



## Costs Decision

Site visit made on 15 December 2020

**by Mrs H Nicholls FdA MSc MRTPI**

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

**Decision date: 18 January 2021**

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### **Costs application in relation to Appeal Ref: APP/N0410/W/20/3256784 Challens Chicks Farm, Marsh Lane, Taplow SL6 0DE**

- 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 Challen for a full award of costs against South Bucks District Council.
  - The appeal was against the refusal of planning permission for erection of a quail barn.
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### **Decision**

1. The application for costs is granted in the terms set out below.

### **Procedural Matter**

2. From 1st April 2020 the former South Bucks District Council was replaced by the Buckinghamshire Council. In the event that I find in favour of the applicant, the responsibilities for meeting any costs would fall on the new unitary authority.

### **Reasons**

3. The Planning Practice Guidance 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.
4. Amongst other things, the aim of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, avoiding further development costs through avoidable delay. Though expenses incurred prior to the submission of the appeal cannot be taken into consideration, behaviour and actions at the time of the application stage can be taken into account in considering whether or not costs should be awarded. Costs awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission, i.e. denied income.
5. The applicant indicates that the appeal application took a significant period to reach a determination, with extensions of time only agreed twelve months after submission. It is further claimed that the delays have denied the applicant anticipated income and incurred fees in the preparation of the appeal that were avoidable given that sufficient justification had been provided for the building. In essence, the applicant considers that wasted expense has been incurred in the submission of the appeal when the permission should have been granted.
6. I note that the applicant co-operated with the Council's requests for additional information during the processing of the application and that subsequent

changes were made in response to some of the concerns raised. Whilst the Council has indicated its regret about the time taken to process the application, which was in part related to the transition to the unitary authority, there is evidence that the Council was diligent in its handling and consultation on the submitted additional information and amended plans in at least the later stages of processing. However, the approximate 15 month timescale taken to determine the application appears to be excessive relative to the scale and complexity of the proposal itself. Accordingly, I consider that the predecessor Council failed to determine the application within the statutory time limits, where it was clear to me that there was no substantive reason to justify delaying the determination of the application.

7. In relation to the substantive matter as to whether the appeal should have been permitted given its accordance with local and national policies, I have found in favour of the applicant. The proposal would only be partly used for a complementary diversification venture (i.e. quail egg production) with the remainder in storage and other uses ancillary to the agricultural function of the land. Whilst there is a need to balance the range of relevant considerations in all cases, and particularly so where the Green Belt is a constraint, the effects of the proposal on the openness of the Green Belt appear to have been drawn out excessively in this case given the exceptions listed in Local Plan Policies GB1 and GB9 and the policies of the National Planning Policy Framework, which include agricultural buildings.
8. The Council has provided a detailed analysis of its reasons for refusal and has adhered to the relevant appeal timetables. However, the approach taken to the assessment of openness of the Green Belt in relation to the proposal for an agricultural building resulted in significant delays in the processing of the appeal application. The substantive reasons for finding the Council's behaviour unreasonable are clearer, insofar as the appeal could have been avoidable given its accordance with the development plan and national policy, but it appears that there were also procedural shortcomings in relation to the excessive time taken to process the application and issue a refusal.
9. Thus, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the Planning Practice Guidance, has been demonstrated, and so a full award of costs should be granted.

### **Costs Order**

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Buckinghamshire Council shall pay to Mr Challen, the full costs of the appeal proceedings described in the heading of this decision, to include those costs incurred in submitting and contesting the appeal, to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Buckinghamshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Hollie Nicholls*

INSPECTOR