



Costs Decision

Site visit made on 7 July 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Costs application in relation to Appeal Ref: APP/Y3940/W/19/3224531 Inlands Farm, Sunnyhill Lane Oare East to Sunnyhill Farm, Sunnyhill SN9 5LA

- 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 & Mrs Haskell-Thomas for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission Ref 18/10208/VAR for removal of planning condition no. 04 of planning permission ref K039132.
-

Decision

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

Reasons

2. The Planning Practice Guidance 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 or wasted expense in the appeal process.
3. The appellants' costs application essentially argues that in having to appeal they have incurred unnecessary and wasted expense, which could have been avoided had they been given adequate notice that a separate application to discharge the associated Section 106 Agreement was to be refused.
4. There is no evidence that any of the points made by the applicants were not considered by the Council and the correspondence between the parties indicates that the Council worked proactively with the appellants and agreed to an extension of time in order to facilitate the submission of a revised Agreement. That the appellant's applied to discharge, rather than vary, the S106 Agreement is not a shortcoming on behalf of the Council.
5. While my decision makes clear that I consider that the disputed condition is no longer necessary, and that a revised s106 Agreement would not meet the relevant statutory tests, these are ultimately matters of planning judgement. It was open on the Council to reach an alternative view. As such, I find no unreasonable behaviour on the part of the Council in either respect.
6. As such, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs is not justified.

H Porter

INSPECTOR