



Costs Decision

Site visit made on 17 April 2025

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th June 2025

Costs application in relation to Appeal Ref: APP/Y9507/W/24/3351181

Harkers Cross Farm, Hullam Lane, Newton Valence, Alton GU34 3FA

- 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 Joe Windibank for a full award of costs against South Downs National Park Authority.
 - The appeal was against the grant subject to conditions of planning permission for Retrospective application for a two-year temporary permission to site a mobile home to be occupied by an agricultural worker (amended description).
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Decision

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

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 identifies that examples of unreasonable behaviour by local planning authorities include imposing conditions that are not necessary, relevant, enforceable, precise, or reasonable.
4. The applicant seeks a full award of costs on both substantive and procedural grounds. These include the Authority's amendment of the description of development, reducing the temporary period from three to two years – without the applicant's agreement, and the imposition of conditions that failed to meet the tests set out in the National Planning Policy Framework (the Framework). The Council has not provided any response to the application for costs.
5. Although I agree that a temporary permission was appropriate, the Authority acted unreasonably in unilaterally reducing the time period without consultation. The PPG clearly states that any amendment to the description of development should be discussed with the applicant or their agent¹. This did not take place and the revised two-year time period did not reflect the basis on which the application was publicised and consulted upon.
6. The Authority contends that, due to the retrospective nature of the application and the time already elapsed, the applicant has not been prejudiced. However, this assertion lacks substantive justification. The appellant firmly rejects the notion that the reduced two-year period offers the necessary certainty to develop the livestock

¹ Paragraph 046 Reference ID: 14-046-20140306 Revision date: 06 03 2014

- enterprise. The Authority has failed to provide any compelling evidence, to address the arguments regarding certainty for investment to explain why a three-year permission would be unacceptable while a two-year term was deemed acceptable.
7. Moreover, the decision to alter the duration of the time period was made without prior notification to the applicant, denying them the opportunity to respond. These actions and the related lack of transparency constitutes unreasonable behaviour. As a result, the applicant has incurred unnecessary costs in pursuing an appeal to rectify the decision.
 8. Regarding the other disputed conditions, I recognise that the appeal site is located within a National Park, a landscape designation of national importance. In this context, the Authority was entitled to exercise its planning judgment and, having identified, in its view, landscape harm, to propose mitigation through the imposition of conditions 3 and 5. Although I have concluded – for the reasons set out in my decision – that these conditions are unnecessary, I am satisfied that the Authority had regard to adopted development plan policy, and the specific site context in reaching its decision. This difference in judgement does not, in itself, amount to unreasonable behaviour.
 9. Turning to Condition 9, which relates to the provision of a parking scheme, I acknowledge that highway safety is a fundamental consideration in assessing the acceptability of any development. While I have reached a different conclusion regarding the necessity of a formal parking scheme in this case, this appears to stem from a difference in the weight attributed to the availability of informal off-road parking opportunities close to but beyond, the site boundary. The Authority's position is supported by reference to adopted development plan policies, and it is clear that its concerns were legitimate planning considerations. As such, although I have taken a different view, this difference in judgment does not, in my assessment, amount to unreasonable behaviour.
 10. Even though I have found it necessary to amend the wording of condition 8, I also concluded that the provision of bird and bat boxes is a reasonable and necessary requirement, warranting a planning condition. It follows that the Authority's decision to impose such a condition was reasonable and justified. The need for ecological enhancements is consistent with both adopted development plan policy and therefore, the Authority's actions in this regard do not constitute unreasonable behaviour.
 11. Delays in determining the application, poor communication, and the request for an amended location plan – intended to expand the site area - are all noted. The amended plan does not appear to have been considered in the Authority's decision-making process. Whilst no justification has been provided for these shortcomings, they have not been determinative in the outcome of the appeal decision or in relation to this costs application, given my findings set out above.

Conclusion

12. For the above reasons, the permission granted by the Authority involved an unreasonable change to the description of development and accompanying condition. This is contrary to the approach set out in the PPG. In these circumstances, it is understandable why the applicant considered it necessary to appeal the decision. I conclude that the Authority's behaviour has been unreasonable in respect of the way it dealt with this matter and this has resulted in

the applicant incurring unnecessary expense through having to rectify the issue of the time-limit at appeal.

13. However, even if the time-limit issue had been handled differently, it does not follow that the application for the temporary siting of a mobile home should have been granted without any of the disputed conditions, or that that entirety of the appeal process could have been avoided. The other disputed conditions involved legitimate planning considerations with reference to adopted development plan policy. Therefore, only a partial award of costs is warranted – limited to the time and expense incurred during the appeal process in addressing matters arising from that time-limit issue.
14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

15. 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 South Downs National Park Authority shall pay to Mr Joe Windibank, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to condition 1 – temporary time period; such costs to be assessed in the Senior Courts Costs Office if not agreed.
16. The applicant is now invited to submit to South Downs National Park Authority, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Lawrence

INSPECTOR