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## Costs Decision

Site visit made on 2 September 2020

**by Darren Hendley BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> September 2020**

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**Costs application in relation to Appeal Ref: APP/P3040/W/20/3254479  
Land adj (north) Greystones, Station Road, Elton, Nottinghamshire NG13  
9LG**

- 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 Mr B. Roberts, Elton Park Farms for a full award of costs against Rushcliffe Borough Council.
  - The appeal was against the refusal of planning permission for a grain store.
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### Decision

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

### Reasons

2. 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.
3. The applicant's claim is made on the basis of a failure of the Council to cooperate, including not giving the applicant the opportunity to provide reassurance on those elements where the Council had concerns and a failure to provide information that was pertinent to the application. The applicant also considers the Council has not provided adequate conditions in the event that the appeal was to be allowed, and that the Council took account of matters that were not for its consideration by way of an environmental factor.
4. In respect of a lack of cooperation, it is evident from the appeal submissions that the Council considers it has a fundamental objection to the proposal. It is therefore unsurprising that the Council did not further engage with the applicant as it did not consider that such objections could be overcome.
5. Moreover, the prior approval procedure is intended to work on an expedited basis, with the Council issuing its decision within the prescribed period for the decision to have effect. In relation to the provision of information, over and above not further engaging with the applicant during the course of the application, it is not evident what is being referred to in terms of what would have been relevant to the determination. The Council's actions in these respects have not been unreasonable.
6. In relation to the conditions, whilst the applicant had concerns over some of the Council's suggested noise conditions, in particular with hours of operation,

these involve the protection of the living conditions of the neighbouring properties. Hence, they concern the matter of dispute and so this does not amount to unreasonable behaviour. Whether or not the conditions would be adequate would, in any event, have been a matter for my consideration, if I had allowed the appeal, having regard to the views of the applicant and the Council.

7. Turning to whether an environmental factor is a relevant matter, namely living conditions in this case, I disagree with the applicant on this point for the reasons that I have set out in my appeal decision. It follows, therefore, that I cannot find the Council guilty of unreasonable behaviour in this regard.
8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not, therefore, justified.

*Darren Hendley*

INSPECTOR