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## Costs Decision

Site visit made on 20 August 2024

**by Nick Bowden BA(Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> October 2024**

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### **Costs application in relation to Appeal Ref: APP/Q4625/W/24/3340070 Carol Lodge, Truggist Lane, Berkswell, Solihull CV7 7BX**

- 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 Trio Square Ltd for a full award of costs against Solihull Metropolitan Borough Council.
  - The appeal was against the refusal of the Council to grant planning permission for the conversion and change of use of a domestic outbuilding to a dwelling house, with minor alterations and an infill extension.
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### **Decision**

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

### **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 applicant has submitted that the Council behaved unreasonably due to the late introduction of evidence by raising concern regarding the location of the development in the Green Belt in its Statement of Case. Previously the Council had not expressed any concerns regarding the site's location in the Green Belt within the Officer's Report or in the Decision Notice.
4. Although the Council's Statement of Case made only limited reference to the inappropriate nature of the development in the Green Belt, it was nevertheless raised at a late stage. In order to respond to this late evidence, the appellant was required to mount a defence against this point of objection. Indeed, the applicant's position was no doubt further complicated due to the Council's lack of clarity in its Statement of Case. I find such behaviour to be unreasonable and a partial award of costs is justified in relation to this matter.
5. I have also considered the applicant's other claims insofar as they relate to the Council's interpretation of aspects of the Framework in its decision (including paragraphs 11, 84(c), 109 and 155), Solihull Local Plan (SLP) policy P7 and other pertinent appeal decisions that were forwarded. However, on these matters, I find that these points were adequately considered and explored in the Officer's Report.
6. In relation to the housing land supply issue, the site is within the Green Belt and even though the Council did not explore its housing land supply position, which it should have done, it would not have altered the outcome as the proposal accords with the development plan and therefore paragraph 11(d) is

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not engaged. The Council's was entitled to rely on policy P7 of the SLP as an adopted development plan document. This policy does explain its approach to rural development and proximity to services and facilities and this does not contradict paragraph 109 of the Framework. Whether the proposal complied with SLP Policy P7 was a matter of planning judgement. Simply because the Council did not agree with the applicant's assertions, or indeed comment upon them in the Statement of Case, this does not amount to unreasonable behaviour. In any case, I do not find that these have resulted in unnecessary or wasted expense.

### **Conclusion**

7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred insofar as it relates to the late introduction of new evidence suggesting the development was inappropriate development in the Green Belt. A partial award of costs is therefore warranted insofar as it relates to the additional expense incurred by the applicant in defending this objection.

### **Costs Order**

8. 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 Solihull Metropolitan Borough Council shall pay to Trio Square Ltd, the costs of the appeal proceedings described in the heading of this decision; limited to those costs incurred in the defence of the late introduction of evidence relating to the Green Belt; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Solihull Metropolitan Borough 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.

*Nick Bowden*

INSPECTOR