



Costs Decision

Site visit made on 29 March 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Costs application in relation to Appeal Ref: APP/P0240/W/22/3305431 15 Wing Road, Linslade LU7 2NG

- 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 Ashbolt Limited for a full award of costs against Central Bedfordshire Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for development described as "the demolition of existing outbuilding, construction of new dwelling to the rear of no. 15 Wing Road and provision of parking to rear of no. 17 Wing Road, and associated works including bin storage".

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 states that awards may be either procedural, in regard to behaviour in relation to completing the appeal process, or substantive, which relates to the planning merits of the appeal. This is a procedural application.
3. The applicant's cost claim asserts that the Council acted unreasonably in failing to engage constructively on the planning obligations for the unilateral undertaking (UU); failing to advise fully on the status of the Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest (the Mitigation Strategy); failing to confirm the Suitable Alternative Natural Greenspace (SANG) contribution until 24 March 2023, without full explanation; and, failure to respond to a request for the UU template until 24 March 2023.
4. The applicant asserts that there has been a lack of communication from the Council in relation to the requests for an update on the Mitigation Strategy, including its status and SANG contribution. The applicant confirms they were first made aware of the SAC implications on 22 April 2022. I am satisfied therefore that the applicant was aware of the implications of the SAC prior to the appeal being submitted.
5. The applicant has provided a summary and dates of each email sent since they were notified of the issues in relation to the SAC. Based on the evidence before me, the Council provided a response to all but two emails. The responses from

the Council advise that at the time of the responses there was no agreed Mitigation Strategy or SANG contribution. The Council have not provided any explanation within their costs rebuttal, why detailed timescales in relation to the preparation and publication of the Mitigation Strategy, or its status, were not shared with the applicant. Such information would have been useful to the applicant in understanding the requirement of the Mitigation Strategy and timescales, when deciding whether to proceed drafting a UU. Nonetheless, the Council did engage with the applicant and provided updates with regards to the Mitigation Strategy. I see no evidence the Council have acted unreasonably in this regard.

6. The applicant began preparation of a draft UU on 14 March 2023, in order to meet the associated appeal deadline. I understand the Mitigation Strategy was published on 17 March 2023. The Council stated that their legal team had been drafting a UU template, which I understand was shared with the applicant on 24 March 2023. Based on the evidence before me, I consider that both the Mitigation Strategy and UU template were shared with the applicant as soon as reasonably practical following their completion. I see no evidence that there were any significant delays issuing either document, following their completion. I do not find that the Council have acted unreasonably in this regard.
7. The Mitigation Strategy outlines, amongst other things, that the required mitigation measures for the SAC are to be secured by a UU. I do not consider therefore that the applicant has been put to additional expense, given that a UU is required in any event in order to secure the required mitigation for the SAC as part of the accompanying appeal.
8. I acknowledge, however, that a UU template which meets Council's requirements is a useful tool for applicants. The availability of such a template is highlighted in the now published Mitigation Strategy. Although there is no requirement for applicants to use any such template, it would have been helpful if the Council provided more detailed updates with regards to the timescales associated with the completion of the UU template. Notwithstanding this, even if the Council were in a position to issue a UU template earlier, it could not have been finalised until the Mitigation Strategy had been published, as this provides details regarding the required mitigation measures. I do not find that the Council have acted unreasonably in this regard.
9. For the above reasons set out above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for an award of costs must fail.

S Pearce

INSPECTOR