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## Costs Decision

Site visit made on 10 November 2020

**by M Chalk BSc (Hons) MSc MRTPI**

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

**Decision date: 27 November 2020**

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### **Costs application in relation to Appeal Ref: APP/J1915/W/20/3246744 Grasslands, Pye Corner, Gilston CM20 2RB**

- 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 Mrs A May and Mrs C Reilly for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for improvement to existing access to Grasslands.
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### **Decision**

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

### **Reasons**

2. National Planning Practice Guidance (the PPG) advises that costs may be awarded against a party that has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour on the part of a local planning authority may include making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or unreasonably refusing planning applications, failure to produce evidence to substantiate each reason for refusal on appeal or preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicants claim that the Council has mistakenly identified the proposal as a building operation rather than engineering operations. The Council relied on prior appeal decisions to inform its view, where the circumstances and nature of those proposals were not comparable to this appeal proposal. The Council failed to give appropriate weight to the applicants' fallback position of widening the existing driveway through their property's Permitted Development allowances. As the appeal proposal was the second submission for similar development at the site, and as an appeal had been lodged against the earlier refusal, the applicants had made submissions addressing the Council's similar concerns.
5. The Council responds that it was justified in regarding the appeal proposal as inappropriate development in the Green Belt for which very special circumstances did not exist that would clearly outweigh the harm by inappropriateness and any other harm. They consider that the applicants'

fallback position may be limited, as the Grasslands site comprises both a dwellinghouse and a commercial unit. The position regarding the Permitted Development allowance for the formation of hardstandings within the site is therefore unclear.

6. The applicants contend that the access and adjoining lands are within the residential curtilage of Grasslands so benefit from domestic Permitted Development rights.
7. I found in my decision that in this instance the appeal proposals would amount to engineering operations and would not be inappropriate development in the Green Belt. However, this was a matter of planning judgment and I do not consider that the Council acted unreasonably in finding otherwise.
8. Furthermore, whether the Grasslands site benefits from domestic Permitted Development rights or not is unclear. The full details of the planning permission relating to the B1 use of one of the outbuildings at the site are not before me, but a mixed-use site would not have the same Permitted Development rights as a dwellinghouse, and the access serves the entire site, passing the dwellinghouse to reach the outbuildings. In the absence of clear evidence on this point, I do not consider that the Council acted unreasonably in giving limited weight to this as a fallback position.

### **Conclusion**

9. Having considered the submissions made by both parties, together with the evidence submitted with the appeal, I find that there was not unreasonable behaviour on the part of the Council, as described in the PPG, that has directly resulted in unnecessary or wasted expense on the part of the applicants. The application therefore fails, and no award of costs is made.

*M Chalk*

INSPECTOR