
Costs Decisions

Site visit made on 12 November 2025

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 DECEMBER 2025

Costs application in relation to Appeal A

Ref: APP/R3650/W/25/3370179

Westland Farm, Lords Hill Common, Shamley Green, GUILDFORD, GU5 0TL

- 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 Elysian Animal Assisted Therapy and Learning Ltd for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a log cabin as a classroom and use of garage to provide an accessible toilet and medical room.
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Costs application in relation to Appeal B

Ref: APP/R3650/W/25/3370182

Westland Farm, Lords Hill Common, Shamley Green, GUILDFORD, GU5 0TL

- 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 Elysian Animal Assisted Therapy and Learning Ltd for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for an extension to existing riding arena and erection of a viewing barn with associated works.
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Decisions

Appeal A Ref: APP/R3650/W/25/3370179

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

Appeal B Ref: APP/R3650/W/25/3370182

2. The application for an award of costs is allowed on a partial basis in the terms set out below.

Reasons

3. 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.
4. In essence the appellant claims that the Council acted unreasonably in refusing both applications because its assessment of the schemes was based on incorrect or absent information and advice. It is contended that it was unreasonable to refuse planning permission on the planning merits of the schemes, particularly on the assessment of the effect on the Green Belt. It is also alleged there was inconsistency in decision making.

5. It is regrettable that the Council made errors in the consideration of the applications, particularly over the site forming part of the Surrey Hills National Landscape. However, it appeared to me that the history and context of the appeal sites was not straight forward. The appeal sites were drawn to exclude the other land which formed most of the complex, but I felt it was important that the site was considered as a whole. Moreover, in relation to the use of the garage, I noted at the visit that there were other buildings/structures around it which did not appear in the planning history of the site.
6. In this context it was not unreasonable for the Council to ask for an updated Business Plan on the nature and scale of the school to assess this in terms of the level of activity and building requirements especially as these may have changed from the 2016 permission. The Council's concern over this matter is also reflected in the representation made by a neighbour.
7. In relation to the Green Belt, the decisions made as to whether the proposals were inappropriate development involved a planning judgement. Moreover, the National Planning Policy Framework had been revised late in December 2024 not long before the applications were decided. The appellant's initial submissions about the Green Belt at application stage were therefore out of date. Moreover, the wider planning system was still coming to terms with the changes to Green Belt, including the development of grey belt land. The submission of an updated business plan would have helped the Council consider whether very special circumstances arose given that inappropriate development in the Green Belt had been found.
8. I note the issue of inconsistency in decision making, but the cases mentioned appear to relate to sites which were primarily equestrian facilities rather than more complex mixed uses involving educational, equestrian and agricultural uses as described in the appeal site complex. I am therefore satisfied that the Council's approach has not been materially inconsistent.
9. Overall, while I reached a different conclusion on the planning merits assessment of the various components of the development under the terms of the Framework, I find that the Council did not act unreasonably in refusing the applications for the first reason for refusal. The work undertaken on behalf of the appellant in making the case on the appeals on this ground was therefore a necessary part of the appeal process.
10. However, in relation to the second reason for refusal on the Appeal B scheme, concerning the lack of evidence to establish no adverse effects on bats, I have concerns about the Council's actions here. Although the submitted site plan of the proposed extension to the riding arena showed that trees and other vegetation were to be removed, by time of the Planning Committee's assessment, the appellants had submitted a Preliminary Ecological Appraisal and Arboricultural Impact Assessment. These specialist reports had indicated that the relevant trees on site were dead or dying and should be removed and the other ground vegetation was of little consequence for bats. Therefore, although a planning judgement, it was unreasonable for the Council to impose the reason for refusal given the specialist evidence put forward.
11. The appellant was therefore put to unnecessary expense to deal with the second reason for refusal in Appeal B.

Conclusion

12. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred in Appeal A and an award of costs is not warranted in that case. However, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of dealing with the second reason for refusal in Appeal B and a partial award of costs is therefore warranted.

Costs Order

13. 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 Waverley Borough Council shall pay to Elysian Animal Assisted Therapy and Learning Ltd., the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in dealing with the second reason for refusal imposed on application WA/2024/614 (Appeal B); such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to Waverley Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Murray

INSPECTOR