



Costs Decisions

Site visit made on 18 July 2022

by **S Harley BSc(Hons) MPhil MRTPI ARICS**

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

Decision date: 26th July 2022

Costs application in relation to Appeal A Ref: APP/X0360/W/21/3287734 Hare Hatch Sheeplands Nursery, London Road, Twyford RG10 9HW

- 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 Hare Hatch Sheeplands for a full award of costs against Wokingham Borough Council.
- The appeal was against the grant subject to conditions of planning permission for *"Application to vary condition 1 of planning consent 192018 for the full application for the change of use of three existing nursery glasshouses into events area relating to the existing nursery. Condition 1 refers to temporary permission and the variation is to extend temporary permission for two years."*

Costs application in relation to Appeal B Ref: APP/X0360/W/21/3282720 Hare Hatch Sheeplands Nursery, London Road, Twyford RG10 9HW

- 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 Hare Hatch Sheeplands for a full award of costs against Wokingham Borough Council.
- The appeal was against the grant subject to conditions of planning permission for *"full application for the continued use of existing sales area permitted under 173316 and change of use to include an additional sales area."*

Decision

1. The application for the awards of costs for Appeal A and for Appeal B are allowed in the terms set out below.

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. The PPG sets out what type of behaviour may give rise to a substantive award against a Local Planning Authority.
3. There are two planning appeals against conditions relating to different parts of Hare Hatch Sheeplands Nursery. Hare Hatch Sheeplands (the applicant) made a joint application for full costs awards in respect of each appeal.
4. The applicant considers that the entirety of the appeals could have been avoided in that the Council has conceded in its appeal statement that the conditions imposed on the respective Notices of Approval of Planning Permission do not meet the six tests required by national planning policy. The

PPG gives as an example that a substantive award can be made against a Local Planning Authority that imposes a condition that does not meet the six tests set out in the PPG and National Planning Policy Framework.

5. In my Decisions related to the appeals I acknowledge the Council's wish to regulate events and retail uses that would not normally be acceptable in Green Belt and countryside locations and the intention of seeking to clarify the planning position for the Hare Hatch Sheeplands Nursery site as a whole. However, I found that the disputed Condition(s) in respect of both appeals, as set out on the respective Notices of Approval of Planning Permission, failed one or more of the tests of necessity, relevance, enforceability, precision and reasonableness, and thus do not meet the requisite tests.
6. Moreover, the Council did not take sufficient account of the applicant's representations regarding the proposed conditions before or during the Committee Meeting. Had full account been taken of these representations both Appeal A and Appeal B could have been avoided.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Costs Order

8. 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 Wokingham Borough Council shall pay to Hare Hatch Sheeplands the costs of the appeal proceedings described in the headings of this Decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Wokingham Borough 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.

S Harley

INSPECTOR