



Costs Decision

Inquiry Held on 14 September 2021

Site visit made on 14 September 2021

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10/11/2021

Costs application in relation to Appeal Ref: APP/R3650/X/20/3253270 South Fork, Wrotham Hill, Dunsfold GU8 4PA

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr David Stedman for a full award of costs against Waverley Borough Council.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for use of a building for residential purposes continuously for a period in excess of 10 years (sui generis use class).
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Decision

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

The submissions for Mr David Stedman

2. The applicant claims that as the Council has no evidence of its own, it should not have disregarded the appellant's clear and unambiguous evidence. Advice in the Planning Practice Guidance (PPG) should have been followed and the Council should have granted a certificate for the residential use. The Council therefore acted in a substantively unreasonable manner, putting the appellant to the cost of the appeal.

The response by Waverley Borough Council

3. The respondent claims that the evidence to support the certificate application consisted of documents that mainly demonstrated agricultural use rather than residential use. Furthermore, the written sworn evidence failed to confirm the use of the building for residential purposes and lacked the details to differentiate between the agricultural and residential uses of the site. The applicant's evidence was not therefore sufficiently precise and unambiguous to justify the grant of a certificate.

Reasons

4. The PPG advises that costs may be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The PPG confirms that the applicant is responsible for providing sufficient information to support their lawful development certificate application ("LDC"). The PPG also advises, in respect of an LDC, that *"if the local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently*

precise and unambiguous to justify the grant of a certificate on the balance of probability”.

6. The Council has no evidence to contradict or otherwise make the applicant’s version of events less than probable. However, I have found that the applicant’s evidence, upon which the Council’s decision was based, is imprecise and ambiguous and does not justify the granting of a certificate, on the balance of probability. The respondent therefore acted in accordance with advice in the PPG.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Madge

INSPECTOR