



Costs Decisions

Inquiry Held on 22 June, 8 - 11 November and 22 - 23 December 2021

Site visits made on 31 July 2021 (unaccompanied) and 5 January 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Costs application in relation to Appeal Ref: APP/H1840/C/20/3257219 Woodlands Farm, West Side, North Littleton, Evesham WR11 8QP

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Basil Sawczuk for a partial award of costs against Daniel Albutt.
 - The inquiry was in connection with an appeal against an enforcement notice alleging a material change of use.
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Costs application in relation to Appeal Ref: APP/H1840/C/20/3257220 Woodlands Farm, West Side, North Littleton, Evesham WR11 8QP

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Basil Sawczuk for a partial award of costs against Christopher Albutt.
 - The inquiry was in connection with an appeal against an enforcement notice alleging a material change of use.
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Decision

1. The applications are refused.

The submissions for Mr Sawczuk

2. The applications for costs arise from the submission of late documents by the respondents. The applicant contends that it was unreasonable to submit documents not in accordance with the timetable and that none of the exceptions in 'the rules' applicable to submitting late documents is satisfied.
3. Expenses said to be wasted as a consequence are the applicant's time taken to search his files for information relevant to a 2011 planning application including his own correspondence, preparing and undergoing cross-examination in relation to that correspondence, and considering the new plan and proposed conditions.

The response by Messrs Albutt

4. The application does not address any of the Guidance on making a costs application and does not specify the basis on which it is made. The need to submit the applicant's 2011 letter arose as a result of his conduct in cross-examining the appellant's witnesses and suggestions that were made to them

by the applicant which plainly controvert the contents of his 2011 letter. In the circumstances, seeking to submit that 2011 letter was clearly reasonable.

5. The documents were not substantial and did not necessitate an adjournment; that was required anyway. The documents did not necessitate extra expense for preparatory work that would not otherwise have arisen. There is no 'unreasonable behaviour' in the terms of the costs Guidance and the applicant has not been put to any expense that he would not otherwise have incurred. Considering the terms of conditions is an ordinary part of any appeal and this aspect of the application is plainly without foundation.

Reasons

6. Parties in planning appeals and other planning proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. This could be the expense of the entire appeal or other proceeding or only for part of the process.
7. The application here appears to be made on a procedural basis, the complaint being that the documents submitted late by the respondents could and should have been submitted earlier in the process in accordance with the relevant timetable. I have explained in my substantive decision that the relevant Rules confer a wide discretion to accept late evidence. Here, the respondents' reasons for submitting the 2011 letter were explained to have been prompted by the line of questioning of the respondents' witnesses by the applicant. The revised plan was submitted in early October to reflect the evolution of the scheme the first respondent sought to have considered under the ground (a) appeal, which in the event I have not needed to determine. These are in themselves not unreasonable motives for seeking to supply the documents late. My adjournment note of November 2021 raised the possibility of allowing further documents to be submitted.
8. Moreover I am unable to find that the submission of these documents has resulted in any unnecessary or wasted expense to the applicant. As the respondents to the application point out, no adjournment was required as a result of their submission, and any time taken to deal with the documents would have been required at whatever stage of the proceedings they had been submitted.
9. Therefore the applications for an award of costs are each refused.

Laura Renaudon

INSPECTOR