
Costs Decision

Site Visit made on 23 September 2025

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2025

Appeal Ref: APP/L3625/W/25/3362387

Lower Duxhurst Farm, 15 Reigate Road, Sidlow, Surrey RH2 8QH

- 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 Philip and Louise Rowe against Reigate & Banstead Borough Council for a full award of costs.
 - The appeal was against the Council's decision not to validate an application made for planning permission, submitted retrospectively, in respect of engineering operations to reduce the floor level within a former agricultural building.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. This costs application is made by the applicants relating to a procedural matter in that, in their opinion, the Council failed, unreasonably, to validate a planning application which, in effect, was made to amend drawings previously approved in respect of a Class Q Prior Approval consent, granted under Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
4. The amendments, made after works had commenced, accompanied the said planning application, submitted retrospectively, and were necessary due to structural issues, and the need to carry out excavations with a view to lowering the floor levels in order to achieve the required head heights. The works undertaken, though, went significantly beyond those permissible under Class Q as they contravened its provisos, as set down in the legislation, and went beyond the limitations of the earlier consent.
5. Consequently, and with reference to relevant case law, namely the judgement of *Hibbit v SSCLG* [2016] EWHC 2853 (Admin), the consent ceased to be extant and could no longer be relied upon. Accordingly, the application, the subject of the s78 appeal, could be seen, on the face of it, an attempt to circumvent testing the scheme against relevant development plan policies. Further, given the site's Green Belt location, the proposed residential

development would be seen as 'inappropriate' for the purposes of the National Planning Policy Framework, and is, by definition, harmful thereto.

6. As I mentioned in the s78 decision letter, the Council was slow to provide the applicants with a full account as to why, exactly, the planning application could not be validated. Instead, despite several letters, it was not until the appellants had served an Article 12 Notice on the Council that the reasons for its approach became fully clear. To this extent I sympathise with the appellants but, that said, it was not the Council's responsibility to make sure that the application was complete, covering all aspects of the irregular planning position, and also correctly described. That was for the applicants to address.
7. In the circumstances, I must conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described by the PPG, has not been demonstrated and no award of costs is justified in the circumstances.
8. The application is thereby refused.

Timothy C King

INSPECTOR