



Costs Decision

Site visit made on 28 January 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Costs application in relation to Appeal Ref: APP/X0415/W/24/3343635

St Leonards Church Hall, Glebe Way, Chesham Bois, Buckinghamshire HP6 5ND

- 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 St Leonard's Parochial Church Council for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for the redevelopment of the site to create a new multifunctional parish centre with cafe, day nursery building, replacement rectory with detached garage, two outbuildings to provide prayer room and substation/bin and bicycle store, associated parking and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and that behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is seeking to recover the full costs incurred in the appeal process. The applicant considers that the Council behaved unreasonably as it prevented development which should clearly be permitted having regard to the relevant policy considerations and failed to produce evidence to substantiate its reason for refusal on appeal.
4. The Council Officer's planning committee reports recommended approval of the planning application. Members of the Council's planning committee (members) are entitled not to accept the professional advice of officers so long as a case could be made to the contrary. Members discussed the impact of the development on the Chilterns Beechwoods Special Area of Conservation (SAC) at an initial planning committee meeting and deferred a decision for an appropriate assessment (AA) to be carried out by officers. This was completed and the application was reconsidered by members at a subsequent planning committee meeting. This included the AA as an appendix.
5. Based on the evidence, the AA outlines the likelihood of significant effects on the SAC due to an increase in recreational disturbance arising from development within 12.6km of the SAC. It explains that this will derive from an increase in housing numbers but also that some other applications, depending on their scale and location, could also have a significant impact and that each case will need to be considered on its own merits.

6. The AA sets out that the Conservation of Habitats and Species Regulations 2017 require the Council to consult Natural England (NE) and to have regard to any representations made by them. NE's response was included as an appendix to the latter planning committee report. This made clear that NE had no objection to the proposal, based on the fact that the proposed development would not result in a net increase in residential dwellings and therefore would be unlikely to result in increased recreational pressure upon the SAC.
7. The AA sets out scenarios in which the proposed development could impact upon the SAC which reflect the potential for combined trips to the proposed facilities and the SAC. It concludes that the development would be unlikely to have a significant effect on the integrity of the SAC. This is because people who would use the new facilities would be visiting for a specific purpose and given the distance and travel time involved, as well as the availability of other open spaces in much closer proximity, it was not considered that the proposal would increase recreational pressure on the SAC.
8. Despite this evidence and NE's response, the Council's members refused the planning application. They considered that given the size of the centre, many visitors would come from outside the local area and if they were travelling via the area of the SAC at Ashridge, they would be more likely to stop off on their way to or from the proposed facility. They indicated that the AA had not taken account of the proposed scheme being full to capacity. Further, the members considered that it was unclear that the Inspector's comments on the SAC in the previous appeal decision¹ related solely to the residential element of that proposal. This appeal decision was included as an appendix to the committee reports. In addition, members referred to the FAQs regarding the SAC on the Council's website.
9. The reason for refusal outlined that given the scale and use of the proposed parish centre, there was insufficient evidence submitted in support of the proposal to conclude that its impacts, either alone or in combination with other plans and projects, could be avoided or mitigated so that the integrity of the SAC would be preserved. The reason cited the Council's published FAQs.
10. There is no evidence indicating that users of the proposed facility would stop off at the SAC. The previous appeal decision clearly refers to net increases in residential development within the SAC's 12.6km zone of influence (ZOI) resulting in likely significant effects on the SAC and analyses the potential recreational impacts of future residents. In assessing the impacts of that scheme on the SAC, that appeal decision makes no references to other proposed uses on the site.
11. I acknowledge that the precautionary approach applies in respect of effects on the integrity of a SAC. The FAQs applicable when members determined the planning application outlined that some applications for other development types in close proximity to the SAC depending on their scale and location could lead to a significant impact on the SAC, with each case being considered on its own merits. The January 2024 committee report and the accompanying AA make clear that the site is around 10km or 11.3km from the SAC. Given that this is towards the outer limits of the ZOI, the Council's argument that it could be justified with reference to the FAQs is not compelling. Indeed, the subsequently approved SAC mitigation strategy clarified that other developments are screened out of the need for AA if

¹ Appeal Ref: APP/X0415/W/21/3278072 'the previous appeal decision'

they are outside a 500m avoidance zone. This was reflected in updated FAQs and the Council decided not to defend its position as a result, effectively removing its objections to the proposal.

12. For the above reasons, I consider that the Council prevented development which should have clearly been permitted having regard to the relevant policy considerations and failed to produce sufficient evidence to substantiate its reason for refusal on appeal. As such, the Council's behaviour has been unreasonable as the applicant has had to spend money on addressing the reason for refusal through their appeal submissions. It thus follows that the applicant has incurred unnecessary expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and a full award of costs is justified.

Costs Order

13. 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 Buckinghamshire Council shall pay to St Leonard's Parochial Church Council, 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.
14. The applicant is now invited to submit to Buckinghamshire 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.

A Wright

INSPECTOR