



Costs Decision

Site visit made on 3 July 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Costs application in relation to Appeal Ref: APP/Z3825/W/22/3294813 Ashley House, Roundabout Copse, West Chiltington RH20 2RN

- 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 and Mrs Hirsch for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of planning permission for a proposed development described on the application form as, "Construction of a Detached Bungalow further to Outline Planning Permission DC/20/0157".
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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.
3. The application that led to the appeal was refused by the Council on the sole ground that insufficient information had been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of internationally designated sites by way of increased water abstraction.
4. This conclusion was reached despite the Council's Habitats Regulations Assessment Screening Matrix and Appropriate Assessment finding that with mitigation, the project would not have an adverse effect on the integrity of the internationally designated sites, either alone or in combination with other plans and projects. It is clear from that document that the author took account of the evidence provided in the Water Neutrality Statement (thermenergy) (dated November 2021), which found that the savings in water use for Ashley House would be greater than the proposed water use for the new dwelling, meaning that the proposal would be better than water neutral.
5. The Council did not submit an appeal statement during the appeal process, and have not provided a statement contesting this costs application. As such, the rationale for the Council's stance in refusing the application contrary to the conclusions of the Habitats Regulations Assessment Screening Matrix and Appropriate Assessment is unclear. I have also not been provided with any specific reasons as to why the information before the Council at the time of its decision was seen to be insufficient.

6. Taking all of the above into account, I find that the Council prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations, contrary to the advice given in the PPG¹. This unreasonable behaviour resulted in the wasted expense of the whole costs for the statutory planning appeal process, including the preparation of the appeal statement, and all supporting documentation. Additionally, wasted expense occurred in the making of the costs application.
7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 (as amended) 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 Horsham District Council shall pay to Mr and Mrs Hirsch, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Horsham District 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.

Alexander O'Doherty

INSPECTOR

¹ Paragraph 16-049-20140306