



Costs Decision

Site visit made on 7 October 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Costs application in relation to Appeal Ref: APP/E2205/W/24/3339135 Sportsman Farm, High Halden Lane, High Halden, Kent TN30 6SY

- 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 Mrs Emma Scott for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for two steel framed agricultural buildings and access track.
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Decision

1. The application for an award of costs is partially 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. There was no indication in either the officer's report or the Council's decision notice that there was any question as to whether the proposal would not meet the limitations and conditions set out in A.1 (e)(i) of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). It was explicitly stated in the officer's report that the Council considered the proposal to be permitted development. The report acknowledged the access track would be approximately 1276 sqm.
4. A statement by Acorus, acting as the Council's agricultural consultant, was provided in support of the Council's case at appeal. It states that the proposal did not meet criteria A.1 (e)(i) of Schedule 2, Part 6, Class A of the GPDO and requests the appeal be dismissed on that basis.
5. By providing this evidence at appeal stage which was unrelated to the reason for refusal, and effectively introducing an additional reason for refusal, the appellant then had to undertake additional work to address this element of the Council's case at appeal.
6. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of whether the proposal would constitute permitted development 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 Ashford Borough Council shall pay to Mrs Emma Scott, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the Council's appeal statement insofar as it relates to whether the appeal proposal would comply with the limitations and conditions set out in A.1 (e)(i) of Schedule 1, Part 6, Class A of the GPDO; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Ashford Borough 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.

L Francis

INSPECTOR