
Costs Decision

Site visit made on 21 January 2025

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Costs application in relation to Appeal Ref: APP/J1535/W/24/3350859

Taw Lodge Farm, Epping Lane, Stapleford Tawney, Romford RM4 1ST

- 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 R Holloway for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for the change of use of former yard area to ancillary domestic use in connection with existing dwelling.
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Decision

1. The application for an award of costs is 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. On substantive grounds, the applicant suggests that the Council have failed to produce evidence to substantiate the reason for refusal on appeal. The applicant also states that the Council made vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis.
4. The applicant's claim is that the Council acted unreasonably by claiming that the proposed change of use would be harmful to the openness of the Green Belt on the basis that it could result in the access to the applicant's farmland to the south being hindered.
5. The appeal proposal is for a change of use of the appeal site to be used for residential purposes. Whilst it incorporates the land between the existing access and the farmland, it does not include the farmland itself which is also under the ownership of the applicant. The Council claim that the proposal could lead to a new application for the creation of an independent access to the farmland which would have the potential to impact on the openness of the Green Belt. However, the current proposal does not result in an additional access point to the farmland and no evidence has been provided to suggest that an additional access may be required. For this reason, such claims are not relevant to the current appeal.
6. As such, I conclude that the Council have behaved unreasonably in determining that harm to the openness of the Green Belt would result from possible hinderance to the applicant's farmland, failing to provide evidence to substantiate their reason for refusal and making inaccurate assertions about the proposal's impact. This has

led to unnecessary and wasted expense in having to address this matter in their appeal.

7. Also on substantive grounds, it is contended that the Council refused planning permission on a planning ground capable of being dealt with by conditions. This is where it is concluded that suitable conditions would enable the proposed development to go ahead. Whilst the Council made no reference to the possibility of conditions in their submissions, I am satisfied that the Council did not refuse planning permission on a planning ground capable of being dealt with by conditions.
8. On procedural grounds, the applicant states that the Council have prolonged proceedings by introducing a new reason for refusal. However, I see no evidence to suggest that the Council have sought to include any further reasons for refusal than the one on the original decision notice.
9. Nevertheless, as the Council have failed to provide evidence to fully substantiate their reason for refusal and have made inaccurate assertions about the proposal's impact, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Practice Guidance has been demonstrated and that a full award of costs is justified.
10. Comments in relation to the cart lodge on the appeal site, which does not benefit from planning permission, is not relevant to the appeal proposal or this costs application. Furthermore, additional information to support the reason for refusal put forward by the Council in their costs rebuttal, in relation to residential paraphernalia, disproportionate additions and an urbanising effect, are also not relevant to this costs application.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

12. 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 Epping Forest District Council shall pay to Mr R Holloway, 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.
13. The applicant is now invited to submit to Epping Forest District 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.

E Grierson

INSPECTOR