



Costs Decision

Inquiry held on 6-13 September 2022

Site visit made on 9 September 2022

by C Masters MA (Hons) FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 October 2022

Application A

**Costs application in relation to Appeal Ref: APP/C1570/W/22/3296426
Land South of (East of Griffin Place) Radwinter Road, Sewards End,
Saffron Walden, Essex CB10 2LB**

- 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 Rosconn Strategic Land for a full award of costs against Saffron Walden Parish Council and Sewards End Parish Council (the Rule 6 party).
- The inquiry was in connection with the refusal of planning permission for an outline application for the erection of up to 233 residential dwellings including affordable housing, with public open space, landscaping, sustainable drainage system (SuDS) and associated works, with vehicular access point from Radwinter Road. All matters reserved except for means of access.

Application B

**Costs application in relation to Appeal Ref: APP/C1570/W/22/3296426
Land South of (East of Griffin Place) Radwinter Road, Sewards End,
Saffron Walden, Essex CB10 2LB**

- 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 Saffron Walden Parish Council and Sewards End Parish Council for a partial award of costs relating solely to the preparing of the response to the costs claim against Rosconn Strategic Land.
- The inquiry was in connection with the refusal of planning permission for an outline application for the erection of up to 233 residential dwellings including affordable housing, with public open space, landscaping, sustainable drainage system (SuDS) and associated works, with vehicular access point from Radwinter Road. All matters reserved except for means of access.

Decisions

1. Application A is refused.
2. Application B is refused.

Application A – Submission for Rosconn Strategic Land

3. The application was made in writing and is not repeated here. The appellant contends that the Rule 6 party acted unreasonably in relation to the scope of issues identified through the statement of case (procedurally) as well as a

substantive claim relation to the two matters on which oral evidence was presented. They also claim that there was no meaningful attempt to engage in any formal planning balance exercise.

Application A – Response by Saffron Walden Town Council and Swards End Parish Council

4. The response was made in writing and is not repeated here. The Rule 6 party consider the application is ill-founded and without merit.

Application B – Submission for Saffron Walden Town Council and Swards End Parish Council

5. The Rule 6 party's counter claim appears to rely on a recent costs decision¹. This appeal related to an appellant's challenge to a Council's housing land supply position, subsequent costs claim and counter claim.

Application B – Response by Rosconn Strategic Land

6. The appellant has outlined how they consider the Rule 6 party has behaved unreasonably during the course of the appeal, resulting in unnecessary and wasted expense.

Reasons

7. The Planning Practice Guidance makes it clear that costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Application A

8. The Planning Inspectorate Guidance² sets out that the Statement of Case will need to give full details of the case you intend to put forward at the inquiry. The Statement of Case submitted by the Rule 6 party covered 10 potential topic areas. I find little merit in the assertion that some of these topics were contextual, and I agree it provided a very general approach to the case the Rule 6 party would be making. Nevertheless, I accept the fact that the Rule 6 party were in some part intending to rely upon the case being made by the Council. As the inquiry was necessary as a direct result of the Council's decision to refuse planning permission, this is an entirely reasonable approach. The drafting of the reasons for refusal is also not a matter for the Rule 6 party. I also acknowledge the fact that they were not professionally represented at this time.
9. The Council's position evolved prior to the exchange of proofs of evidence and they no longer contested the appeal. This quite rightly meant that the Rule 6 party needed to review the focus of their objections to the proposal. Given this change in the Council's position, they were entitled to do this and prepared written evidence accordingly.
10. In terms of the evidence presented to the inquiry, only one professional witness was present (heritage), the issue of air quality having been resolved

¹ APP/V0150/W/21/3282449

² Guide to Rule 6 for interest parties involved in an inquiry – planning appeals and called-in applications, April 2022

between the appellant and Rule 6 party before the inquiry opened. For the reasons explained within my decision, I have reached a different view on the heritage impacts. Nevertheless, the Rule 6 party were entitled to take a different view and sought to support that view with a professional witness. The appellant was afforded the opportunity to present both written and oral evidence on this matter through a professional witness at the inquiry and the appellant had the opportunity to test this evidence during the inquiry.

11. A local Councillor gave anecdotal evidence in relation to the broader issue of highways. Whilst it was regrettable that no attempt had been made to review or understand the mitigation proposed, this is also not an unusual situation. Written material on landscape and visual impacts was also submitted. The appellant was afforded the opportunity to present both written and oral evidence on these matters through a professional witness at the inquiry. For the reasons I have given within my decision, I have reached a contrary view to that of the Rule 6 Party. Nevertheless, on this basis the Rule 6 party did not act unreasonably.
12. On the basis of the stance taken by the Rule 6 party, I do not consider that their opposition to the case would have been changed if they had presented a planning balance exercise.
13. In reaching this view, I am conscious that the Planning Practice Guidance also makes it clear that an award of costs will not be made in favour or against an interested party other than in exceptional circumstances. In my view, the circumstances arising at this inquiry were not exceptional. For the reasons I have given in my decision, I have come to a view contrary to that of the Rule 6 party on these matters. Nevertheless, on this basis the Rule 6 party did not act unreasonably.
14. In conclusion, I find that the Rule 6 party did not behave unreasonably in pursuing the appeal and the appellants costs in preparing for and appearing at the inquiry were not unnecessarily incurred. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Application B

15. In taking Rule 6 status at the planning inquiry, Saffron Walden Town Council and Swards End Parish Council who were professionally represented by a planning solicitor at the inquiry must have been fully aware that the option to make a costs application was available to the parties. Similarly, as I expressed in my opening at the inquiry, and indeed at the case management conference, I also have the ability to make an award of costs.
16. The appellant was entitled to make the costs application and there is nothing unreasonable about the costs application made. Whilst I have not agreed with it, the appellant has clearly articulated the reasons for making the application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that a partial award of costs is not justified.

C Masters

Inspector