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## Costs Decision

Inquiry opened on 6 June 2023

Site visits made on 31 May, 16 June, and 3 July 2023

**by Paul Griffiths BSc(Hons) BArch IHBC**

an Inspector appointed by the Secretary of State

**Decision date: 16<sup>th</sup> October 2023**

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### **Costs application in relation to Appeal Ref: APP/U4610/W/22/3313890 Land off Abbots Lane and Upper Hill Street, Coventry**

- 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 Coventry City Council for a partial award of costs against CDP Developments Ltd.
  - The inquiry was in connection with an appeal against the refusal of planning permission for: Full planning application of 212 dwellings (Class C3) served via access from Abbots Lane and Upper Hill Street; strategic landscaping and earthworks; temporary car parking; surface water drainage and all other ancillary and enabling works. Outline planning application for new residential development up to 478 units (Class C3); ancillary Class E development of up to 950 sqm of floorspace; strategic landscaping and earthworks; surface water drainage; and all other ancillary infrastructure and enabling site works with means of access to be taken from the connections from Abbots Lane and Upper Hill Street (part of the full application) for consideration; all other matters (layout, appearance, scale, and landscaping) reserved for subsequent approval.
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### **Decision**

1. The application for a partial award of costs is refused.

### **The submissions for the Council**

2. These were made as part of the response to the appellant's costs application.

### **The response by the Appellant**

3. The appellant saw no need to respond formally to the Council's application.

### **Reasons**

4. Planning Practice Guidance (PPG) tells us that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Such unreasonable behaviour may be procedural, relating to the appeal process, or they may be substantive relating to the issues arising from the merits of the case presented.
5. The essence of the Council's application for costs is that the appellant has behaved unreasonably in making some of their applications for partial awards of costs and has involved the Council in unnecessary or wasted expense in responding to them. I accept that parties to an appeal could be found to have acted unreasonably if they made an application for costs that was clearly frivolous, or hopeless.

6. However, in my parallel decision on the appellant's application, I have found that the Council has behaved unreasonably in relation to all the areas highlighted by the appellant, and involved the appellant in unnecessary or wasted expense in the appeals process in dealing with all of them. On that basis, I have made partial awards of costs against the Council in relation to all the areas where they were sought.
7. It must follow from that that the appellant's application was of substance and not, therefore, unreasonable. The Council cannot, therefore, have incurred unnecessary or wasted expense in responding to them.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Griffiths

**INSPECTOR**