



Costs Decision

Site visit made on 16 November 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Costs application in relation to Appeal Ref: APP/E3715/C/21/3273997 The land at Barn Meadow Farm, Calcutt Lane, Stockton, Rugby CV23 8HY

- 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 Mrs Beverley Bates for a full award of costs against Rugby Borough Council.
 - The appeal was against an enforcement notice alleging the rebuilding of stables.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) 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. Awards against a party may be either procedural or substantive. The PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal
3. The main thrust of the applicant's costs application is the Council's alleged failure to provide evidence to substantiate the reasons for which the enforcement notice has been issued, failure to permit development that is in accordance with the development plan and inaccurate assertions about the impact of the proposal. The applicant's costs application is therefore substantive in nature.
4. The enforcement notice sets out the Council's reasons for taking enforcement action and identifies those policies it considers the development conflicts with. The Council has not provided a statement of case at appeal stage but has provided an officer report for application reference R20/0160. However, this relates to the proposed conversion of the building to residential accommodation, not the works which are the subject of the enforcement notice.
5. The enforcement notice states that the unauthorised development forms [sic] unsustainable form of development in the countryside. This wording reflects wording used in the officer report for the conversion of existing building to residential accommodation, reference R20/0160. However, the enforcement notice does not allege the conversion of the building to residential accommodation.
6. It is not clear whether the Council's concern that the development is an unsustainable form of development in the countryside relate to the works which

have been carried out or the works which were proposed under application R20/0160 and the Council's failure to provide a statement of case has not assisted in this respect. As will be seen from my decision, I have found the appeal site is a suitable location for the appeal scheme.

7. Given the ambiguity in this regard, which has been highlighted in the applicant's appeal submission, I consider the Council's failure to substantiate its reasons for taking enforcement action through the appeal to be unreasonable. Had the Council assessed the appeal scheme on the basis of the works actually carried out, I consider it highly unlikely it would have raised concern with the sustainability of the location.
8. While the Council has not provided a separate assessment to show why it considers the works which have been carried out constitute rebuilding, I have found that the breach has occurred. As will be seen from my decision, I have found there is harm to the character and appearance of the area and have upheld the notice and so the appeal would therefore have been necessary. Nevertheless, it has been necessary for the applicant to respond to the Council's assertion that the appeal building forms an unsustainable form of development in the countryside. The applicant has incurred wasted expense in responding to this matter.
9. Thus, for the reasons given above, I conclude that unreasonable behaviour by Rugby Borough Council, resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified, limited to those costs incurred in responding to the sustainability of the location.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Rugby Borough Council shall pay to Mrs Beverley Bates the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in responding to the sustainability of the location; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Rugby Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Savage

INSPECTOR