
Costs Decision

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2020

**Costs application in relation to Appeal Ref: APP/C1760/W/19/3243263
Dandys Ford Fishery, Dandys Ford Lane, Sherfield English SO51 6DT**

- 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 and Mrs Metcalfe for a full award of costs against Test Valley Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of part of a tearoom and storage building to a rural workers' dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process.
3. The applicants assert that the prolonged nature and the failure to share information during the planning application process amounted to unreasonable behaviour by the Council. The costs and time associated with telephone calls to the Council and making Freedom of Information Requests are highlighted. Accordingly, these concerns relate to procedural aspects of the planning application itself.
4. However, the PPG clearly states that costs can only be awarded in relation to unnecessary or wasted expense at the appeal¹. Therefore, whilst behaviour and actions at the time of the planning application can be taken into account, costs generated during that time cannot be the subject of an award. This is reinforced in the PPG Paragraph: 047 Reference ID: 16-047-20140306 which sets out guidance on the types of behaviour that might give rise to a procedural award against a local planning authority. This is prefaced by reference to behaviour relating to procedural matters at the appeal rather than a planning application.

¹ Paragraph 033 Reference ID: 16-033-20140306

5. I appreciate that the appellants were frustrated with the level of communication with the Council during the planning application and particularly, the length of time it took to ascertain the final views of Reading Agricultural Consultants. Nevertheless, the evidence does not show that this falls within the examples of behaviour listed in Paragraph: 047 Reference ID: 16-047-20140306 insofar as it affected procedural matters at the appeal.
6. The appellants also refer to costs associated with seeking professional advice from an additional planning consultant, land agent and a solicitor upon receiving the refusal. However, it is not explained why they consider this to be outside of the normal expectations in considering an appeal for a proposed rural workers' dwelling. It would generally be necessary in such cases, to demonstrate that the merits of the proposal represent an exception to the normal national and local policy approach to residential development in the countryside. Moreover, as will be seen from my decision, I agreed with some of the concerns raised by the Council. Therefore, it is not demonstrated that had the Council acted otherwise during the course of the planning application, then the outcome would have been different, thereby avoiding the need for an appeal.
7. Accordingly, I do not find that the Council has acted unreasonably in relation to the procedure at the appeal. Moreover, the appeal provided an opportunity to test the planning judgement made by the Council and the appellants have not been put to unnecessary or wasted expense in doing so.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Helen O'Connor

Inspector