



Costs Decision

Site visit made on 3 October 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Costs application in relation to Appeal Ref: APP/A1910/W/23/3314513 Land Adjacent To Cyritya, Hogpits Bottom, Flaunden HP3 0QB

- 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 Staunton BC for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for erection of dwelling.
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Decision

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

Preliminary Matter

2. The start of the application document states a partial award of costs is sought. However, the conclusion says a full award of costs is justified. I have determined the application on the basis that a full award of costs is being sought although I am mindful that a partial award may be granted if I find insufficient justification for a full award.

Reasons

3. 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. This application claims unreasonable behaviour by the Council due to it refusing planning permission partly because of concerns on the safety of users of an adjacent bridleway.
4. Before the planning application leading to the appeal, a previous planning application was submitted to the Council that proposed a dwelling on the appeal site. This previous proposal was for a house of a different design to that subject of the appeal but the access arrangements for both are the same. The Council refused planning permission for the previous scheme but not due to the proposal's effect on the safety of users of the bridleway.
5. The Council's explanation is that the officer for the previous planning application had not properly assessed whether the proposed access would be safe for all users. It is suggested that a different case officer considering the planning application leading to the appeal is entitled to form a different view on the matter. This is particularly the case given the uncertainty on the level of traffic generated by any existing use rights and as interested parties had raised concerns.

6. As an example, the PPG states that not determining similar cases in a consistent manner may give rise to a substantive award of costs against a local planning authority¹. Clearly in this case, the Council's decision leading to the appeal is inconsistent with its previous decision as it includes an access safety objection. The applicant's grievance over the inclusion of this refusal reason is understandable. The Council is entitled to come to a different view on the matter but the inconsistency in its decisions leads to uncertainty that is unfair on the applicant.
7. However, it is noteworthy that interested parties as well as the Council have raised objections over the access and how the development would affect users of the bridleway. As such, I would have needed to consider the matter in my determination of the appeal, regardless as to the Council's stance on the issue. Also, as explained in my appeal decision, I too have found the proposal would adversely affect the safety of users of the bridleway and so the concerns raised are not unsubstantiated. Given this context, I find the applicant has not been put to unnecessary expense in responding to access safety concerns, even though the Council's objection on these grounds is inconsistent with its previous decision.
8. For the above reasons, I find that any unreasonable behaviour by the Council in terms of objecting to the proposal on access safety grounds has not led to the applicant incurring unnecessary or wasted expense in the appeal process. Therefore, I conclude an award of costs is not justified.

Jonathan Edwards

INSPECTOR

¹ Planning practice guidance, Appeals section, paragraph: 049 Reference ID: 16-049-20140306 revision date 06/03/2014.