



Costs Decision

Site visit made on 3 June 2025

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2025

Costs application in relation to Appeal Ref: APP/J3720/W/24/3353357 Dassett Field House, Dassett Road, Avon Dassett, Warwickshire CV47 2AA

- 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 P and L Rocher for a full award of costs against Stratford-on-Avon District Council.
- The appeal was against the refusal to grant consent, agreement or approval to details required by Condition 3 of planning permission Ref:22/02564/FUL for the construction of an indoor riding arena.

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 (the applicants) to incur unnecessary or wasted expense in the appeal process.
3. The PPG gives examples of the types of behaviour that could give rise to an award of costs against a local planning authority. They are not exhaustive but include preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations; vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicants consider the Council has acted unreasonably by refusing the application and thus preventing and delaying development, making vague and generalised comments that are not substantiated and failed to take into account material considerations, namely the appeal decision for the indoor riding arena¹ (hereafter the 'previous appeal'). As a result the applicant has gone to unnecessary and wasted expense in appealing.
5. The Council's case is that it provided sufficient explanation why the landscaping scheme, submitted to discharge Condition 3 imposed by the previous appeal Inspector, was not acceptable.
6. Much of what both parties say appears to rehearse old grievances and issues relating to how the planning application for the indoor riding arena building, the subject of the previous appeal, was handled, presumably intended to give me an insight into how each other has behaved over the years. This is not pertinent to the appeal before me.

¹ Appeal ref: APP/J3720/W/23/3231988 dated 5 June 2024

7. The previous appeal Inspector imposed a standard type of landscaping condition. It was not bespoke to the building or site in that it did not specify particular landscaping measures or features that needed to be incorporated. The discharge of conditions on a planning application, whether imposed on appeal or not, is the function of the local planning authority who must exercise their discretion and knowledge to determine whether the submitted details are sufficient and adequate to produce acceptable amelioration or address whatever reason the condition was imposed for.
8. In this instance, the Council found the submitted scheme was not suitable, preferring a more natural and native-species oriented scheme more suited to the surrounding Special Landscape Area. They were entitled to come to this view in light of Council policy and the pursuit of good planning, even if the applicants disagree.
9. However, the requirement of a 15-metre wide tree belt was unreasonable, in light of the previous appeal Inspector's comments relating to landscaping and the practicalities in light of the proposed development. Furthermore, the Council's landscape officer who commented on the discharge of condition application made no reference to the need of a 15 metre wide tree belt., so it appears the planning officer added the requirement. That said, the applicant would likely have continued their objection to the refusal of the 'non-native' aspect of the refusal reason and lodged an appeal in any event, cognisant that this would incur costs.
10. The Council's reason for refusal was brief, which is not uncommon amongst local authorities in general. It would not need to offer the same degree of explanation and details as a report for a planning application, However, as a result of brevity there may have been some ambiguity as to how the refusal reason was worded relating to non-native species. The Council now accept the wording was misleading and it should have been more precise. Nonetheless, it was sufficient for me to determine the appeal.
11. Following comments from the Council in response to the Costs application, the applicants have since acknowledged that the Rosa rugosa 'Rubra'/'Alba' White/red Japanese rose is a banned invasive species and agrees that component of the planting schedule (for the horse-friendly hedge) is not suitable. The parties have been advised and the applicant has since confirmed they will not use it.
12. There is some dispute between the parties as to the nature and extent of communication between them. The Council could have alerted the applicants to the unsuitable aspects of the landscaping scheme during determination of the discharge application in order to get the scheme amended, but they are not obliged to. Not doing so does not amount to unreasonable behaviour.
13. The applicant refers to the overall delays over the last three years in dealing with matters at the appeal site. The timescales for determining the planning application for the indoor riding arena and subsequent appeal are nothing to do with the current appeal before me. Following the previous appeal, waiting for the discharge of Condition 3 and the time taken to lodge and determine the current appeal does not appear to have hindered the applicant's business altogether, or prevented the development - the indoor riding arena building has been erected and has been brought into use before the timescales set out in Condition 3. Being in breach of the condition is a risk the applicants have decided to take.

14. Drawing all the points together, I find that the Council has not acted unreasonably with regard the hedges and trees, but it did in requiring a 15 metre-wide tree belt. Notwithstanding this, I am of the view the appellant would have lodged an appeal in any event against the other aspect of the refusal and would have done so mindful of the associated expense such action would incur. The additional work to address the tree belt was not significant beyond that.

Conclusion

15. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K. Stephens
INSPECTOR