
Costs Decision

Site visit made on 9 May 2019

by G Jenkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2019

Costs application in relation to Appeal Ref: APP/J0405/W/19/3221487 The Old Dairy, Haddenham Road, Kingsey, HP17 8LR

- 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 R Hughes for a full award of costs against Aylesbury Vale District Council.
 - The appeal was against the refusal of planning permission for an extension to an agricultural building.
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Decision

1. The application for an award of costs is allowed as set out below.

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 therefore caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application essentially relies on the fact that the Council have not found the proposal to be contrary to development plan policies and that they have essentially accepted the proposal in terms of design, impact on character and appearance, highway impact, biodiversity and impact upon residential amenity. The applicant is aggrieved that there is only one reason for refusal, which they consider, is not contrary to the Development Plan.
4. The Planning Practice Guidance indicates that Local Planning Authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. In this case I have noted the applicant's concerns. The Council in this case were entitled to refuse the application so long as a case could be made for the contrary view. In this case the Council found that the development was contrary to the aims of the National Planning Policy Framework (the Framework) and as such was unable to demonstrate the economic benefits that the proposal would bring to the rural economy and therefore found that it would not represent sustainable development.
6. There are no policies within the Aylesbury Vale District Local Plan that would resist this form of agricultural development. Furthermore, the Council did not dispute that the development was in accordance with all other relevant policies in the Development Plan. They claim that there is not a need for the additional building and that therefore this would result in unsustainable development.

This is completely contrary to the aims of the Framework, which seeks to support rural enterprise as set out in my appeal decision.

7. As a result I find that the Council has failed to substantiate its reason for refusal and has thus acted unreasonably in this case and there can be no question that the applicant was put to unnecessary or wasted expense.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Aylesbury Vale District Council shall pay to R Hughes, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Aylesbury Vale District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Gemma Jenkinson

INSPECTOR