
Costs Decision

Site visit made on 8 October 2020

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26th October 2020

Costs application in relation to Appeal Ref: APP/C3430/W/20/3250012 Lodge Farm, Lodge Lane, Cheslyn Hay WS11 0LT

- 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 Nicholas Piponides, Rockford Estates Ltd for an award of costs against South Staffordshire Council.
 - The appeal was against the refusal of planning permission for change of use of barns from agricultural sui generis Class to general storage Use (B8 Use Class).
-

Decision

1. The application for an award of costs is refused

Reasons

2. The Planning Practice Guidance (the PPG) 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 Planning Committee refused the application against the Officer recommendation. The appellant considers that the Council altered their case since the recommendation to the Planning Committee; failed to substantiate the issued reason for refusal other than with generalised and inaccurate assertions; and didn't take into account that conditions would overcome the reason for refusal. No noise complaints have been made even though, as asserted, the appellant has used the site for general storage since 2008 and the Council ignored the letters submitted in support of the proposal. No noise assessment has been requested and no comments were made by the Environmental Health Officer.
4. Paragraph 5.1 of the Planning Committee Report was not completed but Paragraph 4 of that Report explains that the application was referred to the Planning Committee on the grounds of the impact on neighbouring properties. Councillors are entitled to exercise their own judgement and are not obliged to accept the Officer recommendations. The reasons for refusal are clearly stated with reference to the development plan and national guidance. The PPG states it is for the decision maker to decide what weight is given to material considerations and the Council has not been unreasonable in facilitating the operation of local democratic decision making. It is perfectly reasonable for the Council to then defend its decision.
5. A Planning Contravention Notice has been served in respect of the use of the site. It was perfectly proper for the Council to indicate that a planning

application could be made to regularise the use of the barns. Nevertheless, this would not automatically mean that permission would be forth coming as a judgement would have to be made on the planning merits of the proposal taking into account planning policy and the comments made during the consultation process. Whether or not noise and disturbance would be caused to nearby residents is a matter for the planning judgement of the decision maker, taken into account comments that have been made. This is irrespective of whether or not comments could have been made by others including by Environmental Health Officers. The proposal is to find users for the site so the pattern of likely activity is too uncertain to require a meaningful Noise Assessment to be carried out as part of the application/appeal.

6. Taken together the Council's Statement of Case and Committee Report indicate that the Council did recognise the opportunity to impose conditions to limit activity on the site including restricting outside storage and limiting hours of operation.
7. The written evidence does not demonstrate that the Council specifically took into account any benefits arising from the proposal. However, as I have found that the other considerations, including the benefits, did not amount to the special circumstances to justify inappropriate development in the Green Belt, I do not find this has caused unnecessary or wasted expense in the appeal process.
8. For the reasons set out above I conclude that, whilst the Council exhibited unreasonable behaviour in terms of the PPG as set out above, I conclude that wasted or unnecessary expense in this respect has not been incurred by the appellant in the appeal process. The application for an award of costs is refused.

S Harley

INSPECTOR