



Costs Decision

Site visit made on 11 December 2024

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2025

Costs application in relation to APP/K0425/W/24/3342903

Harleyford Golf Club, Harleyford, Marlow, Buckinghamshire SL7 2SP

- 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 Harleyford Golf Club (Marlow) Ltd. for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal to grant planning permission for the refurbishment and extension of 'The Tank House' at Harleyford Golf Club and conversion to offices
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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 applicant's assertions that the Council has acted unreasonably in this case can be summarised into two main capacities, being: the refusal of the planning application on biodiversity grounds; and the refusal of the planning application on the basis of a Tree Preservation Order (TPO).
4. With regard to the first issue above, the applicant contends that planning permission should not have been refused due to a lack of evidence surrounding biodiversity net gains. They point to the fact that mandatory biodiversity net gains set out at a national level were not in force at the date the application was made. However, it remains that Policy DM34 of the Wycombe District Local Plan 2019, in force at the time of the application, requires all development to achieve a net gain in biodiversity. The proposal is required to comply with this policy and, as it can be seen from my decision, I agree with the Council that it does not.
5. It is unfortunate that the applicant was assured in discussions prior to the issue of the decision that there would be only one reason for refusal, such that they had not anticipated a reason for refusal relating to this matter. However, such discussions carry little weight. When the official decision notice was issued it included such a refusal with clear reference to the local policy for justification. Taking all of the above together, I do not find that the Council acted unreasonably in this regard.
6. With regard to the second issue above, the decision notice includes a reason for refusal that reads as follows: *"the proposed extension would result in the*

- loss of a protected, mature Horse Chestnut Tree*". The tree in question falls within the Harleyford and Whittington House Conservation Area, and trees in a conservation area that are not protected by a TPO are protected by the provisions in section 211 of the Town and Country Planning Act 1990.
7. However, while the decision notice does not refer expressly to a TPO, comments from the arboriculturist in the officer's report state "*protection orders are added to trees to do just that, protect them*". Later, post-decision correspondence from the arboriculturist also states that "*given there is a TPO on the tree we cannot give our blessing on its removal*". There is nothing substantive before me to suggest that the tree is in fact subject to a TPO.
 8. Nevertheless, the decision notice and officer's report are clear that the application was refused due to the impact that removing the tree would have on the established character of the Harleyford and Whittington Conservation Area, the Registered Park and Garden, and the Chilterns Area of Outstanding Natural Beauty. While I note the position of the Conservation and Listed Buildings Officer, the ultimate reasoning for this refusal is outlined in the officer's report, with clear reference to local policy to justify the position. In this reasoning, the Council acknowledges the intention to use the building at the site as an estate office. While the appellant states that the Council did not ask for further proof of economic benefits, viability, or alternatives, the Council did not act unreasonably in forming a decision on the information before them. As can be seen from my decision, without reference to a TPO, I agree with the overall conclusions of the Council on this reason for refusal.
 9. As such, even if I were to find that the Council had acted unreasonably in misdirecting itself on the TPO, given the nature of this reason for refusal, and the existence of a second reason for refusal on biodiversity, it would still have been necessary to make an appeal. I do not therefore consider that unnecessary or wasted expense was incurred.
 10. Reference has been made to the fact that the tree in question could have been removed with the provision of six weeks' notice. However, there is no guarantee that consent would have been given for its removal following provision of this notice. Evidence has also been submitted relating to the withdrawal of prior applications at the site, and advice given on earlier schemes. This does not relate to the appeal scheme before me and, in any event the application is clear that, when the application for the current scheme was progressing, the Council's previous comments were understood. Finally, there is no substantive evidence before me that the Council failed to give the appellant an opportunity to re-apply for planning permission.
 11. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Rafferty

INSPECTOR