



Costs Decision

Site visit made on 12 October 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2023

Costs application in relation to Appeal Ref: APP/C1435/W/22/3312222 Gill Wing Farm House, Groombridge Lane, Eridge, East Sussex TN3 9LA

- 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 Wealden District Council for a partial award of costs against Mr and Mrs Marlowe.
 - The appeal was against the refusal of planning permission for development described as 'retrospective application to change the use of existing annexe/extension and part of Gill Wing Farm House to a separate dwelling, access and parking'.
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Decision

1. The application for 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 Council consider that the appellant has acted unreasonably in respect of the second reason for refusal of the planning application, which related to the effects of the proposal on the Ashdown Forest Special Protection Area (SPA).
3. The PPG is clear that an appellant is at risk of an award of costs being made against them if the ground of appeal had no reasonable prospect of succeeding, and gives examples where this may occur. The Council state that the requirements of Policy WCS12 are clear, in stating that new housing development within 7km of the Ashdown Forest can only proceed subject to mitigation.
4. Despite this, the appellant made arguments why it considered the requirements of Policy WCS12 were not applicable. While I have disagreed with the appellant's arguments in the appeal decision, nonetheless they were presented as considerations which could have potentially indicated a decision other than in accordance with the development plan.
5. The Council refer to another nearby appeal decision, dismissed for reasons relating to effects on the SPA. However, I see no reason why the appellant would necessarily have been aware of that decision when compiling the appeal, particularly as it post dates the appeal's submission. There were also differences in the nature of the development proposed, as that appeal related to a new build.

Conclusion

6. For these reasons the behaviour of the appellant in respect of the second reason for refusal was not unreasonable and the application for costs does not succeed.

C Shearing

INSPECTOR