



Costs Decision

Inquiry Held on 11-13 June, 18–20 June and 25 October 2024

Accompanied site visit made on 12 June 2024 & unaccompanied site visits made on 10 and 19 June 2024

by Clive Coyne Dip ERM BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2025

Costs application in relation to Appeal Ref: APP/B1930/W/24/3338501

Bricket Wood Sports and Country Club, Paintball Site and Bricket Lodge, Lye Lane, St Albans, AL2 3TF

- 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 St Albans City and District Council for a partial award of costs against JK Rudkin Builders Ltd.
 - The Inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the demolition of existing buildings, the construction of up to 115 dwellings, the creation of a new access and associated highways improvements.
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Decision

1. The application for a partial award of costs is permitted in the terms set out below.

The submissions for St Albans City and District Council

2. The Council considers that the appellant: failed to provide information about all the potential drainage options for the appeal site within the original application or during the normal conduct of appeal; applied to adjourn the inquiry to enable investigation and consideration of new options for sustainable urban drainage systems SuDS discharge which could have been raised and considered during the application and appeal; and provided evidence following the adjournment in relation to a potential drainage option unconnected with that raised in that application to adjourn.

The response by JK Rudkin Builders Ltd

3. The Appellant has acknowledged that they should pay the reasonable unexpected costs associated with the adjournment.

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. It also states that examples of unreasonable behaviour include: delay in providing information or other failure to adhere to deadlines; only supplying relevant information at appeal when it was requested, but not provided, at application stage;

or introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).

6. At a very late stage in the appeal process the appellant submitted a substantial piece of evidence, to which the Council prepared a response. This evidence was accepted as it provided additional pertinent information relating to the potential impact of the proposal on flood risk and drainage. However, given both the late stage of the appeal process and the substantial nature of the evidence submitted, I consider that this did give rise to extra expense on the Council's part given that they prepared a response to this evidence.
7. I therefore conclude that procedural unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that a partial award of costs is justified.

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 JK Rudkin Builders Ltd shall pay to St Albans City and District Council, partial costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in the preparation of their response to the late evidence submitted by the appellant as outlined above, such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to JK Rudkin Builders Ltd, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Clive Coyne

INSPECTOR