



Costs Decision

Site visit made on 16 October 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 17th June 2020

Costs application in relation to Appeal Ref: APP/C1435/W/19/3227771 Lodgefield Farm, Watch Oak Hill, Blackham, Withyham TN3 9TN

- 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 Harry Savory of NSS Blackham LTD for a full award of costs against Wealden District Council.
 - The appeal was against the refusal of planning permission described as 'full planning application for demolition and part conversion of commercial buildings and agricultural barn, erection of three residential dwellings and two storey side extension to Lodgefield Farm Cottage'.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 application for costs concerns a number of procedural matters. The applicant cites a lack of cooperation on the Council's part to engage during the process of the application. In addition, the applicant refers to the Council's decision to withdraw a guidance note and its subsequent failure to communicate this approach to the applicant.
4. The Council accept that special attention was not drawn to their decision to withdraw the briefing note concerning the flexible approach taken by the Council to the conversion and rebuilding of rural buildings for residential use¹. Whilst it is apparent that the appellant afforded significant weight to the content of this briefing note, I am mindful that it was never planning policy prior to its withdrawal.
5. I note that the Council's pre application advice to the applicant made reference to the briefing note. However, to my mind, it was plain that other matters relating to both local and national planning policy, were in issue. I am not satisfied that pre-application advice indicated support for the proposal. In any event, informal pre-application advice is by its nature informal and is not binding on the Council.
6. The Council accept that it did not determine the application within the prescribed period. Despite a number of requests by the Council for an

¹ Development Management Briefing Note: Background to WDC approach to Class Q permitted development rights: Conversion/Rebuilding of Farm Buildings for residential use, dated February 2016.

extension to the timeframe for determination of the application, no extension was formally agreed by the applicant. However, I have had regard to the content of those requests which explicitly reference the effect of the emerging evidence base for the emerging Wealden Local Plan (2019). Taking into account the evidence of both parties, to my mind, the evidence shows that the Council were continuing to engage with the applicant in a constructive manner in an attempt to see if the concerns could be overcome. Issues in relation to the validation of an application for planning permission are matters for the Council.

7. Whilst I recognise that the outcome of the application will have been a disappointment to the applicant, following consideration of the application on its merits, I have concurred with the Council in this regard.
8. Accordingly, I do not find that the Council have acted unreasonably. As such, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified.

E Brownless

INSPECTOR