
Costs Decision

Site visit made on 24 January 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 20th February 2017

Costs application in relation to Appeal Ref: APP/C3620/W/16/3158911 Furzen Farm, Furzen Lane, Wallis Wood, Surrey RH5 5QE

- 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 Murray Shotter for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for development described 'erection of 3 new build dwellings; in the alternative to permission granted under MO/2015/0811/PNQ, 'change of use from agricultural buildings to 3 dwellings' together with the proposed demolition of residual agricultural barns around the Farmyard'.
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Decision

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

Reasons

2. 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.
 3. An application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Other than highlighting a number of sections of the relevant guidance within the PPG there is nothing before me in the application that explains why the Council behaved unreasonably.
 4. However, the application does state that the appeal cost is claimed on both a procedural and substantive basis. On a procedural basis, there is no specific allegation in these terms and I have not identified any breach of procedure.
 5. In substantive terms, although not articulated, taking the appellant's case as a whole I have taken it that the claim relates to the view that the development should clearly have been permitted and that the Council acted contrary to well established case law.
 6. It is clear from the delegated officer report that the Council correctly identified that the extant permission was a fall back position but that this should be given limited weight relative to what they considered to be the strong policy objection for new buildings in the countryside in the development plan. I accept that the term 'limited' is not necessarily precise but the weight to be afforded to such a consideration is a matter for the decision maker. Although I have taken a different view in relation to the weight to be attached to the fall back
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position, I do not consider that the actions of the Council amounted to unreasonable behaviour. In this particular case and given the Council's other concerns, an appeal was inevitable.

7. Therefore, I find that 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