Planning Inspectorate

Costs Decision

Site visit made on 25 June 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2025

Costs application in relation to Appeal Ref: APP/P3610/W/24/3355981
Hobbledown, Horton Lane, Epsom KT19 8PT

- 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 Hobbledown Limited for a full award of costs against Epsom and Ewell Borough Council.
- The appeal was against the refusal of planning permission for new waterplay area comprising formation of shallow water feature and erection of play equipment and associated structures.

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 brief, the applicant contends that the Council delayed a development which should clearly have been permitted and in doing so failed to engage with the applicant, making generalised and inaccurate assertions about the proposal and not providing the applicant with the consultee responses. This approach is said to be inconsistent with the Council's previous approach on the site and elsewhere.

4. The Council has disputed that it acted unreasonably.

5. It is evident from my decision that I do not agree that the Council delayed a development which should clearly have been permitted nor was it refused on grounds capable of being dealt with by conditions. As such, I do not find the Council's decision that the scheme was inappropriate development in the Green Belt to have been unreasonable nor for the benefits in support to have not constituted very special circumstances.

6. It is not therefore necessary for me to consider in detail whether the Council misconstrued the Planning Statement. I can understand why the Officer Report concluded that no very special circumstances were advanced by the applicant. The heading above Paragraph 5.60 in the Statement reads: 'Whether there are Very Special Circumstances' and the paragraph itself concludes that they exist, without stating what they are.

7. It is only when this paragraph is read in connection with the subsequent paragraphs and in particular 5.64 – 5.68 that the nature of the claimed very special circumstances are evident. Ultimately however, the Council's misreading of the

Planning Statement did not result in an appeal against a development which should clearly have been permitted and so did not result in wasted or unnecessary expense.

8. There is obviously a long planning history at the site and the working relationship between the applicant and the Council's officers has generally resulted in positive outcomes for the applicant. I am sure that this would have raised the applicant's expectations of a similarly positive experience this time around.

9. It was therefore no doubt disappointing for the applicants that there was not the dialogue and engagement they anticipated. The applicant's frustration therefore appears to be, in large part, at the level of service received compared to previous applications.

10. An inconsistent approach to customer service, for whatever reasons, can erode trust and confidence in the service. However, an inconsistent approach to customer service is not the same as an inconsistent approach to decision making.

11. Although previous applications have been approved on other parts of the site, it does not follow that a different form of development would be equally as acceptable on a different part of the site. Other proposals will have raised different issues and considerations. The other decisions referenced by the applicants did not alter my findings that the development was inappropriate development in the Green Belt. Therefore, I do not find the Council were unreasonable in similarly finding it unacceptable, despite other decisions at the Farm.

12. It appears that there was on-going discussion and liaison about the Great Crested Newts (GCN) and it is likely that the matter would have been resolved had the Council delayed its decision. However, the Council was not obliged to delay its decision, especially as information about the GCNs would not have altered the overall outcome of a refusal.

13. Furthermore, the applicants would have been aware of the need to conduct a full survey of the water bodies but chose to submit a report which did not survey all of the ponds but instead recommended further surveys be undertaken. Had a full survey, such as the one submitted with the appeal, accompanied the application, this issue would not have arisen in the first instance. I do not therefore find the Council to have acted unreasonably in this context.

14. It is not entirely clear how the tree officer arrived at the conclusion that 22 trees would need to be removed as part of the proposal. Nonetheless, it was evident that there would be some implications for some of the existing trees on site. The planning application was not accompanied by sufficient arboricultural information or assessment. It could reasonably have been anticipated that the Council would have required the level of detail on the issue which the applicant provided at the appeal stage.

15. It may have been useful had the Council sought clarification on these 'technical' matters or advised the applicant of the consultee responses, perhaps on the understanding that it didn't mean the scheme was acceptable in principle. However, given that the information would not have altered the Council's position on the principle of the development, I cannot conclude that they were unreasonable in not seeking to discuss matters further with the applicant.

16. Including them as ‘technical’ reasons for refusal delayed these matters reaching a satisfactory conclusion but did not involve the applicant having to undertake unnecessary or wasted work. Clearly the work undertaken was reasonably required to address the issues, regardless of whether it was done at the application or appeal stages.

Conclusion

17. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

Stewart Glassar

INSPECTOR