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## Costs Decision

Site visit made on 15 June 2020

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> June 2020**

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### **Costs application in relation to Appeal Ref: APP/P1805/W/20/3244266 Newhouse Farm, Lea End Lane, Hopwood, Alvechurch, Birmingham B48 7AX**

- 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 Phillip Michell for a full award of costs against Bromsgrove District Council.
  - The appeal was against the refusal of planning permission for the erection of 7 stable blocks (total 19 loose boxes), 1 pole mounted floodlight and CCTV camera, toilet and manege.
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### **Decision**

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

### **Reasons**

2. Planning Practice Guidance 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 applicant considers that the Council behaved unreasonably by failing to determine similar cases in a consistent manner and by not granting planning permission for a scheme that they consider to be the subject of a recently expired permission where there has been no material change in circumstances.
4. The scheme for which planning permission was previously granted<sup>1</sup> was issued in June 2014 and comprised the erection of 6 new stable blocks, a manege and associated works. The Council do not dispute that the previous permitted scheme was similar in its makeup when compared to the proposal that is now the subject of this application. It is also not disputed between the parties that the June 2014 permission has expired and was not implemented.
5. Whilst the appellant argues that the June 2014 permission has recently expired, it is my understanding that the permission lapsed in excess of 2 years prior to the new planning application<sup>2</sup> being submitted to the Council. This is a not insignificant time period, which does not clearly translate to recent expiry. Furthermore, it is not the case that there has been no material change in circumstances since June 2014. The Bromsgrove District Plan (the BDP) was adopted in January 2017.

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<sup>1</sup> Ref: 13/0657

<sup>2</sup> Ref: 19/00970

6. I accept that Policy BDP15 of the BDP, when compared to the now superseded Policy RAT17 of the Bromsgrove District Local Plan (January 2004) (the BDLP), contains near identical wording with respect to proposals involving new buildings for stabling/equine development. However, this consistency is not mirrored when policies specifically geared towards guiding development in the Green Belt (Policy BDP4 of the BDP and Policy DS2 of the BDLP) are compared.
7. Policy DS2 is not fully consistent with the Green Belt exceptions that are set out within the National Planning Policy Framework (February 2019) (the Framework). The Framework's Green Belt policies, where relevant to this case, have not evolved substantively since original publication in March 2012 and would have been an important material consideration in June 2014. Nevertheless, it is evident that Policy DS2 was afforded weight and influenced the Council's decision to grant planning permission. Indeed, this goes some way to explaining why the scheme's effect on Green Belt openness would appear not to have been comprehensively considered at that point in time.
8. The appellant has pointed to previous opportunities that the Council has had to claim that the June 2014 decision was wrong or unlawful. However, the onus has never been on the Council to dispute the merits of their own decision. The June 2014 permission instead represents a material consideration that, when once capable of being implemented, would have held considerable importance in guiding development decisions and openness considerations at the site. However, when noting the expired status of the permission and the 2017 adoption of the BDP, the Council was fully entitled to come to the conclusions that it did based on a correct interpretation of the relevant policies.
9. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all other matters raised, an award of costs is not justified.

*Andrew Smith*

INSPECTOR