



Costs Decision

Site visit made on 14 January 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 FEBRUARY 2025

Costs application in relation to Appeal Ref: APP/C3620/W/24/3347013

Ash Copse Farm, Lyefield Lane, Forest Green, Surrey RH5 5SN

- 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 Luke Nicholson for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of the reserved matters of the details of the layout, scale, siting, external appearance of the building and the landscaping of the site.
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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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.
3. Paragraph 049¹ of the PPG highlights the examples of unreasonable behaviour by Local Planning Authorities where costs can be awarded. The applicant has submitted that the Council has acted unreasonably in that it has failed to substantiate its reason for refusal and made vague, generalised, or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis. The applicant further contends that in refusing permission the Council delayed a development that should clearly have been permitted by failing to produce evidence to substantiate each reason for refusal.
4. The Council refused planning permission for two reasons. Firstly, the scale of the proposed dwelling was considered materially larger than the one it replaced, thus harming the open character of the countryside contrary to policies ENV3 and RUD8 of the Mole Valley Local Plan (LP), adopted October 2000, which formed the development plan at the time of the decision. The second reason for refusal related to insufficient information having been submitted to satisfactorily demonstrate that the proposal would not have an adverse impact on protected species that may be occupying the site.
5. Both parties agree that the principle of the development for the erection of a farmhouse was acceptable given the grant of outline planning permission². The outline scheme was conditionally approved with all matters (layout, scale, siting,

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

² Mole Valley Planning Ref: MO/2022/0362/OUT

- external appearance and landscaping) reserved. From the details before me, the description of the development under the outline permission contained no reference to the removal of the existing mobile home. Nor did the Council attach any condition to the permission that secured its removal. Consequently, given the siting proposed in the reserved matters scheme³, the proposal would represent a new dwelling rather than a replacement dwelling in the countryside.
6. Policy RUD8 of the LP is specific in its requirements which relate strictly to replacement dwellings in the countryside only. As such, it is unclear from the Council's reasoning why the proposal would be assessed against this policy given that there was no requirement to replace the existing mobile home. This could be considered as unreasonable behaviour.
 7. Nevertheless, the Council also cited LP Policy ENV3 in their reason for refusal. This policy required all development to be appropriate in scale, form, impact and siting. The Council reasoned that the scale, bulk and massing of the proposed building was considered to harm the open character of the countryside contrary to this policy. Whilst I have reached a different view to the Council on these matters, this matter is one of judgement for the decision maker. It follows that I am satisfied that the Council advanced a case, in the form of its officers' report and decision notice, that in its opinion, indicated that the proposal was contrary to the development plan and the National Planning Policy Framework at the time of the decision. Therefore, I cannot conclude that the Council had behaved unreasonably.
 8. In regard to the second reason for refusal, there is conflicting information in respect to the submission of the Preliminary Ecological Appraisal (PEA)⁴ and whether or not the Council received it prior to the decision having been made. It is acknowledged that following the review of the PEA as part of the appeal, the Council no longer contested this reason for refusal. However, without this information this reason for refusal would have been maintained. Given, that this was not the only reason for refusal and the applicants state the PEA was prepared at the application stage, I do not find that they have been subject to wasted expense in preparing the PEA at the appeal stage. Furthermore, without the information contained within the PEA, I may not have been able to reach the same overall conclusion.
 9. Whilst I understand the concerns of the applicant regarding the Council's behaviour in failing to submit an appeal statement within the required timeframes, I have enough information in front of me within the officers' report and the decision notice to reach a decision. Consequently, as I am unable to conclude that the Council behaved unreasonably, the costs incurred by the applicant in pursuing the appeal, were the normal costs arising when the right of appeal is exercised.
 10. As parties in planning appeals and other planning proceedings normally meet their own expenses, I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR

³ Mole Valley Planning Ref: MO/2023/1963/RM

⁴ Prepared by Vesper Conservation & Ecology Limited dated 30/10/2023