



Costs Decision

Hearing Held on 25 September and 24 October 2019

Site visit made on 25 September 2019

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Costs application in relation to Appeal Ref: APP/X0360/W/19/3234343 Poppies Farm, Pound Lane, Hurst, Reading RG10 0RS

- 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 Ms Joanna Boswood for full award of costs against Wokingham Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the temporary siting of a log cabin as an agricultural worker's dwelling and erection of 18m x 12m general purpose agricultural barn.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance on Appeals (the PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The grounds for the appellant's costs application are summarised as follows:
 - (i) The Council required the appellant to finance the independent agricultural consultant's assessment of the planning application and then ignored the conclusions of that assessment (the Kernon letter dated 20 November 2018) in determining the application; and
 - (ii) The Council did not make contact with the appellant to discuss the independent agricultural consultant's assessment and did not publish the assessment prior to the determination of the application, in compliance with The Openness of Local Government Bodies Regulations 2014.
4. I acknowledge the appellant's contention, that the Council did not have any regard to the conclusions of the letter. However, it does not necessarily follow that the Council behaved unreasonably in this regard. The Council are entitled to make decisions that run contrary to the advice of the professional in this case, provided there is sufficient justification for doing so.
5. It may well have been the case that the Council's decision to refuse the planning application was made contrary to the conclusions of the Kernon letter

and without the advice of the second agricultural consultant, Bourne Rural. However, the Council's reasons for refusal of the application in this case were supported by robust evidence, including the evidence provided by Bourne Rural. In view of this, and having regard to my determination of the appeal, I do not conclude that the Council have behaved unreasonably.

6. Whilst I note that the appellant obtained a copy of the Kernon letter from its author, it is unfortunate that the Council did not disclose the letter or discuss its conclusions with the appellant. I also note that the letter is not referred to in the officer's report. Nevertheless, the officer does set out a reasonable justification for the recommendation in the report. Furthermore, the recommendation to refuse planning permission for the temporary siting of a log cabin as an agricultural worker's dwelling is supported by my appeal decision. Even if the report had been discussed with the appellant prior to the determination of the application, it is unlikely that the Council would have changed its decisions; it had good reason not to do so. Accordingly, the appeal has not been unavoidable and the Council have not behaved unreasonably in this regard.
7. Whilst my appeal decision does not support the Council's case with regard to the barn, I am satisfied that the evidence provided by the Council adequately supports its reason for refusal of permission for this element of the proposed scheme, contrary to the advice in the Kernon letter. It has referred to the relevant policy and guidance. It has also provided sufficient reasoning for its judgement with regard to the need for the barn and its impact on the character and appearance of the area. Accordingly, unreasonable behaviour has not been demonstrated in this regard.
8. That the appellant was made to pay for the cost of the independent agricultural consultant's assessment would not alter my conclusions above.
9. Any suggested failure of the Council to comply with its statutory obligations under the 2014 Regulations is not a matter I am able to consider within the remit of this planning appeal.
10. To conclude on all matters, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. Accordingly, an award for costs is not justified.

J Moss

INSPECTOR