



Costs Decision

Site visit made on 6 June 2023

by Robert Naylor Bsc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2023

Costs application in relation to Appeal Ref: APP/R3650/W/22/3309167 Land at Reeds, The Reeds Road, Tilford, Surrey, GU10 2DJ

- 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 William Mathias of CGJ Mathias & Son (Nurseries) for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of an outline application with all matters reserved for the erection of an agricultural managers dwelling (as amplified by ecology report submitted 07/03/2022).
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Decision

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

Reasons

2. The National Planning Practice Guidance (NPPG) 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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.
3. Paragraph 049¹ of the NPPG highlights the examples of unreasonable behaviour by Local Planning Authorities where costs can be awarded. The applicant has submitted that the Council has acted unreasonably in that it has failed to substantiate its reasons for refusal and made vague, generalised, or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis. The applicant further contends that the Council failed to defer determination of the decision to enable receipt of further information and to attend a site visit, and that the Council displayed a lack of specific knowledge relevant to the case itself.
4. In regard to the lack of a site visit undertaken by the Councillors, whilst these may be routinely undertaken, they are not mandatory, and the Council were entitled to proceed to a decision without one.
5. In relation to the assertion that the Council lacked specific knowledge of the case it is clear that they had extensive information before them and engaged in extensive debate on these matters during the consideration of the submission at the committee meeting. Despite not accepting the officer recommendation this does not demonstrate unreasonable behaviour resulting in unnecessary and wasted expense, as described in the NPPG.

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

6. In respect of the assertion of lack of knowledge of the case, the appeal submission was supported by an independent assessment by Agricultural Consultants which commented on the essential need for an agricultural worker to be on site as part of their pre-application process. That essentially formed the applicants' case in respect of demonstrating very special circumstances necessary to justify the inappropriate development in the Green Belt. Whilst the Council reached a different view on the matter of need, this does not represent a lack of knowledge given the matter is one of judgement for the decision maker based on the information provided.
7. In this case, I have noted the recommendation of the Council's Officers. However, as stated this is a matter of judgement. The refusal of planning permission at the application stage does not necessarily represent unreasonable behaviour. The Council members are entitled to reject the professional advice of their officers so long as they can substantiate a contrary view.
8. Following the Committees decision, the applicants say they had to prepare and provide a Landscape and Visual Appraisal (LVA) as part of the appeal, to demonstrate any potential impacts of the scheme on the Area of Outstanding Natural Beauty (AONB) and the Area of Great Landscape Value (AGLV). In this case, the appeal concerns two main issues those relating to whether the scheme would be inappropriate development in the Green Belt and secondly the effect of the proposal on the AONB and AGLV. As such, the appellant conducted the LVA to support the appeal process and in this regard, I do not find that the production of that report was an unnecessary step in the appeal process nor that it caused wasted expense.
9. The applicant emphasises that the minutes of the Committee meeting did not clearly identify their approach to reaching their decision which was contrary to that of the planning officer. Whilst the minutes of the meeting are brief and do not make reference to the Green Belt, Council Members were made aware of matters on openness of the Green Belt and harm to the landscape character of the AONB and AGLV and made their decision accordingly even though the minutes of the meeting did not cover every aspect of the discussion in detail. Taking all the evidence before me including the recording of the committee meeting, I am satisfied that the Council considered the pertinent factors and that the reasons for refusal were rational and based on relevant issues.
10. Whilst the written minutes may not represent best practice, the evidence makes clear that the Council had reasonable concerns which justified its decision. This does not constitute unreasonable behaviour which has led to unnecessary or wasted expense in the appeal process as described in the NPPG.
11. The Council considered the information submitted and reasoned that the need did not represent very special circumstances to outweigh the substantial harm to the Green Belt. I find that in reaching a decision the Council did consider the development in respect of the harm to the surrounding Green Belt and that provided detailed reasons for refusal. As such I am satisfied that the Council articulated a reasoned decision. For these reasons I conclude there is no evidence that the Council behaved unreasonably in respect to this issue.

Conclusion

12. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the NPPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR