



Costs Decision

Site visit made on 27 September 2021

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 26 October 2021

Costs application in relation to Appeal Ref: APP/X0360/W/21/3268513 Woodlands Farm, Bath Road, Knowl Hill, Reading, RG10 9UP

- 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 Alex Hunt, Macniven Quays Limited for a partial award of costs against Wokingham Borough Council.
 - The appeal was against a refusal of prior approval for development described on the application form as proposed change of use of agricultural Nissen building and land within its curtilage to a Class C3 (dwelling houses) use and proposed associated building operations reasonably necessary to convert the building under Town and Country Planning (General Permitted Development)(England) Order 2015 as amended Schedule 2, Part 3, Class Q. For description of siting and location, please see submitted location plan and covering letter.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. The PPG sets out what type of behaviour may give rise to a substantive award against a local planning authority.
3. The appellant seeks a full award of costs in respect of the first and third reasons for refusal. These relate to whether sufficient information had been provided to establish that the existing building was solely in agricultural use for an agricultural trade or business on or before 20 March 2013 (the due date) and whether sufficient information had been provided in respect of contamination risks.
4. The applicant considers that no weight had been given by the Council to signed Statements by two individuals one of whom the applicant considers to be a primary first hand witness. Moreover, a Council Officer implied there may have been ulterior motives on the part of those individuals.
5. Case law has held that the appellant's own evidence does not need to be corroborated by "independent" evidence, particularly if it is unchallenged, in order to be accepted¹. However, that case was different as it referred to direct

¹ Gabbittas v. Secretary of State for the Environment and Newham Borough Council (Queen's Bench Division, His Honour Judge Dobry Q.C., July 4, 1984)

and detailed factual evidence taken under oath by the joint owner rather than evidence provided by third parties.

6. In the appeal before me an additional Declaration was submitted with the appeal. No other Parties challenged the Statements or the Declaration. I acknowledge the reservations expressed by the Council about the paucity of evidence in relation to the use of the barn and whether there was an agricultural business or trade on the due date. I found in my Decision that, on the balance of probabilities, the building was not other than solely in use for agricultural purposes for a business or trade. This was a matter of judgement and it was not unreasonable for the Council to conclude differently in relation to the application evidence: the appeal could not have been avoided in this respect.
7. It is for the appellant to demonstrate that all conditions and limitations in any application for prior approval are met. Substantial information was provided with the application for prior approval in respect of potential contamination on the site. Persisting with a reason for refusal relating to contamination given the advice from the Environmental Control Officer that an "unexpected contamination" condition would be sufficient to address the matter, amounts to unreasonable behaviour on the part of the Council.
8. As explained in my Decision it was not necessary or appropriate for me to consider whether prior approval should be granted in respect of contamination risk as I had found the proposal did not benefit from the permitted development right under Class Q. Nevertheless, my reading of the evidence does not indicate that additional evidence in relation to contamination risk, capable of being quantified, was produced for the appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

S Harley

INSPECTOR