
Costs Decision

Site visit made on 18 May 2017

by Andrew Owen BA(Hons) MA MRTPI

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/K0425/W/17/3168551
Berry Farm, Mudds Bank lay-by, Wycombe Road, Stokenchurch HP14 3RS**

- 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 Max Roberts of Berry Farm for a full award of costs against Wycombe District Council.
 - The appeal was against the refusal of planning permission for an agricultural building.
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Decision

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

Reasons

2. 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. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications and 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.
 4. The applicant suggests the planning officer recommended the application for refusal in December 2016, despite having indicated in August that it would be recommended for approval. Whatever the reason for this change of view, opinions expressed by officers during the determination of the application are not definitive. Notwithstanding this, in responding to the report, the applicant took the opportunity to write to Members shortly prior to the committee meeting.
 5. I note the Council's landscape officer and agricultural advisor both initially had concerns about the proposal and that the scheme was reduced in size in response to those comments. It appears, from the evidence before me, that the landscape officer subsequently confirmed they had no objection. The planning officer's report however makes no mention of any comments from the landscape officer or the agricultural consultant. This was unreasonable behaviour as it resulted in Members not being appropriately briefed. However the applicant's aforementioned letter to Members refers to the comments from both consultees, and as such Members were not wholly uninformed. Moreover,
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Members are entitled to come to their own view on subjective matters such as the effect on the character of the landscape. In any event, as I have dismissed the appeal, I consider that the Council's actions did not prevent development that should clearly be permitted.

6. I understand that during the determination of this appeal an enforcement notice, which related to an alleged use of the land for a mixed use of agriculture and importation, deposit and processing of waste, was withdrawn. However this does not necessarily mean the lawful use of the site is agricultural as I am not aware of the reasons for the withdrawal of the notice. As such I do not consider it was unreasonable for the Council to continue to defend their first reason for refusal albeit, on the evidence before me, I disagreed with them on this matter.
7. In summary whilst I find that the Council have acted unreasonably in some respects, I do not consider it has been demonstrated that this resulted in unnecessary or wasted expense, as described in the PPG. Consequently the application for an award of costs is refused.

Andrew Owen

INSPECTOR