



Costs Decision

Site visit made on 26 November 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2025

Costs application in relation to Appeal Ref: APP/A1910/W/24/3346304 Land to West of Orchard House, Astrope Lane, Astrope HP23 4PN

- 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 Laxton Properties Limited for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for residential development including formation of new houses, access, landscaping and all ancillary features. Diversion of footpath 53.
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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.
3. The appellant's claim for costs relies on the basis that the Council requested additional information the day before planning permission was refused, made factual errors in the consideration of the application including not considering submitted information as well as not considering the application with due care and attention by making errors on the decision notice.
4. The Local Lead Flood Authority (LLFA) provided comments to the Council beyond the statutory period. While frustrating for the appellant the comments were still received prior to the applications determination and therefore the Council must have regard to these.
5. The Council provided the LLFA comments to the appellant late on the day before the application was determined. I appreciate that the appellant was not provided with time to address the comments, however, the Council made it clear that on the basis of the other reasons that the application would be refused, and the drainage concerns would be added to this.
6. The Council are required to determine the application on the basis of the information before them and it is at their discretion to request further information. In this regard, on the basis of the Council's other concerns, which would have been unlikely resolved by providing further information, I do not find it unreasonable for the Council to have not allowed further time to submit additional details.

7. Furthermore, it is also evident that details of drainage were missing from the application that could not have been resolved by a planning condition. Therefore, either through the application or appeal these details would have need to have been provided and as such, there has been no wasted expense.
8. It is clear from the Council's officer report that they considered the Hertlynx service, and I therefore do not find this aspect of the proposal has been omitted. I note that there appear to have been emails between the Council and highway officers in which precise details were not recorded in the officer's report, however, it is clear that the Hertlynx service would not have overcome the unsuitable location of the appeal site, and I have found the same.
9. The Council have made errors on the decision notice in regard to naming the wrong footpath proposed to be diverted as well as suggesting that the appellant sought pre-application advice before the applications submission, which did not happen. While these errors are noted, it is clear that the Council have considered the correct footpath and in relation to the pre-application advice, I note the confusion from the Council, but the fact pre-application advice was not sought by the appellant is not tantamount to the determination of the application.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

D Wilson

INSPECTOR