
Costs Decision

Site visit made on 28 February 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 7 April 2017

Costs application in relation to Appeal Ref: APP/F2415/W/16/3164930 Peace Hill Farm, Horse Hill, Goadby, Leicestershire LE7 9EE

- 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 Mrs Marilyn Burnham for a full award of costs against Harborough District Council.
 - The appeal was against the refusal of planning permission for change of use of existing agricultural building into dwellinghouse.
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Decision

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

Procedural Matter

2. I understand that the applicant's application for costs was sent by post. However this was not received and no proof of postage could be provided. Nevertheless an electronic copy of the application was sent, but this was after the date for final comments. Even so, on this occasion, given that the applicant confirmed that their application was sent by post, the application has been accepted and the parties have been given opportunities to respond.

Reasons

3. The Planning Practice Guidance (the Guidance) 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.
 4. The applicant considers that the Council has behaved unreasonably, in summary, by allegedly unfairly targeting the applicant, attempting to take enforcement action against the applicant and that the appeal and costs incurred by the applicant would not have been incurred had the planning application been dealt with in the correct manner. The Council has provided a response which I have taken into consideration in this decision.
 5. Whilst I recognise the applicant's concerns, on the basis of the evidence before me, there is no reason for me to consider that the appellant has been unfairly treated. I understand that a separate site in the area was subject of a similar application. I do not have full details of that application or the background to that decision. However, from the information available to me, there would appear to be material differences between the circumstances of the other proposal and that of the appeal scheme, including in relation to the extent and nature of the agricultural activities undertaken and the use of the building. As
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such, I am not persuaded that the Council has been inconsistent in the determination of these cases.

6. The Council has provided clear and specific evidence in relation to each of the reasons for refusal of the application and, whilst I have found in favour of the applicant in some respects, for the reasons set out in my decision, overall I have shared the views of the Council, that the proposal would not be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such, I find that the Council's decision to refuse the application was not unreasonable. Furthermore, for the applicant to pursue the proposal, the appeal process and the expenses incurred as a result of it were necessary. I acknowledge the applicant employed a solicitor; however there is no obligation to do so and there is no direct correlation between employing a solicitor and obtaining a successful outcome, whether the application is determined by the Council or at appeal.
7. Concerns have also been raised about the Council's actions with regards to possible enforcement matters. I have only limited information available to me on this issue. Nonetheless, the enforcement process is a separate mechanism to that of the application that is the subject of the appeal and, whether or not such actions were reasonable, I am not persuaded from the evidence before me that they have directly resulted in unnecessary expense in the appeal process.
8. Similarly, I understand that prior to the appeal being lodged the applicant raised concerns with the Council through their complaints procedure. This is an entirely separate matter to that which is before me and costs associated with the complaints process are outside the scope of this process. Nevertheless I note that the Council did explain to the appellant, verbally and later in writing, that the appellant did have a right of appeal against the decision taken by the Council which sits independent of their complaint procedure. The appellant has of course exercised this right in lodging this appeal, but there may be other channels available to the applicant through the Local Government Ombudsman should they not agree with the Council's responses to date through the complaints process.

Conclusion

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

Andrew McGlone

INSPECTOR