



Costs Decisions

Site visit made on 2 March 2021

by S M Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI

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

Decision date: 04 March 2021

Costs application in relation to Appeal A: Ref: APP/G5180/W/20/3256137 Sky Farm, Land at New Years Lane, Knockholt TN14 7PQ

- 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 Samuel Harii for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of the Council to grant prior approval for the siting, design and external appearance of an agricultural barn under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015.
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Costs application in relation to Appeal B: Ref: APP/G5180/W/20/3259004 Sky Farm, Land at New Years Lane, Knockholt TN14 7PQ

- 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 Samuel Harii for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of the Council to grant prior approval for the siting, design and external appearance of an agricultural barn under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015.
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Decisions

1. The applications for awards of costs in relation to both appeals is allowed in the terms set out below.

Reasons

2. The 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 appeals process.
3. The determination of applications made under the General Permitted Development Order (GPDO) requires a systematic assessment of the proposal against the relevant conditions set out in the Order. These have to be met for a proposal to benefit from permitted development rights.
4. In this case the applicant submitted both applications for the barn with a considerable amount of supporting information which sought to demonstrate the need for the barn in the context of his business aspirations. In neither case did the officer's report consider whether or not either of the proposals would meet the conditions set out in paragraph A.1. of Part 6, Class A of the GPDO. However, the reports advised the applicant that this matter should be pursued

separately by way of a lawful development certificate, if prior approval was granted. The reports went on to find reasons why prior approval should be refused, although in the case of the second application these reasons were less well justified.

5. However, the decisions were not issued in accordance with the strict timetable that is set out in the GPDO and to which the Council must adhere. In view of the concerns that it had identified in relation to the siting of the barn and the restrictions that had been imposed on use of this land through the Article 4 direction, I consider this delay amounted to unreasonable behaviour. Having had both applications refused, the appellant had little choice other than to pursue the appeal if he wished to challenge the Council's reasons rejecting his proposal. This has resulted in him incurring the expense associated with preparing additional material to submit with his appeal.
6. The Council has defended its reasons for refusal in the appeal primarily by repeating the contents of its officer's reports. The only significant additional material it provided was details of the Article 4 direction. However, regardless of its concerns about the effect of the barn on the local environment, the Council did not address its failure to make the decisions in accordance with the timetable set out in the GPDO. It is this issue which was fundamental to the outcome of these appeals.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the London Borough of Bromley shall pay to Mr Samuel Harii, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to the London Borough of Bromley, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Sheila Holden

INSPECTOR