



Costs Decisions

Site visit made on 26 May 2020

by JP Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2020

Costs application in relation to Appeal Ref: APP/Y3940/W/20/3244117 Ganders, Heath Farm Lane, Chapmanslade, Westbury, Wiltshire BA13 4AN

- 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 M Gee for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for change of use of agricultural building to live/work unit and change of use of The Potting Shed to tourist accommodation (retrospective).
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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 applicants suggest that the Council did not look at the planning unit as a whole and consequently misunderstood their proposal. The Council also used incorrectly dated photographs, misinterpreted Core Policy 48, failed to appreciate the potential for the conversion of the Potting Shed, did not consider the highway impacts in terms of the increased traffic and the NPPF tests. They also mentioned the need for replacement structures which is erroneous and failed to review their case in the light of the appellants' evidence.
4. In response the Council state they did identify the planning unit in their statement. They state that the evidence on the planning history was not clear and the revised date for the photographs was immaterial. They suggest that they did interpret the policy appropriately, explained highway impacts and some of the buildings history is questionable.
5. In rebuttal the applicants state the Council did not evidence how they considered the high court case, should have clarified planning history, gave no evidence on traffic generation and speculated on replacement structures.
6. Both parties cover the planning history of the application site and have different interpretations. It is clear that the small holding has evolved over the years, growing incrementally. Inevitably communication and the exchange of information between the parties may not have been perfect, but that takes time, which has perhaps led to the differences of opinion.

7. The subject of this proposal is the change of use of the two buildings, not their erection or retention. I have found that the details of how these two buildings have evolved over time is not fundamental to this case, rather the buildings at this current time and their proposed use are more critical matters. Similarly, the evolution of the overall holding is a consideration but the operations of the holding at this current time are more pertinent. Consequently, the history, photographs and details of conversions have not been fundamental, and in any event the differences of opinion are understandable.
8. The applicants also state that the Council did not properly interpret the NPPF and Core Policy 48. However, as evident in the main appeal decision I found that the proposal was not in accordance for similar reasons to the Council. In any event, it is widely acknowledged that the interpretation of policy is a matter for the reader, and they were entitled to their judgment.
9. In terms of highway impacts, the Council did provide a technical opinion on the visibility splay. Similarly, their concern about the lane was also explained and was understandable bearing in mind its use as a public right of way.
10. The applicants refer to the Council's concern about possible replacement structures, however this is not intrinsic in the reasons for refusal and has not been a determining factor. Similarly, there was no need for them to review their case.

Conclusion

11. I therefore find that unreasonable behaviour as described in the Planning Practice Guidance has not been demonstrated and an award of costs is not justified.

John Longmuir

INSPECTOR