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## Costs Decision

Site visit made on 8 November 2022

**by L Douglas BSc (Hons) MSc MRTPI**

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

**Decision date: 12 December 2022**

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### **Costs application in relation to Appeal Ref: APP/Z3825/W/22/3294395**

**Land south of Mill Lane, Littleworth, Partridge Green RH13 8JU**

**Grid Ref Easting: 519099, Grid Ref Northing: 120155**

- 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 Wayne Bayley, Delcraven Ltd for a full award of costs against Horsham District Council.
  - The appeal was against the refusal of planning permission for Alterations and extensions to stables, approved for 2 dwellinghouses, to form a single dwelling and erection of two detached dwellings on the site of a former sandschool and garage used for non-domestic storage.
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### **Decision**

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

### **Reasons**

2. 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.
3. The applicant claims the Council acted unreasonably in the processing of the application and subsequent appeal. Specifically, it is claimed that the Council did not properly assess the proposal by failing to explicitly afford weight to all material considerations. It is also claimed the Council did not consider the applicant's Water Neutrality Statement (WNS) when raising an additional reason for refusal based on subsequent advice produced by Natural England (NE).
4. The applicant wrote to the Council by letter dated 7 September 2021, presenting a list of what they refer to as material considerations to be afforded weight and put into the Council's planning balance when determining the planning application. It was not necessary for the Council to specifically identify each matter in its officer report and appeal submissions because all relevant material considerations were broadly covered throughout those documents, including the presence of other neighbouring backland developments. Some of those matters do not comprise benefits weighing in favour of the proposal, as set out in my Appeal Decision. It was not unreasonable for the Council to conclude that the harm the proposal would cause would significantly and demonstrably outweigh the proposal's benefits, following the detailed reasoning of the officer report.

5. The Council's additional reason for refusal raised in its appeal submissions was anticipated by the appellant, who was already aware of NE's advice. The appellant had sought to address this issue when proposing mitigation measures set out in the WNS, which formed part of the applicant's statement of case. The evidence indicates that the Council did not read the WNS or consider the appellant's proposed mitigation measures prior to outlining its additional reason for refusal.
6. The applicant considered it necessary to produce the WNS as part of their statement of case based on NE's advice. The applicant provided supplementary information to support the WNS as part of their final comments. The late submission of that new information did not result from the Council's failure to consider the WNS.
7. I have referred to the WNS and supplementary information provided by the applicant in considering the potential benefits of the proposal. Had I otherwise been minded to allow the appeal, I would have needed to carry out an Appropriate Assessment, which would have relied on the WNS and supplementary information. The WNS and supplementary information therefore formed an essential part of the applicant's case in favour of the proposal.
8. The Council acted unreasonably in providing the additional reason for refusal without considering the applicant's proposed mitigation measures. However, that unreasonable behaviour did not result in the applicant incurring unnecessary or wasted expense in the appeal process because the WNS formed an essential part of the proposal, prior to the Council's appeal submissions.
9. The Council did not comment on the applicant's new information when invited to do so, but that was not unreasonable because the new information had been submitted late in the appeal process as part of the applicant's final comments. The Council's failure to comment on the new information did not result in the applicant incurring unnecessary or wasted expense in the appeal process either, as no further submissions were made.

## **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, an award of costs is not justified.

*L Douglas*

INSPECTOR