



Costs Decision

Site visit made on 17 May 2021

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

**Costs application in relation to Appeal Ref: APP/J0405/C/21/3267581
Land at Barn Adjacent to Millway, Winslow Road, Wingrave,
Buckinghamshire HP22 4PT**

- 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 Etrur Albani for a full award of costs against Aylesbury Vale District Council.
 - The appeal was against an enforcement notice alleging 'Without planning permission the erection of an agricultural building together with the installation of a foul water disposal tank and the erection of a boundary fence'.
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Decision

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

Reasons

2. The 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.
3. The basis for the appellant's application is that the Council has: not engaged in written communication or been flexible in its approach with the appellant prior to issue of the enforcement notice; altered its approach as regards requesting a retrospective application; offered reasons based on supposition and on largely false allegations; ignored agricultural buildings of similar design in the wider area and put forward case law related to different planning scenarios; ignored arguments that the 2019 Planning Permission¹ did not require the building frame to be retained.
4. Turning firstly to the Council's communication with the appellant, it seems that the Council attempted to engage with the appellant via their builder, advising that work on site needed to stop as it was in breach of planning control. When it appeared to the Council that this advice had not been heeded, the Council proceeded to issue a Temporary Stop Notice.
5. The Council responded promptly to email communication from the appellant's agent which sought to identify the basis for the Council's concerns. In its responses, the Council set out in some detail and with reference to the previous Inspector's decision², its basis for considering that the development on site was unauthorised. Whilst the detail of these arguments was not

¹ Per Appeal decision ref: APP/J0405/W/18/3218124 (2019 Appeal Decision)

² In the 2019 Appeal Decision

- repeated in the reasons detailed on the enforcement notice itself, the notice explained the Council's basic position being that the building did not benefit from planning permission.
6. I appreciate that the appellant might feel aggrieved that allegations made to the Council were not entirely accurate/did not reflect the timing of events on site. Nonetheless, the Council clearly made a reasonable effort to investigate matters and to inform the appellant's agent as to the basis for their concerns.
 7. I acknowledge also that the appellant no doubt feels frustrated that the Council officer apparently made reference to requesting a retrospective application and that no attempt was made at negotiation. However, the Council is not bound by comments made informally by individual officers. Further, it is plain from the content of the Council's statement that it does not consider there to be scope for negotiation, given that the original structure was removed and in the absence of evidence of agricultural need.
 8. Whilst it is clear that the Council acted upon allegations made, it is equally apparent that the Council made its own prior investigations following the submissions of complaints. The Council's reasons for considering the development to be unauthorised are predicated upon the wording of the 2019 Appeal Decision and on relevant case law. Its reasons for taking enforcement action are based upon development plan policy.
 9. The appellant alleges that, in assessing harm, the Council has ignored agricultural buildings of a similar design in the wider area. However, whilst I do not have full details of the planning circumstances leading to those developments, it is possible that as agricultural buildings, the Council required evidence of agricultural need, which has not been submitted in this case. Planning decisions are, in any event, determined on their merits and the Council has clearly borne in mind in this case that the site is within an Area of Attractive Landscape.
 10. As regards case law put forward by the Council, whilst it might not all have related to identical planning scenarios to the present case, the Council has properly derived and applied general principles from case law to the development in question. The Council has not ignored arguments that the 2019 Permission did not require retention of the previously existing frame, but rather disagreed with the appellant's view and indeed, I have shared the Council's approach.
 11. Whilst the Council has not directly provided the appellant with copies of its statement and related documentation, these have been provided by the Planning Inspectorate. The Council requested a short extension to the time for submitting its statement. However, bearing in mind the global pandemic and consequent pressures, I do not find this to amount to unreasonable behaviour.
 12. Since I have not found that the Council has behaved unreasonably, there is no need to consider the matter of wasted expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that a full award of costs is not justified.

V Bond

INSPECTOR