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## Costs Decision

Site visit made on 26 May 2020

**by Bhupinder Thandi BA (Hons) MA MRTPI**

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

**Decision date: 25 August 2020**

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### **Costs application in relation to Appeal Ref: APP/Y3425/W/20/3246629 Barns adjacent to Westley House, Marston Lane, Enson, Stafford ST18 9FH**

- 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 Oliver Pittock for a full award of costs against Stafford Borough Council.
  - The appeal was against the refusal of the Council to grant subject to conditions of planning permission for the conversion of barn to provide 1 No 2-bedroom dwelling and 1 No 4-bedroom dwelling and provision of second access.
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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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes preventing or delaying development which should clearly be permitted and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant contends that the Council have acted unreasonably by taking excessive time to determine the application and whilst an extension of time was agreed a high court judgement made in 2019 sets out that there is no legal mechanism to agree extensions of time for Prior Approval applications.
5. The appellant also contends that the Council has failed to fully consider the merits of the application and all considerations including an appeal decision and case law.
6. My attention has been drawn to High Court judgement Warren Farm (Wokingham) Limited v Wokingham Borough Council [2019] EWHC 2007 (Admin) from July 2019 whereby it was conferred that prior approval applications under any class in Schedule 2 of the GDPO could not be extended.
7. I acknowledge that the Council should have paid regard to this judgement during the application. However, it appears that discussions between the appellant and the Council were ongoing in an attempt to address other areas of

contention. In this particular regard it would not be reasonable to conclude that the Council had behaved unreasonably in terms of procedure or delaying development based on the evidence before me. In any event this judgment has now been superseded by *Gluck v Secretary of State for Housing Communities and Local Government* [2020] EWHC 161 Admin, which reverses the decision handed down in 2019.

8. There is no compelling evidence to indicate that the Council did not pay regard to information submitted with the application or pay regard to case law and appeals in coming to their decision.
9. I acknowledge that the Officer's report does not include a 'balance of probabilities' exercise. However, the Council has produced a cogent report which includes an appropriate assessment of the appeal scheme. In my view, it was a matter of planning judgement for the decision maker to come to a view on based on the individual merits of the case. Based on the information before me I find that the Council has not failed to properly evaluate the application. Therefore, I find that the Council were not unreasonable in coming to their decision.

### **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

*B Thandi*

INSPECTOR