



Costs Decision

Site visit made on 15 October 2024

by A Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Costs application in relation to Appeal Ref: APP/R0660/W/24/3344287 Freyas Folly Stables, Gore Lane, Alderley Edge, Cheshire SK9 7SP

- 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 and Mrs J Wilkinson for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for demolition of existing stables hardstanding and equestrian arena and construction of single detached dwelling.
-

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 has set out their costs application in writing against the Council on substantive grounds. In summary, they state that the Council did not provide evidence to support their conclusion in relation to harm to the visual openness of the Green Belt. They also consider that the Council erred in not considering the context of a recent planning permission relating to an adjacent site, having regard to consistency in decision making. For these reasons, the applicant considers the decision to refuse the application was unreasonable and that they have incurred unnecessary cost in defending the appeal.
4. The Council's rebuttal contends that a landscape assessment was not required in order to assess the effects of the proposal on the Green Belt since Green Belt is not a landscape designation. The rebuttal states that an assessment was reasonably made of the appeal scheme on the basis of the submitted plans and a site visit.
5. The substantive matter in the appeal relates to the impact of the proposed development on the openness of the Green Belt. In this respect, the Council's Officer Report (OR) adequately explains how the conclusions were reached on this issue when considered against the relevant development plan policies and National Planning Policy Framework. These are matters of planning judgement and whilst I have found against the Council, this does not mean that they acted unreasonably in coming to the conclusions they did.
6. Whilst the applicant provided a Landscape and Visual Appraisal (LVA), and this was not disputed by the Council, it is not incumbent on the Council to undertake their own LVA. The application was not refused on the basis of

landscape character, but rather on the effects on openness. Although an LVA may be a helpful tool in assessing the visual aspects of development in the Green Belt, it was not unreasonable of the Council to reach a different view to the conclusions of the LVA on the basis of the submitted plans and what they saw on site. The overall effect on openness is a subjective view and the Council clearly set out their concerns in the OR.

7. Given the applicant's submissions and interested party representations made during consideration of the planning application, and mindful of case law¹ regarding consistency, it would have been prudent for the Council to have explained their reasoning in reaching a different view on the appeal proposal against the recent planning permission granted at nearby Woodmoss Farm². However, these types of development are fact sensitive and site specific, turning on the individual circumstances of each case. I cannot therefore conclude with any certainty that the outcome of the planning application would have been different had they done so.
8. In conclusion, the Council adequately justified their position on the substantive matters raised in the appeal. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Veevers

INSPECTOR

¹ North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137.

² LPA Ref:22/4740M