

Costs Decision

Hearing held on 9 February 2017

Site visit made on 9 February 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 14th March 2017

Costs application in relation to Appeal Ref: APP/J1915/W/16/3156149 Home Farm, Munden Road, Dane End, Hertfordshire SG12 0LL

- 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 James Sapsed (Indegro Limited) for a full award of costs against East Hertfordshire District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for construction and use of an agricultural storage lagoon.
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Decision

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

Reasons

2. 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. Unreasonable behaviour described in the PPG can either be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
 3. This application is clearly on the basis of unreasonable behaviour in a substantive sense, in respect of the Council not having had sound reasons for refusing planning permission. In this case, the Council were entitled to consider the recommendation made by its officer and to arrive at a different conclusion and to refuse planning permission.
 4. In this case there had been no objection raised by the local highway authority. However, I believe the Council had nonetheless substantiated its reasons for refusal. This was in respect of the change in the type and amount of vehicular traffic using roads of a constrained width and alignment. I do not consider it unreasonable for the Council to have considered that this proposal would impact harmfully upon the rural character of these roads and the living conditions of residential occupiers alongside and cause potential conflict with other highway users, and to have then concluded that, despite the views of the local highways authority, this conflicted with Policy TR20 of the Local Plan.
 5. The costs incurred in addressing the wider environmental concerns raised by interested parties would not have been as a consequence of any unreasonable behaviour on the part of the Council, which confined its decision to those reasons which were considered capable of substantiation.
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Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathan Price

INSPECTOR