The Planning Inspectorate

Costs Decision

Site visit made on 13 July 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: 19 July 2021.

Costs application in relation to Appeal Ref: APP/U1430/W/20/3270899
Park Pale Meadow, Mountfield Lane, Mountfield TN32 5LD

- 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 Ms Sam Swift for a full award of costs against Rother District Council.
- The appeal was against the refusal of the Council to grant planning permission for a change of use of land to part equestrian. Additional buildings to include stables, a tack room, a store shed, improved access & track, formation of new hard standing in front of stable block (retrospective) without complying with conditions attached to planning permission Ref RR/2019/1370/P, dated 16 August 2019.

Decision

1. The application for costs 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 appeal process.

3. The appeal site is in a sensitive part of the High Weald Area of Outstanding Natural Beauty (AONB) and was previously agricultural land. The field and its boundaries are recognised as being of historic importance within the AONB. To the south is Darwelll Reservoir and an associated Site of Nature Conservation Importance (SNCI). I therefore understand that the members were concerned about the long-term implications of permitting an equestrian use of part of the appeal site. They did not wish to see un-used buildings falling into disrepair. However, having regard to the requirements of the development plan and the recommendation of the officer's report, which found the proposal to be acceptable, they were prepared to grant planning permission.

4. Nevertheless, the members wished to impose additional controls to address their concerns about what might occur in the future. However, the PPG states that imposing a condition that does not comply with the requirements set out in paragraph 55 the National Planning Policy Framework (the Framework) may amount to unreasonable behaviour. Whilst I do not have any information about the advice the members were given at the time of the decision, I consider the Council behaved unreasonably by imposing them.

5. This caused the appellant to apply to have those conditions removed. The officer's report on that application gave the members clear reasons as to why

the conditions they had imposed did not meet the statutory tests, including quoting the relevant sections of the PPG. It recommended that the conditions should be removed. However, there were ongoing objections from the Parish Council and local residents who expressed concern about the potential for future development of the site and the welfare of the horses as the owner did not live on the site. Consequently, the members chose to ignore the professional advice of their officers and refused the application.

6. The Council provided a statement in support of the members' decision that simply reiterates concerns about the long-term effects on the AONB if the appellant was to leave the site and the buildings were to fall into disrepair. This statement did not justify why a personal permission was necessary or why the buildings should be removed just because the appellant ceased to operate the site. The other conditions imposed on the original permission are sufficient to ensure that the site is capable of being used in a satisfactory manner in perpetuity by a future owner or operator without causing harm to the character and appearance of the AONB. The Council has not provided cogent planning reasons for its decision not to remove the conditions.

7. I therefore find that the Council behaved unreasonably in refusing to remove conditions 6 and 7. Consequently, the appellant has incurred unnecessary and wasted expense, as described in the PPG, pursuing an appeal that should not have been needed. A full award of costs is therefore 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 Rother District Council shall pay Ms Sam Smith 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 Rother District Council, 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