



Costs Decision

Site visit made on 20 June 2019

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 2 August 2019

Costs application in relation to Appeal Ref: APP/V2255/W/18/3214269 Land at Swanton Farm, Bicknor, Sittingbourne, ME9 8AY

- 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 FW Mansfield & Son for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for erection of cherry coverings and framework.
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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. In this case the applicants consider that the Council misapplied its Local Plan policy, failed to properly consider mitigation and failed to apply appropriate weight to the advice of its rural planning consultant.
3. The Council included references to the National Planning Framework (the Framework) in its decision notice and policy reference DM32. The officers report and subsequently its statement of case clarify the Council's concerns with the appeal scheme. Therefore, overall, I do not consider that the applicants have been prejudiced by the inclusion of these elements in the decision notice.
4. Policy FL9 of the Kent Downs AONB Management Plan (MP) is one of a suite of policies that refers to the farmed landscape. Therefore, whilst it does not refer specifically to polytunnels, I do not consider that it was unreasonable of the Council to consider it when assessing the scheme.
5. I understand that the Kent AONB unit supported mitigation adjacent to the public right of way. Nonetheless, issues of landscape character and the likely effect of mitigation are a matter for the judgement of the decision maker. Therefore, whilst the Council came to a view contrary to the applicants, I do not consider that it is inherently unreasonable.
6. The Council's rural planning consultant supported the need for the coverings in principle. The applicants consider that the Council acted unreasonably by failing to take into account the public benefits of the scheme. The appraisal of the scheme refers to the need to consider whether there are any benefits that would outweigh the Council's finding of less than substantial harm. The report

contains a summary of the applicant's key submissions. Therefore, whilst not explicit, I am satisfied that the Council took these elements into account as part of the assessment of the application.

7. I therefore find that unreasonable behaviour resulting in unnecessary expense as described in the PPG, has not been demonstrated. For the reasons given above I refuse the application for an award of costs.

D J Board

INSPECTOR