



Costs Decision

Site visit made on 10 October 2016

by Aidan McCooey BA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 November 2016

Costs application in relation to Appeal Ref: APP/Q4625/A/16/3148014 Five Acre Farm, Meer End Road, Honiley, Kenilworth, CV8 1PW

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Darren Rowlands for a full award of costs against Solihull Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a revised application to replace temporary access drive to house and equestrian buildings with permanent access drive.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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. The appellant referred in particular to the examples in paragraph 49 of section 16 (Appeals) of the Planning Practice Guidance (PPG), in particular that vague, generalised or inaccurate assertions about a proposal's impact unsupported by any objective evidence has been made by the Local Planning Authority.
3. The appellants' case principally relates to the manner in which an earlier application was handled. No appeal or costs application was made in relation to the earlier split approval. Consequently the Council's handling of that application is not before me, other than as background information. The allegation that intentional unauthorised development is not a material consideration is incorrect. There is a Written Ministerial Statement to that effect.
4. The development is in the Green Belt. The Council has provided evidence as to why planning permission should be refused as inappropriate development in the Green Belt. The Council has referred to a previous appeal decision for an access and drive on this site, which was dismissed. It has considered most of the matters advanced by the appellants and commented thereon. The Council cannot be accused of failing to work with the appellants to overcome the issues raised. The proposal to re-surface the track using the grid force system appears to have been introduced in the appeal submissions. Whilst I have

disagreed with its stance, the Council has provided evidence to show why it considered that planning permission should not be granted.

5. I appreciate that the appellants were left with no lawful access to their home. However, their own actions are at least partly to blame. One should not rely on informal opinions or interpretations of conversations with officers. It is only a grant of planning permission that can be relied on in the circumstances described i.e. where one sells the access to one's home. I have no evidence to support the appellant's contention that the councillors relied on misleading information in their consideration of the application. The Council has advanced ample evidence of its concerns in relation to the development.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense has not been demonstrated and I refuse the application.

A L McCooey

Inspector