



Costs Decision

Site visit made on 22 April 2025

by **A Hickey MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 MAY 2025

Costs application in relation to Appeal Ref: APP/J1915/W/24/3352562 High Trees Farm, Beggarmans Lane, Old Hall Green, Hertfordshire SG11 1HB

- 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 & Mrs Gibson for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
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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 PPG goes on to advise that examples of behaviour that may give rise to a substantive award against a local planning authority include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicants' costs application, for a full award of costs, is submitted on the basis that the Council erroneously based its concerns on the establishment of three permanent residential dwellings.
5. Section 73 of the Town and Country Planning Act 1990 (Act) allows for a grant of permission for the development of land without compliance with conditions subject to which a previous permission was granted. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Act requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council therefore had a duty to determine the application against the development plan and any material considerations.
6. The decision in the case of the appeal hinged on making a judgement on whether an extension of the period of occupation of the permitted holiday/short term lets would alter the character and function of the appeal building.

7. In relation to whether the proposed occupancy changes on the apartments would go beyond holiday/short-term lets, the Council provided no development plan policies that defined a short term let. Neither the Council nor the Appellants provided any legislation or related case law to define a short term let. The Council did, however, make some arguable points in regard to the doubling of the time in which the apartments could be occupied per let, which they considered went beyond a short term let. I have examined these matters in the planning appeal decision and consider that they were arguable, although I have come to a different decision to the Council.
8. In summary, although I have disagreed with them, the reason for the refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would be in conflict with, in the view of the Council. These reasons have been adequately substantiated in the Council's Appeal Statement submitted as part of the appeal.
9. Accordingly, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The Applicants had to address those concerns and the evidence in any event.

Conclusion

10. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

A Hickey

INSPECTOR