



Costs Decision

Site visit made on 29 October 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Costs application in relation to Appeal Ref: APP/D5120/W/24/3342423 Woollett Hall Farm, North Cray Road, Sidcup, Bexley DA14 5ET

- 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 Beck Evans (2000) Limited for a full award of costs against the Council of the London Borough of Bexley.
 - The appeal was against the refusal of planning permission for retention of area of hardstanding for farm track and access to agricultural buildings.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. It is an accepted principle that parties in planning appeals normally meet their own expenses.
3. The applicant alleges that the Council's behaviour was unreasonable and resulted in the applicant having to unnecessarily appeal the refusal of planning permission. The costs application is based on substantive grounds.
4. Firstly, the applicant considers the Council's reasoning that the proposal would be inappropriate development was based on an inaccurate assumption that the hardstanding would be used for informal parking, as opposed to a farm track and agricultural access as proposed; and that this concern could have been addressed by means of a planning condition. Secondly, the applicant contends that the Council did not adequately assess the proposal against the criteria in the National Planning Policy Framework (the Framework) for forms of development that are not inappropriate in the Green Belt. Finally, the applicant believes that the application should not have been refused having regard to the requirements of the High Court Order.
5. The officer's report shows that an analysis of the proposal was undertaken against the relevant policies of the development plan and national policy including considering, albeit briefly, the paragraphs of the Framework outlining the forms of development which are not inappropriate in the Green Belt. The Council considered the effects of the proposal with regard to the specific circumstances of the site including the effect on openness and the purposes of Green Belt.

6. The High Court Order did not require the Council to approve the subsequent planning application, which still had to be assessed and determined in the usual way. While the use of a condition addresses the Council's concern regarding the unauthorised use of the development, it would not have overcome the Council's conclusion that the proposal constituted inappropriate development.
7. The Council were correct to take account of other material considerations, including the previous appeal decision. However, the Council's concerns that the site could be used as an informal parking area were unreasonable given that this was not proposed. Indeed, the officer's report indicates that the use of the proposal as a farm track would be acceptable and not harmful to the openness of the Green Belt. Therefore, the Council's assessment and decision was based at least in part on a potential alternative use of the site, rather than what was actually proposed, and this was unreasonable. It has led to an appeal which could have been avoided and wasted expense for the applicant.

Conclusion

8. I conclude that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 the Council of the London Borough of Bexley shall pay to Beck Evans (2000) Limited, 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.
10. The applicant is now invited to submit to the Council of the London Borough of Bexley, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Ollerenshaw

INSPECTOR