



Costs Decision

Site visit made on 16 May 2023

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Costs application in relation to Appeal Ref: APP/C3620/W/22/3302971 Chace Farm Stud, The Warren, Ashted KT21 2SH

- 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 Chace Warren Management Limited for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for the demolition of existing buildings and development of an extra care facility (Use Class C2) comprising 10 self-contained units, office floorspace (Use Class E), parking, landscaping and associated works.
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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.
3. The applicant claims that the Council, in refusing the proposal, acted unreasonably which resulted in costs being incurred by the applicant in taking the proposal to appeal. The appellant considers there to be substantive grounds for the claim.
4. The eventual decision was taken by the Planning Committee and was not in line with the Officer recommendation to approve the planning application. Whilst I understand the appellant's frustration, it is the right of the Planning Committee to make this decision and refuse the planning application. The issue in this costs decision is therefore whether or not the basis of the Committee's decision was reasonable.
5. The question as to whether the development represented inappropriate development in the Green Belt hinged on the issue of openness. In the absence of any formal definition of openness, this comes down largely to a planning judgement. Openness can be affected by more than just the physical presence of a building. Associated works or infrastructure can affect openness as can how a site is used or how often it is used.
6. The site would provide 10 new, Class C2 flats. This would necessarily bring with it a degree of activity that could affect the perception of the site's openness. The type and extent of any activity associated with the proposed use, together with when it might occur and how all this would differ from the present

- situation, were matters which, to my mind, the Council was entitled to give consideration.
7. The proposed development would be likely to generate fewer vehicle movements than the lawful use of the site. However, 10 flats within Class C2 would still generate some level of activity across the site. Indeed, the nature of the development is predicated on providing easy to manage accommodation that supports residents' independence.
 8. With that in mind, none of the units have their own garden space so the expectation is therefore that there will be people wandering around the grounds from time to time. There are walkways at ground and first floor level which will be used by residents, staff and visitors. Although the number of vehicle movements might be lower, there will still be comings and goings.
 9. Furthermore, there is a good chance that most evenings some of the flats would be occupied and light would be emitted from the building, even if occupants were using blinds or curtains. Despite first floor openings being said to have been kept small and their number limited, there are nevertheless a significant number of them and some large corner windows on the first floor. These larger windows no doubt take advantage of the views afforded and so might be more likely to remain exposed for longer into the evening. The terrace walkways, doorways and entrances all require lighting for safety reasons.
 10. In contrast, whilst the ménage can be floodlit and there are no restrictions on its use, there is limited substantive evidence to demonstrate how regularly it is actually used. Similarly, unless there is a welfare issue or someone forgets, it seems unlikely that stable lights would be regularly left on all night. The indicative lighting strategy was produced in response to the concerns of the Surrey Wildlife Trust. It does not seek to prevent lighting per say, merely to ensure that it is, where possible, directional or motion controlled.
 11. It therefore does not seem unreasonable for the Council to take all this into account in comparing two very different uses, which are likely to have different usage/activity profiles, in order to reach a decision as to whether there would be a greater impact on the openness of the Green Belt. Given all of the above, that the Council concluded that the building would have a greater presence and visibility is not unreasonable.
 12. On balance I found the overall effect would not result in a greater impact on the openness of the Green Belt than the existing development. However, that I came to a different judgement than the Committee does not invalidate their findings in this respect or make their overall conclusion on openness untenable.
 13. It is clear from reading my decision that I agree that the site's location does not accord with the overall spatial and locational objectives of the development plan. As I found the development to not be inappropriate development in the Green Belt, I considered this matter within the wider context of Paragraph 11 and the so-called tilted balance.
 14. However, as the Council found the development to be inappropriate development in the Green Belt, footnote 7 would have provided a clear reason for refusing the proposal. On that basis, Paragraph 11 would not have been

triggered. In such circumstances, I do not find the Council's approach to the site's location to be unreasonable.

15. I agree that reason for refusal 3 did not seem to be well founded. However, even if I were to conclude that the Council's behaviour was unreasonable in this respect, I would still need to address the matter of unnecessary or wasted expense. The applicant's evidence for this aspect of the appeal was straightforward and included a short rebuttal that largely comprised a repeat of the reason for refusal and an extract from the officer report.
16. It appears to me that, in reality, there has been so little extra work occasioned by the third reason for refusal that it can be regarded as 'de minimis'. It seems to me that the applicant has quickly and succinctly set out their case and responded to the Council's case without causing unnecessary or wasted expense.
17. Overall and for the reasons given, an award of costs is not justified.

Stewart Glassar

INSPECTOR