



Costs Decision

Site visit made on 7 January 2020

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 30th January 2020

Costs application in relation to Appeal Ref: APP/W1850/W/19/3240818 Brook Farm, Marden, HR1 3ET

- 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 S & A Produce (UK) Ltd for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for a proposal described as *"full planning application for modification to existing agricultural building to accommodate a biomass boiler, including flue, to facilitate heat production to be used within the existing poly tunnels on site"*.
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Decision

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

Reasons

2. 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.
3. The appellant submits that the Council has acted unreasonably in that it has failed to produce evidence to substantiate its reason for refusal, which was made against officer advice. Accordingly, it is asserted that the Council has prevented or delayed development which should clearly have been permitted.
4. The Council's reason for refusal and Statement of Case refer to the effect of the development on the local road network, the living conditions of neighbouring residents, and highway safety. In terms of living conditions and highway safety, the Council has provided a detailed description of the effects that it considers would arise. Moreover, a number of detailed responses have been submitted by interested parties in support of the reason for refusal. I therefore have a full case before me which the appellant has had to address. Whilst I have come to a different view, consideration of these issues is often a matter of judgement, and the Council did not act unreasonably in this regard.
5. Both the Council and interested parties have also provided detailed reasoning and analysis of the proposal's effect on the surrounding road network, which consists of narrow and unclassified country roads. This includes evidence relating to frequent road closures along the C1122 due to flooding. Moreover, the more detailed information submitted at the appeal stage was not available to the Council's Planning and Regulatory Committee when the original application was determined.

6. The proposal was reported to the Planning and Regulatory Committee with an officer recommendation for approval. However, the Council is not bound to accept the recommendations of officers. In this case, it has produced clear and specific reasoning to support its refusal of permission, and it did not act unreasonably in my view.
7. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR