
Costs Decision

Site visit made on 9 December 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2021

Costs application in relation to Appeal Ref: APP/Y3615/W/20/3257555 Berry Farm, Westwood Lane, Wanborough, Guildford GU3 2JR

- 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 Cupid Green Ltd for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for erection of agricultural (horticultural) barn and shade tunnel.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The first claim ground is that the Council have made vague, generalised, or inaccurate assertions about the proposal's impact, unsupported by any objective analysis. In particular the decision notice refers to a "likely" intensification of the proposed use. Secondly, the Applicant contends Council Committee Members were striving to find reasons to refuse the application, against the advice of their own planning officer, rather than assessing it in its own merits. Furthermore, that the decision made by the Councillors was prejudiced against the applicant and made on the basis of what may happen in the future and not on the basis of the application that was in front of them.
4. Members of a Council Committee are not obligated to accept an officer recommendation to grant permission, but any refusal reason should clearly indicate the harm that would arise from a proposal and link this to adopted development plan policies when relevant. In this case, harm was identified in relation to impacts on designated landscape areas, and this was supported by references to a relevant development plan policy and to a paragraph in the National Planning Policy Framework.
5. The refusal reason did refer to "*the likely intensity of the proposed use*". I acknowledge that there would be no change of use and that there is not a planning limit on the intensity of a lawful agricultural use. The Council's costs rebuttal statement has elucidated the Council's thinking on this point in relation to uncertainty on how the proposed use would develop over time. But the reference is also set within a reason that clearly links the certain scale of the

buildings proposed to landscape harm. Moreover, as this point was scarcely raised in the substantive appeal statement, it would not appear to have resulted in unnecessary time or wasted expense in the appeal process.

6. It is clear that the Council's Committee Members were mindful of strong representations against the proposal and spent considerable time debating its merits including reference to other developments and decisions on land nearby. It is also clear that Members were guided by Council Officers in their debate which helped to formulate the refusal reason. It is the reason, which is ultimately the subject of the appeal, rather than the debate by the Committee. I do acknowledge that there appears to have been delay in determining the application due to deferrals for a site visit, long agendas and the impact of the coronavirus pandemic on the Council's procedures. However, these relate to the application process rather than the appeal process against which an award of costs must be made. There is no evidence to confirm that the decision taken was on the basis of prejudice against the applicant rather than on the basis of the planning application.

Conclusion

7. My findings are that the Council has not made vague, generalised, or inaccurate assertions about the proposal's impact and that the refusal reason followed lengthy Committee deliberations and was clearly formatted. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Rory MacLeod BA(Hons), MRIP

INSPECTOR