, St Albans

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr R Martin of M Scott Properties Ltd for a full award of costs against St Albans City and District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for erection of up to 95 dwellings, including 40% affordable dwellings and 5% self-build and custom build dwellings, public open space, landscaping and associated infrastructure.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for M Scott Properties Ltd

2. The costs application was submitted in writing.

The response by the Council

3. The response was made in writing.

Reasons

4. 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.
 5. The Council's officer's professional recommendation was for the appeal application to be approved, based in part on the inclusion of the site as a proposed allocation in its emerging plan in 2023.
 6. The Planning Committee deferred to make a decision until it took advice about reasons for refusal. The further advice received was that a refusal should not be pursued, and that the recommendation remained one of approval. Despite the strength of advice, the Planning Committee voted to refuse the appeal application and the decision was issued on the 19th January 2024.
 7. An appeal was lodged against the refusal of permission and was validated in May 2024. The Council's Statement of Case, issued one month later, simply set out that it had resolved not to defend the appeal. A further elaboration of the process as to how and why that occurred was detailed in the Council's opening statement.
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8. The Council does not contend the costs application to the extent that it relates to the evidence directly concerned with points in the reason for refusal, such as the principle of development in the Green Belt; coalescence; affordable housing provision; highway capacity and the planning balance. However, the Council resists the costs incurred by the appellant in relation to wider issues. The reason that the inquiry has considered wider issues is due to them being pursued by the Rule 6 Party, *Green Belt*.
 9. The matter that remains in dispute is therefore whether the costs award should cover the other issues raised by the Rule 6 Party. The additional matters that were covered through the exchange of oral evidence include the locational sustainability of the site and the landscape and visual impacts, but the issues of impacts on protected species, air quality and effects on agricultural land were also the subject of additional written evidence prior to the opening of the inquiry.
 10. I accept that had the Council not refused permission then the Rule 6 Party would not have had an opportunity to raise issues that had already been resolved to the satisfaction of the relevant officers and statutory consultees. However, the Council reviewed its position at the earliest opportunity in an attempt to minimise the wasted expense. Its position was sufficiently clear in advance of the case management conference of the 16 July. Had there been no grant of Rule 6 Status, then a more cost-efficient appeal process may have ensued. There was not an inevitability that the Rule 6 Party would involve itself in the process or that it would pursue the range of issues that it did.
 11. I therefore find that the additional costs incurred in addressing the substantive matters in this appeal have not been incurred as a direct result of the Council's unreasonable behaviour. As the PPG explains, the wasted or unnecessary expense must have been directly caused by the other party's conduct.
 12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a partial award of costs is therefore warranted.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that St Albans City and District Council shall pay to M Scott Properties Ltd, the costs of the appeal proceedings limited to those costs as described in paragraph 8; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to St Albans City and District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

H Nicholls

INSPECTOR