
Costs Decision

Site visit made on 6 December 2016

by David Cliff BA Hons MSc MRTPI

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

Decision date: 17th January 2017

Costs application in relation to Appeal Ref: APP/T0355/W/16/3156065 Honey Lane Farm, Honey Lane, Hurley, Maidenhead SL6 6RG

- 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 Nick Evans for a full award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
-

Decision

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

Reasons

2. Planning Policy Guidance advises that irrespective of the outcome of an 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.
 3. The imposition of the disputed condition by the Council was based on the potential impact of further development, which would otherwise be permitted development, upon the Green Belt. Whilst I have decided that the condition is not required in this case for the reasons set out in my accompanying appeal decision, it appears to me that its imposition was based upon a genuine concern that further development could be harmful to the Green Belt, taking account of the cumulative impact of the proposed and previous extensions.
 4. My judgement is based on the particular merits of the case, including the existence of a realistic fall-back position in the form of a similar single storey rear extension. Whilst I have decided, as a matter of judgement, that the condition should be deleted based on the circumstances of the case, I do not find that the Council has been unable to show (through its officer report) that it had a rational basis for its stance in imposing the condition.
 5. For the avoidance of doubt, in my appeal decision I have found the disputed condition not to be *reasonable* or necessary in the context of paragraph 206 of the National Planning Policy Framework along with the Government's associated Planning Practice Guidance. This is a separate consideration to whether the Council has *behaved unreasonably* throughout the planning application and appeal process.
-

6. The appellant expresses concern that condition 4 was imposed without any mention of it during the application consultation period. Whilst I agree that it is good practice for parties to discuss possible conditions during the application determination process, this is not mandatory and even should discussion have taken place it would not necessarily have resulted in the condition not being imposed.
7. Whilst the appellant says that he has had to delay construction of the extension until the weather improves, given my findings above this factor is not of significance to whether an award of costs is justified in this case. In any case, any award of costs would only relate to costs incurred directly in relation to the appeal process.
8. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

David Cliff

INSPECTOR