
Costs Decision

Site visit made on 9 May 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 8 June 2017

Costs application in relation to Appeal Ref: APP/Y3615/W/17/3168185 High Ryde Farm, Old Lane, Mays Green, Cobham, Surrey KT11 1NJ

- 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 Mark Reid for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of an application for prior approval for the change of use from agricultural building to dwellings (C3 Use class).
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Decision

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

Reasons

2. I have considered this application for costs in the light of the Planning Practice Guidance (PPG). This advises that an award of costs against a local planning authority may be substantive, relating to the planning merits of the appeal, or procedural, relating to the appeal process. It makes clear that a local planning authority is required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour¹.
3. The examples, in terms of the substance of the matter under appeal, include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations. In addition; acting contrary to, or not following, well-established case law; persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; not determining similar cases in a consistent manner; and, if the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn. The examples, in terms of procedural behaviour, include providing information that is shown to be manifestly inaccurate or untrue. These are the substantive and procedural grounds upon which the applicant considers that the Council has behaved unreasonably.
4. While I found that the location of the building did not make it otherwise impractical or undesirable for the building to change from agricultural use to residential, the evidence of the Council was clear and focused on the condition of the access track to the south being impractical. I found that there were

¹ Paragraph: 047 Reference ID: 16-047-20140306 and paragraph: 049 Reference ID: 16-049-20140306

mitigating circumstances with the track's location so close to the gate, and that it appeared to have been well used. However, the Council's conclusion was supported in evidence and not unreasonable in the circumstances.

5. I did not find that there would be any issue of impracticality regarding the size of the amenity space for the proposed dwellings, nor between the amenity spaces and the parking on each plot. Given the number of bedrooms indicated in each proposed dwelling, their rural location, the pinch point dimensions it identified between the barn and the hedge, and the potential number of cars to be accommodated, the Council's conclusion on the impact of parking and turning on the amenity space was not unreasonable.
6. The length and width of the hedgerow suggested to me that it would not be harmed by some cutting-back, if indeed this was required for parking. However, given its rural location alongside a public highway and its featuring in public views, the Council's conclusion, given the dimensions of the amenity area, was not unreasonable.
7. I can identify no case law directly relevant to the issues in this appeal which the Council has ignored. Neither is there evidence that it has persisted in objections to the scheme which has previously been indicated to be acceptable. Nor was the appeal withdrawn. In terms of the substance of the matter under appeal, the Council has not behaved unreasonably.
8. In terms of procedural behaviour, while the appellant has referred to information being manifestly untrue or inaccurate, he does not substantiate the claim with any instance in the Council's evidence. I am therefore unable to conclude that the Council's behaviour was, in procedural terms, unreasonable.

Conclusion

9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and the application for costs therefore fails.

Patrick Whelan

INSPECTOR