The Planning Inspectorate

Costs Decision

Site visit made on 14 April 2022

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 May 2022

Costs application in relation to Appeal Ref: APP/Y3940/X/21/3289799
Land and Buildings at Highway Manor, Highway, Hilmarton, Calne, SN11 8SR

- 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 Mr D Buscombe for a full award of costs against Wiltshire Council.
- The site visit was in connection with an appeal against the refusal of an application for a Certificate of Lawful Development or Use the purposes of agriculture, together with educational/therapy sessions by prior arrangement.

Decisions

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

The Case Made by Mr Buscombe

2. The appellant argues the Council are mistaken in their approach to both the planning unit and the definition of agriculture. There are clearly separate planning units on the land and the appellant's is clearly separable from the rest of the land. It is a distinct activity operated by a single occupier and so fulfils one of the 'Burdle' criteria. As to the question of agriculture the appellant rehearses his arguments regarding the various court cases. He concludes the Council have misled themselves by considering the keeping and breeding of horses, ponies, donkeys etc is not agricultural unless they are being used to farm the land or are kept for meat. Whereas it is clear form 'Sykes' that a general use for grazing is agricultural. The Council's case is therefore fundamentally flawed.

The Response by the Council

3. The Council respond by arguing some of the appellant's case rests on evidence not available at the time the LDC was applied for and so is not relevant. More particularly on the planning unit the Council's view is based on the site history which indicates a single planning unit. On agriculture, the Council argue they are clear about the distinction between a use of land for 'keeping and breeding' animals and the use of land as 'grazing land', and that some of the animals are not livestock and so cannot be considered to be related to agriculture in the first place.

Conclusions

4. It is clear from my decision that I favoured the Council's view on this appeal. The planning unit is not fundamental to the outcome of the case, but in any event, I did not have enough evidence to reach a sensible conclusion on it. As to agriculture, 'Sykes' makes it clear that the key issue is the question of what is the purpose for which the land is being used? In my view that purpose was a mix of agriculture and therapy uses. Therapy is not agricultural, regardless of whether agricultural animals are involved in it, and as it was more than de minimis a mixed use prevailed. There is no basis to conclude that the council acted unreasonably, and the grounds for a costs award are not made out.

Simon Hand

Inspector