
Costs Decision

Site visit made on 3 August 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2021

Costs application in relation to Appeal Ref: APP/L1765/W/21/3266445 Poplars Farm, Curdridge Lane, Curdridge SO32 2BH

- 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 Philip Gamblin (Larways Ltd) for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for the change of use of land to equestrian, erection of 11 looseboxes with ancillary structures and associated parking area.
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Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant takes issue with the Council's Tree Officer withdrawing an initial objection following a meeting on site but then reinstating it at a later date. Concern is also raised at the Council reaching a decision on the application notwithstanding a request for additional time to enable the appellant to respond to the objection from the Council's Ecologist and Biodiversity Officer.
4. Withdrawal of the Tree Officer's objection and then reinstatement is not good practice as it gave the impression that a way forward had been agreed when it had not. However, the change in advice arose as the result of additional evidence coming to light, and the officer concerned was entitled to do so as a result. While it would have been better for all evidence to have been taken into account before view was reached, it would still have been necessary for the appellant to provide professional advice on the impact of the development on the woodland. The Tree Officer's actions may not have been good practice, but I do not consider they resulted in unnecessary or wasted expense on the part of the appellant.
5. The objection from the Council's Ecologist and Biodiversity Officer was one of principle and was made notwithstanding the ecological assessment that had been submitted with the application. Since that objection was not one that was likely to be overcome by the submission of additional information, it was not

unreasonable for the Council to proceed to determine the application without further discussion on that matter.

6. So far as the Council's reason for refusal being unsupported by any objective analysis is concerned, it will be apparent from the appeal decision that I consider that the reason for refusal was justified and that the Council did provide sufficient evidence to substantiate its case. It did also consider the benefits of the scheme and the mitigation measures proposed by the appellant but found those not to outweigh the harm that had been caused. There was, therefore, nothing unreasonable in the way the Council determined the application or defended the appeal against that decision.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR