
Costs Decision

Inquiry held on 3-6 February 2026

Site visit made on 3 February 2026

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2026

Costs application in relation to Appeal Ref: APP/N1920/W/25/3374962

Land South of Shenley Hill, Radlett WD7 7EL

- 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 Fairfax Acquisitions Ltd for a full award of costs against Hertsmere Borough Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the erection of up to 195 new homes (50%affordable), safeguarded land for the expansion of Newberries Primary School and provision of a new medical centre, along with associated access, landscaping and parking.
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Decision

1. The application for an award of costs is refused.

The submissions for Fairfax Acquisitions Ltd

2. The costs application was submitted in writing at the Inquiry.
3. I will not repeat the entirety of the applicant's case in this decision given that they have been provided in writing but in summary, the applicant refers to the council's substantive unreasonable behaviour with regards to preventing development which should clearly have been permitted. As advanced to by the applicant, the site is grey belt and there is no evidence that the appeal site makes a strong contribution to any of the three relevant Green Belt purposes and therefore planning permission should have been granted and the appeal should not have been necessary.

The response by Hertsmere Borough Council

4. The response was made in writing after the Inquiry sat during an agreed hiatus to deal with this and the execution of a planning obligation. Again, I will not repeat the entirety of the council's case given that they have been provided in writing, but in summary the council state that the costs application is without merit and that whether or not the appeal site is grey belt is a matter of planning judgement and notes that *"Four experts later told the inquiry they agreed with the Planning Committee's judgment that the site was not 'grey belt.'*

Reasons

5. 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.

6. The site lies within the Green Belt where development is inappropriate unless specified exemptions apply. At the heart of this particular appeal is whether or not the appeal site was grey belt as defined by the National Planning Policy Framework.
7. The members of the council's planning committee departed from the recommendation of their officers, as they are reasonably entitled to do so, and contrary to notable evidence before them including the council's own legal advice.
8. The applicant has referred to an absence of evidence to support members decision. However, it is clear from the evidence before me that due consideration was given to the relevant planning matters, including (as referred to by the council) relevant guidance and local knowledge, and also the comments of local residents.
9. I do not agree that the Council's case on Grey Belt, that the site made a 'strong' contribution to purposes A and B, was unreasonable. While I did not find in the council's favour in reaching my decision in the determination of the appeal, I am satisfied that the council robustly evidenced and substantiated their decision with evidence from two expert witnesses, as complemented by evidence from the Rule 6 party.
10. That, even in the costs application, there was continued debate as to the interpretation of policy and with regards the evidence before the appeal, for instance that "Ms Brockhurst accepted that Ms Bakker's judgment that the site might be perceived as a substantial part of the gap between Radlett and Borehamwood was reasonable" but that in re-examination Ms Brockhurst explained "that Ms Bakker was **not** reasonably entitled to say that Radlett and Borehamwood had in fact merged" demonstrates to me that there is evidence to support both parties positions and that ultimately it is a matter for planning judgement.
11. I do not agree that the council's consideration of landscape character when evaluating the sites contribution to the relevant Green Belt purposes is wholly unreasonable because it is an influencing factor in the visual and spatial considerations.
12. As such, I am satisfied that the council did not prevent or delay development which should clearly be permitted nor did the council fail to provide substantive evidence to support their position at appeal and I do not consider that they were irrational in reaching such a position.

Conclusion

13. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr M Brooker

INSPECTOR