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## Costs Decisions

Site visit made on 7 November 2016

**by Richard Aston BSc (Hons) DipTP MRTPI**

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

**Decision date: 12<sup>th</sup> December 2016**

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**Costs applications in relation to Appeal Ref: APP/J0405/W/16/3154306  
New Dairy Farm, Stewkley Road, Cublington, Buckinghamshire  
LU7 0LS**

- The applications are made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - Application A is made by Mr & Mrs M Calamassi for a full award of costs against Aylesbury Vale District Council.
  - Application B is made by Aylesbury Vale District Council for a full award of costs against Mr & Mrs M Calamassi.
  - The appeal was against the refusal of an application for retention of original farm house for additional family tourist accommodation without complying with a condition attached to planning permission Ref 10/01670/APP, dated 30 September 2010.
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### Decisions

#### Application A

1. The application for a full award of costs is refused.

#### Application B

2. The application for a full award of costs is refused.

### Reasons

3. The Planning Practice Guidance ('PPG') advises that, 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 expense in the appeal process.

#### *Application A*

4. The appellant contends that the Council have persisted in applying paragraph 55 of the National Planning Policy Framework ('the Framework'), even though the reason or the original condition referred to the now superseded, Planning Policy Statement 7. The appellant also asserts that the Council have acted unreasonable in treating a tourist facility as if it were a new dwelling. Furthermore, that this is inconsistent with an Inspector in determining an appeal at Weatherhead Farm and the Council's own approach in determining an application for the conversion of stables adjacent to the appeal site<sup>1</sup>.
5. The reference to the Framework in the reason for refusal is, in my view, an unfortunate error but I do not find it to be determinative. This is because I am

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<sup>1</sup> 14/03082/APP.

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required to determine the appeal on the basis of the development plan and national policies which are in place at the time of my decision. Furthermore, the Council's decision and evidence is clear in relation to the local and national policies which they concluded the proposal conflicts with and I do not find any of the Council's concerns to be vague, generalised or inaccurate.

6. Although consistency in decision making is important, each case must be determined on its own merits and although I acknowledge that the Inspector in the Weatherhead Farm appeal and the Council may have taken a different view, on the evidence before me and in this particular case, I have found otherwise. I am also satisfied that there are material differences between the policy considerations and judgements made by the Council in relation to that application and the appeal proposal before me, given the background and nature of the appeal proposal. The fact that the Council considered the proposal which was the subject of this appeal to be tantamount to a new dwelling is not an unreasonable view.
7. Overall, the evidence does not suggest that the Council have caused unnecessary or wasted expense in the appeal and given their conclusions, which I am satisfied were properly reached, an appeal was inevitable. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason an award of costs is not justified.

#### *Application B*

8. The Council's application relates to the assertion that the appeal had no prospect of succeeding and that the appellant's have misapplied policy.
9. I have dismissed the appeal because I consider that the proposal would conflict with local and national planning policies. However, the appellant was entitled to make an appeal, given that they considered the proposal should be treated as tourist accommodation and that there are other considerations to be taken into account, such as the need for such accommodation. Even though they are clearly aware of the Council's policies in relation to new dwellings in the countryside they also took the view that this was not a new dwelling for planning purposes.
10. Given the nature and substance of the dispute, the appellant was not unreasonable in considering there was some support in local and national planning policies for tourist accommodation outside the built-up areas of the settlements. Furthermore, the effect on character and appearance involves inherently subjective judgements. Although I do not share the appellant's views for the reasons given in the appeal decision, the fact that they disagreed with the Council's approach and assessment does not amount to unreasonable behaviour resulting in unnecessary expense in the appeal process. In my view, the nature of the dispute between the parties meant that an appeal was inevitable.
11. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated in the evidence before me. For this reason an award of costs is not justified.

*Richard Aston*

INSPECTOR