
Costs Decision

Site visit made on 19 October 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Costs application in relation to Appeal Ref: APP/M3645/W/21/3269895 Land off Church Road, Woldingham CR3 7JX

- 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 John Crundwell for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for erection of mesh fencing to replace some existing barbed wire fencing, erection of three gates and electric fencing to provide restricted grazing areas for horses.
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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 this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes both procedural matters, such as lack of co-operation with the other parties; and substantive matters, including: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other considerations; and, vague and generalised or inaccurate assertions about a proposal's impact which are unsupported by an objective analysis.
4. The crux of the applicant's costs claim relates to the way the Council handled the planning application and its failure to work with the applicant; advice from an enforcement officer that the application would be a formality; and that the fields are in agricultural use therefore the proposal should not have been deemed to be inappropriate development in the Green Belt.
5. The PPG is clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage and cannot be claimed for the period during the determination of the planning application. Therefore, matters relating to validation and the Council's handling of the planning application are not within my jurisdiction. Furthermore, I am not aware of the comments made by the enforcement officer, and any indication that the proposal would be acceptable is not grounds for an award of costs. The information before me

shows that the Council was responsive to communication from the applicant. The Council states that the proposal was considered to be unacceptable in principle and minor revisions would not overcome this. This is reflected by the applicant's timeline under 10/12. There is no guarantee that had revised plans been provided in advance of the Council's decision, this would have overcome the Council's concerns and avoided an appeal. Moreover, there is no substantive evidence before me that the applicant sought formal pre-application advice from the Council regarding the proposed fencing, which would have been the ideal time to discuss any potential revisions.

6. Matters relating to Green Belt protection and the effect of the proposal on the landscape character of the AONB inevitably involve planning judgement. Whilst I have found that the proposed development would accord with the development plan and the National Planning Policy Framework, I find that the Council has substantiated its reasons for refusal and has not acted unreasonably in reaching its decision.

Conclusion

7. For the reasons given above, I determine that the costs application should fail and no award is made.

C Osgathorp

INSPECTOR