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## Costs Decision

Site visit made on 28 September 2020

**by A Caines BSc(Hons) MSc TP MRTPI**

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

**Decision date: 23 October 2020**

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### **Costs application in relation to Appeal Ref: APP/N4720/W/20/3255246 High Royds Farm, Bingley Road, Menston, Ilkley LS29 6BB**

- 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 J Ogden for a full award of costs against Leeds City Council.
  - The appeal was against the refusal of planning permission for erection of agricultural storage building and access track.
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### **Decision**

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

### **Reasons**

2. 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. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. In summary, the applicant has alleged that the Council has failed to permit a development which should have been approved, and has failed to produce substantial evidence to support its reasons for refusal. The claim is for full costs on that basis, although I have also carefully considered the matter of a partial award of costs.
4. The applicant also claims that the Council acted unreasonably in its handling of a previous prior notification application, however behaviour in relation to a separate application and process falls outside the jurisdiction of this costs application so I consider that matter no further.
5. In determining the appeal, I concluded that the proposal was unacceptable having regard to all the available evidence. The appeal scheme is therefore not development which should clearly be permitted. However, it will be seen from my decision that I did not agree with the Council's reasoning in all respects.
6. In terms of refusal reasons 1 and 3, there was no reasonable evidenced basis for the Council's stance on treating the agricultural building as inappropriate development in the Green Belt, or for treating the adjacent Pump House as a curtilage listed building. Regarding refusal reason 2, whilst I found harm to biodiversity, the Council's assertion that the development would result in the land being grazed was inaccurate and unsupported by evidence. Consequently, the Council failed to properly evaluate the application in these respects. This amounts to unreasonable behaviour on the part of the Council.

7. Nevertheless, in order to justify an award of costs, the unreasonable behaviour must have resulted in unnecessary or wasted expense in the appeal process. Given my findings in the appeal decision, an appeal could not have been avoided. Therefore, the unreasonable behaviour of the Council, frustrating though it would have been for the applicant, did not cause unnecessary or wasted expense for the applicant in the appeal process in so far as an award of costs could be justified.

### **Conclusion**

8. I conclude that, on the basis of the evidence before me, the unreasonable behaviour of the Council did not put the applicant to unnecessary or wasted expense in the appeal process, and therefore an award of costs is not justified.

*A Caines*

INSPECTOR