



Costs Decision

Site visit made on 6 August 2024

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024

Costs application in relation to Appeal Ref: APP/A1910/W/23/3332517 Plot 1 Cupid Green Lane, Hemel Hempstead, Hertfordshire, HP2 6HN

- 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 Dacorum Borough Council for a full award of costs against Mr and Mrs Adisa-Olabode.
 - The appeal was against the refusal of planning permission for an agricultural barn from timber wood for animals and its care takers.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 Council's concerns relate to the appellants' pursuit of the appeal in clear conflict with national and local Green Belt policy, and the failure to address its second reason for refusal in relation to the regulatory requirement to consider the effects on the Chiltern Beechwoods Special Area of Conservation (SAC), European designated site.
4. A reference to the Council's second reason for refusal was made in the appellants' statement but no argument was forwarded by them in support of the appeal made. As a matter of legal duty explained by the Council in the officer report, the absence of any defence to that reason for refusal would leave any appeal hopeless given the regulatory burden imposed on the Competent Authority. The appellants' reference to the building's design and appearance had little relevance to the recreational effect of residential development on the integrity of the SAC.
5. Although the appellant offered to pay the necessary obligation towards mitigation, this was only in response to the Council's claim for costs. The offer did not form part of the appellants' case. The Council's guidance: Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest sets out the requirements for securing mitigation measures by way of an obligation under s106 of the Act. It was therefore open to the appellant to utilise that guidance to address the Council's second reason for refusal when lodging the appeal.

6. I find the absence of any contention or attempt to address the Council's duty in respect of the SAC was tantamount to unreasonable behaviour causing the Council to incur unnecessary or wasted expense in the appeal process.
7. Despite the appellants' professional representation and the informative provided by the Council's Decision Notice and officer report, the appeal was submitted on the argument that the development proposed was entirely 'agricultural'. I find the persistence with that argument in clear contrast to the statutory definition set out in s336 of the 1990 Act, was misguided. It contrasts with the appellants' position for the purposes of the costs claim which acknowledges a mixed use of the site was proposed.
8. I find that substantial lack of engagement with the residential element of the proposal, as a concern raised by the Council, was unreasonable. National and local policy and the PPG are clear in relation to the requirements in relation to justification for isolated homes and those associated with accommodation for agricultural workers. The appellants' claims that that element of the proposed development was agricultural was entirely unsupported. Subsequent claims that the Council could have imposed a condition were therefore ill-considered and contrary to the advice in the PPG and established caselaw. In having to address those matters in the appeal, the Council has been caused wasted expense.
9. I note the appellants' claim that there was unreasonable behaviour by the Council during the planning application process, which led to unnecessary or wasted expense at that time. However, there is little before me to qualify that claim or explain how it has led to wasted expense in the appeal proceedings.
10. I also acknowledge that defence of appeals are part and parcel of the Council's remit. However, that is not to say that they should need to elucidate on substantive matters which the applicants failed to address. Furthermore, where this relates to a legal duty, as described above, any assumption by the Council that the appeal should be dismissed is, perhaps, unsurprising.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Joseph and Mrs Denise Adisa-Olabode shall pay to Dacorum Borough Council, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Mr and Mrs Adisa-Olabode, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Hitchcock INSPECTOR