



Costs Decision

Site visit made on 21 September 2022

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 1 November 2022

**Costs application in relation to Appeal Ref: APP/Y9507/C/21/3280341
Land and buildings at Douglaslake Farm, Little Bognor Road, Fittleworth,
Pulborough, West Sussex ("the Land") shown edged red on the plan
attached to the notice ("the Plan")**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Mark McDavid (A E Gadd & Sons) for a full award of costs against South Downs National Park Authority (SDNPA)
 - The appeal was against an enforcement notice alleging without planning permission, the material change of use of the land and buildings to a use as storage and distribution centre (Use Class B8).
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. In essence, the applicant says that planning application SDNP/20/00943/FUL was prematurely determined (and refused) in March 2021 because initially no Noise Impact Assessment (NIA) had been requested to accompany the application and then it had been agreed with a local Environmental Health Officer (EHO) in April 2020 that a NIA could not reasonably take place during the pandemic 'lockdown' because of traffic levels and the effect on background noise. It is claimed that SDNPA had behaved unreasonably in this respect (notwithstanding that the determination of the application was almost a year after the agreement with the EHO, and that 'lockdown' restrictions had been eased in the intervening period).
4. However, there was no appeal as I understand it against the above refusal. Had there been, the allegation may have been material in the determination of any accompanying costs application. Rather, there is an appeal before me against an enforcement notice - with noise-related reasons for issue - and the appellant has produced a NIA as part of a deemed planning application made under Section 174(2)(a) of the Town and Country Planning Act 1990 as amended in order to obtain retrospective permission for the unlawful development. Accordingly, I cannot see that there has been any unnecessary or wasted expense incurred by the applicant in respect to the appeal before me - even if I were satisfied (which I am not) of any causative unreasonable behaviour by the respondent.

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Walker

INSPECTOR