
Costs Decision

Site visit made on 3 September 2020

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 26 October 2020

Costs application in relation to Appeal Ref: APP/L1765/C/20/3248934
Land to rear of 5 & 6 Hillside, Kitnocks Hill, Curdridge, Hampshire
SO32 2HJ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr W G Atkinson for a full award of costs against Winchester City Council.
 - The appeal was against an enforcement notice alleging the material change of use of land from agriculture to residential garden.
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Costs application in relation to Appeal Ref: APP/L1765/W/20/3247907
Land to rear of 5 & 6 Hillside, Kitnocks Hill, Curdridge, Hampshire
SO32 2HJ

- 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 W G Atkinson for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for the use of land as residential garden.
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Decision

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

Reasons

2. Planning Practice Guidance (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 applications are made on the grounds that the Members of Winchester City Council's Planning Committee behaved unreasonably by their rejection of a proposal which accorded with the development plan; they failed to take material considerations into account, including previous decisions; and they consequently made a decision which was inconsistent with determinations that they themselves had previously made. Permission should have been granted. As a consequence of this unreasonable behaviour the applicant has been obliged to incur unnecessary expenditure by the prosecution of these appeals.
4. The appellant argues that the refusal reason on the planning application does not reflect what was actually agreed as the refusal reason by the Committee and that the issue of the enforcement notice was not taken by the Committee.

He also says that it was unreasonable of the Committee to refuse the planning application without conducting a site visit.

5. I have set out in the decision notice why I agree with the Council that the development of the site the subject of both the enforcement notice (Appeal A) and the planning application (Appeal B) does not comply with relevant development plan policies, because it would be likely in the long term to significantly harm the open and rural character of the land. Consequently, I have not granted planning permission, except on the smaller site adjacent to No 5 and 6's rear gardens.
6. The Minutes of the Planning Committee of 18 February 2020 do not include any specific reference to 'domestication' of the land but they do cite harm to the landscape character and appearance of the area, which is also mentioned in the refusal reason. There is no requirement for the exact wording in the Minutes and the refusal reason to be precisely the same providing the essential justification for the refusal is consistent, which it is here. It is standard practice in Local Planning Authorities (LPAs) to delegate the exact wording to officers or to subsequently agree it between Members and officers, as was done here.
7. Equally, it is common standard practice in LPAs for the issuing of enforcement notices following refusal of planning permission to be taken by officers under delegated powers. It is unnecessary for Committee Members to visit every site, especially, as in this case, when photos of the officer's site visit were shown at the Committee meeting.
8. The Council has fully justified its stance in both appeals. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, an award of costs is not justified.

Nick Fagan

INSPECTOR