

Costs Decision

Site visit made on 28 July 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday 17 September 2021

**Costs application in relation to Appeal Ref: APP/P3040/W/21/3269416
Field alongside of Willow Cottage, Sutton Lane, Sutton Cum Granby,
Nottinghamshire NG13 9QA**

- 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 Barrie Roberts (Elton Park Farms) for a full award of costs against Rushcliffe Borough Council.
 - The appeal was against the refusal of planning permission for provision of 537m² intensive pig rearing unit for and in connection with the applicant's farming business.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The PPG adds that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals.
3. The appellant's claim is that the Council failed to follow its own procedures and policies; that it took a unilateral approach to the application and gave mixed messages to the appellant in correspondence. In doing so, the Council failed to act in a proper manner and refused to cooperate as required.
4. It will be seen from my decision that I agree with the Council on the substantive matters of the appeal. From the correspondence provided to me, the Council engaged in dialogue with the appellant during the application process, including a request for further information with respect to noise or odour. The appellant sought to challenge this request rather than comply with it. That was the appellant's choice. It is indicated that the appellant consulted with a noise specialist, but no evidence from this consultant was provided and no substantive addition made to the appellant's case on the issues of noise or odour. Ultimately, I have found the Council's request was a reasonable one to make in the circumstances, having regard to the scale and nature of the proposed operation.
5. Moreover, it will be seen from my decision that the Council has substantiated its position at appeal in relation to its reasons for refusal and its actions did not

prevent or delay development which should have been permitted. Ultimately, the application of relevant policies involves matters of planning judgement, which the Council was entitled to do as decision maker. I find no unreasonable behaviour in terms of the Council's application of its development plan policies.

Conclusion

6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award of costs is not justified, and no award is made.

K Savage

INSPECTOR