
Costs Decisions

Hearing held on 12 October 2016

Site visit made on 12 October 2016

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 11 November 2016

Costs application in relation to Appeal Ref: APP/C1950/W/16/3146672 Northaw Equestrian Centre, Northaw Road West, Northaw, Potters Bar EN6 4NT

- 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 Welwyn Hatfield Borough Council for a partial award of costs against Heronslea Group.
 - The hearing was in connection with an appeal against the refusal of planning permission for residential development including the conversion of the listed barn to a dwelling and erection of 13 dwelling-houses following demolition of existing structures.
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Costs application in relation to Appeal Ref: APP/C1950/W/16/3146672 Northaw Equestrian Centre, Northaw Road West, Northaw, Potters Bar EN6 4NT

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Welwyn Hatfield Borough Council for a partial award of costs against Heronslea Group.
 - The hearing was against the refusal of listed building consent for residential development including the conversion of the listed barn to a dwelling and erection of 13 dwelling-houses following demolition of existing structures.
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Decision

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

The submissions for the Council

2. The appellant confirmed that the matter of biodiversity had been resolved with the county ecology service, Hertfordshire Ecology, shortly after 5:00pm on the day before the Hearing. This meant that the work undertaken by the Council in preparing to defend that reason at the Hearing was wasted time. The matter should have been resolved well in advance of the Hearing and no wasted work would have been undertaken.

The response by the appellant

3. The views received from Hertfordshire Ecology (HE) seemed to refer to an earlier Ecological Appraisal. It was not clear if HE had received the latest version of the Appraisal which the appellants had sent to the Council. We

sought to confirm with HE that they had the latest Appraisal and provided them with a copy. As a result of the new information they were satisfied that appropriate measures for bats could be ensured by the imposition of conditions.

Reasons

4. National Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and costs may only 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 is not clear from the parties whether the Council received the later version of the Ecological Appraisal produced in September, although the appellant confirms that it was sent. In their representations dated 21/12/2015 HE indicates that they referred to the Appraisal dated May 2015.
6. I have no reason to doubt that the September Appraisal was sent by the appellant and due to changes in personnel, the Council cannot confirm its receipt. In such circumstances it is no surprise that the appellant sought to resolve matters by ensuring that HE had an up-to-date appraisal to comment on. It is generally a matter to be encouraged wherein parties seek to resolve issues prior to Hearings in order to save time at a Hearing. In this general sense I do not find the appellant's efforts to resolve this issue as unreasonable in any way. In relation to the timing of those efforts, whilst it was only done on the day prior to the Hearing, it did save time at the Hearing by reducing the issues to be discussed.
7. I can understand the Council's view that if the matter was resolved much sooner, they would not have had to prepare to defend that issue at the Hearing and in the circumstances, they had to. However, I have it in mind that the appellants state that they did send the later Appraisal to the Council and so it may be seen that they had made some effort.
8. Overall, I do not consider that undertaking to resolve an outstanding issue before the Hearing can be considered as unreasonable. The fact that it was only conveyed to the Council on the evening before the Hearing may be seen as unfortunate but as I don't consider their actions to have been unreasonable in the sense envisaged in the Planning Practice Guidance, it is not a matter which dictates an award of costs.
9. As a consequence the application for an award of costs is refused.

S T Wood

INSPECTOR