

HATFIELD QUARRY INQUIRY

HCC RESPONSE TO RULE 6 PARTIES' COSTS APPLICATION

1. The claim is for a full costs award but there is no suggestion that it is the Council's fault that this inquiry is happening. Even on the assertions made, the inquiry would have had to occur, a vast majority of the time would have been spent and the rule 6 parties would have incurred any associated costs.
2. A number of (confused) points are made: (1) the allegedly late administrative steps have increased costs; (2) the late withdrawal of reasons for refusal 2 and 3 increased costs; (3) the steps to agree RfR4 were unreasonable; (4) HCC was effectively negotiating the 2021 Application through the 2016 appeal process.
3. As to (1) no specificity of the allegations is provided and no answer can thus be given. The bottom line is that all material has been in the public domain at all times and the website was created expeditiously once the core document list was agreed. There was no legal obligation on the Council to provide that work at all never mind in a given timescale. The electronically material has worked well and saved everyone costs.
4. As to (2), anyone reading the SoC would have known that RfR2 and 3 were not being pursued. The rule 6 parties were clear that they were going to be addressing those issues anyway in their representations and SoCs. HCC withdrew those RFR because *it* did not consider that they could be sustained – that is a matter for it. It would have to be shown (somehow and in an unexplained way) that HCC had to proceed with those grounds. That is impossible – its duty is the other way - not to continue with RFRs for which it cannot call any good evidence.
5. As to (3), the work on RfR4 has been exemplary. HCC has secured a package which was not of offer until the last minute and which removes the concerns of its independent expert. HCC stood up to Brett, the EA and Affinity and has secured major changes in the hydrogeological proposals and conditions. Once Ms Lightfoot reached her own independent views (taking on board those of Dr Rivett) she was required to give effect to them and not to pursue a RfR4 which could be resolved by condition. Dr Rivett maintained his position as he was entitled to do. He was involved in discussions on the conditions and gave evidence.
6. As to (4), HCC agrees that this appeal should not have occurred – but Brett pursued it, sought the substitution and sought to overcome the reasons for refusal through what are considered major changes to their proposals akin to the 2021 Proposals. HCC had

to engage in that process (however unreasonable it was of Brett to adopt that procedure).

7. The claim for costs is misconceived, meets none of the tests in the Guidance and must be refused.

David Forsdick QC

Landmark Chambers

6th December 2021