



---

## Costs Decision

Site visit made on 16 December 2024

**by G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

---

### **Costs application in relation to Appeal Ref: APP/J1915/W/24/3343727**

**Heatherdown, B1368 North From Junc With Hare Street Road To Biggin Hill, Hare Street, Hertfordshire SG9 0AE**

- 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 Pelham Structures Ltd for a partial award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for demolition of existing outbuildings, and erection of 5 dwellings.
- 

### **Decision**

1. The application for an award of costs is allowed in part, 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 appellant's application for an award of costs against the Council is directed against the first and third of the three refusal reasons set out on the decision notice. The appellant acknowledges that, with regard to the second of the refusal reasons and matters of character and appearance, these are subjective and does not form a part of the application for an award of costs.
4. I agree. The Council's reasoning with regard to matters of character and appearance is comprehensive and well-reasoned and its approach to this matter does not amount to unreasonable behaviour.
5. With regard to the substantive matters of the appellant's application for an award of costs and the first reason for refusal, I do not find fault with the Council's assessment of whether or not the appeal site amounts to previously developed land (PDL). Whilst PDL is defined within the National Planning Policy Framework (the Framework) it is nevertheless a matter of planning judgement as to whether the circumstances of the application site fall within that definition.
6. The Council were correct to accept that elements of the site were PDL for the purposes of assessment against East Hertfordshire District Plan (EHDP) Policy GBR2. However, for the reasons I have set out in my decision I do not consider the site to be PDL for the purposes of EHDP Policy GBR2(e). Nor do I consider the Council's assessment of this matter to be flawed or otherwise unreasonable. The assessment of the proposed development that flows from this conclusion are not therefore unreasonable.
7. With regard to the third reason for refusal, it is clear that the Council did not consider that the appeal scheme had the ability to make adequate provision for the

parking of vehicles within the appeal site in accordance with its adopted standards for car parking provision. As a consequence, additional vehicles not able to park would be displaced onto the B1038 with concerns that the pavement and highway there could become obstructed, to detriment of pedestrian and highway safety. The refusal reason was framed accordingly.

8. However, it was conceded by the Council at the appeal stage that the level of parking had been miscalculated and that the scheme did in fact make adequate provision for the parking of vehicles. However, it then proceeded to advance an alternative case that the distribution of parking across the development, both in quantitative and spatial terms, was uneven. These were not matters cited within the reason for refusal.
9. Whilst I acknowledge that the BCANP and the EHDP diverge in their parking requirements, the latter is a more recent expression of policy than the former. I therefore consider the Council's actions in introducing an alternative argument in relation to matters of parking having acknowledged that the appeal scheme would make acceptable provision in line with the EHDP to be unreasonable. The appellant has incurred additional expense in response in defending this matter which, as my decision demonstrates, could have been dealt with by way of a suitably worded planning condition.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the appellant's response to the introduction by the Council of an alternative argument in respect of parking matters and a partial award of costs is therefore warranted.

### **Costs Order**

11. 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 East Hertfordshire District Council shall pay to Pelham Structures Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the preparation of the applicant's case at appeal in response to the introduction by the Council of an alternative case in respect of parking matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to East Hertfordshire 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.

*G Robbie*

INSPECTOR