
Costs Decision

Site visit made on 2 May 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 25 May 2017

Costs application in relation to Appeal Ref: APP/Y3165/D/16/3164022 Home Farm Cottage, Rokers Lane, Shackleford GU8 6AF

- 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 J Forsyth for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for extension of existing garage for use as groom's accommodation ancillary to adjoining stables.
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Decision

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

Reasons

2. Paragraph 16-033-20140306 of the Government's Planning Practice Guidance (the PPG) advises that costs cannot be claimed for the period during the determination of the planning application. However, although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded.
 3. Paragraph 16-049-20140306 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
 4. The costs application essentially relies on the fact that the Council behaved unreasonably in failing to have proper regard to evidence submitted in support of the planning application; in failing to provide evidence to the contrary to the Counsel's findings; in misleading the decision-making of the Planning Committee; and in being inconsistent in their decision making.
 5. It is clear that, although the Counsel's opinion was a late submission, subsequent to the drafting of the original Committee Report and Officer's recommendation, this document was sent to the Planning Committee prior to their meeting. While the 'late sheet' provided just a brief summary of the Counsel's submission, it is evident that the full document was shared with the relevant decision-makers prior to the meeting. The Planning Committee was therefore provided with all the material relevant in support of the application
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- and its members therefore in a position to make a fully-informed judgement of the merits of the case.
6. It is clear from the Planning Committee Minutes that the key consideration for the Committee was 'to assess whether the groom's facility was appropriate for outdoor sport and recreation'. This indicates that the Committee was correctly led by the Officer to the crux of the Green Belt considerations. While I note that the appellant was unable to attend the Committee Meeting, his Planning Agent was given the opportunity to speak in support of the application. Coupled with the substantial amount of supporting information, as well as detailed analysis within the Officer's Report, I do not find that they were misdirected in approaching their decision.
 7. In this case, the Planning Officer exercised a professional expertise in approaching whether the scheme met the exception tests for inappropriate development in the Green Belt. It is also entirely reasonable, given the professional make-up of the Council's officers, for a reason for refusal to be put forward and maintained in the absence of counter evidence, or legal opinion. Considerations of planning applications necessarily involve matters of judgement, and it will be seen from my Decision that I did not agree with the Council's approach. However, I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal, including by reference to development plan and national policies, and through extensive analysis of the planning merits.
 8. In terms of inconsistency in decision-making, the planning application referred to (14/P/02289) related to the construction of a narrowboat basis and moorings facility. While bedroom accommodation for an employee was included, in that application there was a much clearer association between the proposed facilities and the accommodation. In the appeal case, however, the proposal is for a stand-alone residential accommodation. The two cases are therefore not directly parallel and do not, in my opinion, provide a clear indication that that Council have been inconsistent in their decision making.
 9. In light of the above, I do not find that the behaviour and actions of the Council in this case have been unreasonable. As such, there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. No award for costs is made.

H Porter

INSPECTOR