



Costs Decision

Site visit made on 19 March 2025

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Costs application in relation to Appeal Ref: APP/E2205/W/24/3353079

Great Bromley Farm, Blackwall Road, Wye, TN25 5PA

- 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 William Fraser (FGS Agri) for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal to grant prior approval for a change of use to a building and associated curtilage from agricultural to (B8) storage and distribution.
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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. In response to the original consultation, Kent County Council Highways and Transportation advised that the development proposed fell outside the criteria to warrant the involvement of the highway authority. However, their letter of 24 June 2024 also stated that if any material highway concerns arose then the authority could be contacted again. That is what happened in the light of representations received and the highway authority subsequently recommended refusal in its reply of 9 July 2024. Given the objections raised, it was not unreasonable to seek an input from a specialist advisor.
4. Furthermore, it was not incumbent on the Council to advise the applicant of this step. Whilst the application process should be as transparent as possible, there is a limit to what applicants can reasonably expect and the local planning authority is not required to inform them of every action taken. This would be unduly onerous. It is not explained in what ways the highway authority response was factually incorrect as claimed.
5. In line with the Council's Good Practice Guide the case officer immediately advised the applicant of the refusal recommendation in the light of the advice from Highways and Transportation. The applicant sought an extension of time to resolve matters but this was denied. The PPG on *Determining a planning application* confirms that decisions should be made as quickly as possible and there is no requirement to allow matters to be held up. In this case, given the stance taken by the Council, it is also difficult to see what this would have achieved. There is no

reason to suppose that either the case officer or the highway authority were unaware of the background to the proposal.

6. Nevertheless, the officer assessment sheet 'skates over' the fact that prior approval was given for a similar change at one of the other buildings at Great Bromley Farm. Whilst the matter is acknowledged, no explanation is given as to why a different decision should be made, other than the fact that the highway authority had objected. It is understandable that the applicant is perplexed by this even though it would have been possible to refer to the cumulative impact.
7. However, although this part of the consideration of the application falls short of best practice, it was reasonable for the Council to ultimately decide the application as it did. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Smith

INSPECTOR