



Costs Decision

Site visit made on 12 December 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Costs application in relation to Appeal Ref: APP/C3810/W/23/3316638 Brookview Nursery, Eastergate Lane, Walberton, West Sussex BN18 0BA

- 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 Philip Sowden for a full award of costs against Arun District Council.
 - The appeal was against the refusal of planning permission for the removal of outdoor storage, including caravan and polytunnels and the erection of 7 No. flexible E (g) flexible units comprising of offices and workshops, associated parking, drainage and turning spaces.
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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 considers that the Council has behaved unreasonably by refusing to consider additional information submitted during the application process and relating to drainage and trees. They also consider the Council failed to work proactively with them.
4. Whilst I understand the appellant's perspective, and have allowed the appeal, the PPG does not require a Council to accept additional information during the application process. This along with the fact the Council clearly publicises how it intends to deal with any submitted application and kept the applicant up to date during the processing of their application, does not constitute unreasonable behaviour.
5. Nevertheless, the Council not only refused the application on matters relating to drainage and trees but also in relation to harm to the Singleton and Cocking Tunnels Special Area of Conservation (SAC). It is acknowledged the proposal may affect bats, a protected species, using a designated biodiversity corridor adjacent to the appeal site. However, these elements although important in their own right do not form part of the SAC. Therefore, considering the information before me, with specific regard to Natural England's advice confirming they had already informed the Council the proposal would not cause likely significant harm to the SAC, and the lack of objection from the Council's own Ecologist, I find the Council has behaved unreasonably. This is by failing to properly substantiate the harm the proposal would have on the SAC, and consequently the decision to refuse on these grounds.

6. Nevertheless, although I have identified unreasonable behaviour in relation to the SAC, the refusal of the application did not solely rely on this matter and therefore the appeal would have still been necessary. As the applicant has not identified any unnecessary or wasted expense in specific relation to the refusal on grounds relating to the SAC, I do not in this instance, consider an award of costs warranted.

RJ Redford

INSPECTOR