Planning Inspectorate

Costs Decision

Site visit made on 31 March 2025

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2025

Costs application in relation to Appeal Ref: APP/Z3825/W/24/3349245
Lower Broadbridge Farm, Bury Hill Landscape Supplies, Billingshurst Road, Broadbridge Heath, West Sussex RH12 3LR

- 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 John Coles for a full award of costs against Horsham District Council.
- The appeal was against the refusal of planning permission for variation of condition 9, 10 & 13 of planning permission reference DC/23/0578.

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. Paragraph 049 of the PPG provides examples of types of behaviour which may give rise to a substantive award of costs against a local planning authority, including vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. The applicant asserts the Council did not take an evidence-based approach in determining the application, alleging it failed to take account of or afford sufficient weight to existing planning conditions which control the site's operations, and thus behaved unreasonably.

4. The Council's assessment of the proposal was informed by comments made by its Environmental Health Officer (EHO). The EHOs concerns in respect of the proposed variation of condition no 9 includes the potential for odorous emissions arising from open-air stockpiling of unfinished and finished materials. The site and its operations are not subject to any existing planning conditions regarding odour, and the proposal, as submitted, contained no measures to manage odour. Therefore, the Council's concerns regarding disturbance in respect of the proposed variation to condition no 9 were not adequately addressed.

5. Whilst the EHO also noted the potential impacts of fugitive dust emissions associated with open-air storage, this does not imply the EHO was unaware of the existing dust management plan covering the site. However, the assessment in the delegated report does not refer to the existing measures to control dust. Nonetheless, the Council had reason to refuse the variation to condition no 9 due to potential disturbance from odour associated with open-air storage.

6. The EHO's concerns in respect of the proposed variation of condition no 13 relates to the distinctive acoustic signature of fixed and mobile plant and machinery, rather than the overall volume of noise generated. It is evident from the EHO's response they were aware of the existing planning condition that imposes a maximum noise limit on the site's operations. In addition, the delegated report refers to the noise limit condition, and the proposal was assessed within this context.

7. The applicant asserts they incurred unnecessary expense in employing consultants to prepare the appeal documentation. Whist it is unclear if the existing dust management plan was taken into account in the Council's assessment, other conflicts were identified in respect of noise and odour. Consequently, the appeal could not have been avoided.

8. Moreover, the existing dust management plan was submitted for consideration during the appeal, with no additional dust management measures proposed. Therefore, even if the Council failed to consider the dust management plan, the evidence does not suggest the applicant incurred unnecessary cost as a result.

9. Therefore, it is not demonstrated that unreasonable behaviour resulting in unnecessary or wasted expense has occurred and an award of costs is not warranted.

E Dade

INSPECTOR