



Costs Decision

Hearing Held on 7 January 2020

Site visit made on 7 January 2020

by Simon Hand MA

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

Decision date: 14th January 2020

Costs application in relation to Appeal Ref: APP/L3815/C/18/3208260 Land West of Junction with Dangstein Road and Borden Lane, Borden, Milland, West Sussex, "Smugglers Copse", GU31 5BZ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Gillie McNicol for a partial award of costs against Chichester District Council.
 - The hearing was in connection with an appeal against an enforcement notice alleging change of use of the land to mixed use comprising camping, education and training courses and manufacture of wood products.
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Decision

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

The submissions for the appellant

2. Following the issue of a recent appeal decision at Laundry Cottages, Dangstein (APP/Y9507/C/18/3199595 & 3194790), aspects of this appeal were reframed such that it became unreasonable for the Council to defend certain elements of their case. In particular there was no need to consider the production of certain products that had been found in the previous appeal to be ancillary. Secondly the activities on site are comparable to those at Laundry Cottages but of a much smaller scale and so clearly could not cause harm.

The response by the Council

3. The notice makes no mention of ancillary forestry products. Secondly the Laundry cottages appeal followed an exhaustive 4 day inquiry and there is no reason why the same conclusions should be reached now, especially as there has been no s78 application and an unrestricted permission in a sensitive location could set an undesirable precedent. There is also the issue of cumulative harm with Laundry Cottages to consider.

Reasons

4. I agree with the Council. There is no mention of ancillary forestry products in the notice as they are, by definition, lawful. No time was taken up at the Hearing discussing this issue as the appellant accepted that the main items of dispute, such as timber frames, gates and hurdles were not ancillary, as was made clear in the Laundry Cottages decision.

5. As is clear from the appeal decision I agreed with the Council that an unfettered permission could not be granted and insufficient thought had been given to the conditions and other matters that would need to be considered before a conditional permission could be considered.
6. In my view the Council has not acted unreasonably and no wasted costs were incurred by the appellant.

Simon Hand

Inspector