



Costs Decision

Site visit made on 29 October 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2024

**Costs application in relation to Appeal Ref: APP/D3640/W/24/3345130
Greenacre, Broadway Road, WINDLESHAM, GU20 6DA.**

Decision

1. The application for an award of costs is allowed on a partial basis 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. In its appeal statements and costs rebuttal the Council concentrates on why the condition is necessary to protect the openness of the Green Belt from inappropriate development by restricting the potential of having a disproportionate addition including an adjunct outbuilding. However, this stance does not take account of the independence of the GPDO as a separate Statutory Instrument where, along with the principal Act, it grants a general permission for specific forms of development. The government has never sought to limit this provision within Green Belts.
4. This approach was brought to the Council's attention with the decision on appeal 3286743 in 2022 relating to a neighbouring site and where a similarly worded condition was imposed on permitted extensions to remove permitted development rights. No other more recent appeal decisions or court judgement giving a different view have been submitted by the Council.
5. I conclude that the Council acted unreasonably in imposing condition No.5 as it introduced a restriction on defined PD rights beyond the scope of the policy in the Framework. The condition did not meet the tests of being *reasonable* and *relevant* to the development in question. The Appellant was faced with the unnecessary costs of the appeal. However as the appellant agreed that the part of the condition that refers to Class E could still be retained it would not be appropriate to award full costs to the appellant.
6. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council imposing a restriction that removed Classes A and AA from the dwellinghouse, and a partial award of costs is therefore warranted.

Costs Order

7. 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 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Surrey Heath Borough Council shall pay to Mr G Bullen, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in making a case against the imposition of the restrictions on GPDO Classes A and AA, such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to the Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Murray

INSPECTOR