



Costs Decision

Site visit made on 20 December 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th December 2022.

Costs application in relation to Appeal Ref: APP/X0360/W/22/3303959 East Court Farm, The Village, Finchampstead RG40 3SD

- 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 Wokingham Borough Council for a full award of costs against Mr and Ms C and S James and Price.
 - The appeal was against the refusal of planning permission for erection of a replacement dwelling following the demolition of the existing dwelling and outbuildings.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG)¹ advises that, an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when the development is clearly not in accordance with the development plan without material considerations to the contrary, and where the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where it was decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
3. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The Council have outlined the extensive planning and enforcement history of the appeal site, particularly with regard to the agriculture or forestry worker occupancy condition attached to the dwelling.
4. Permission to remove or vary the occupancy condition was refused and then dismissed at appeal in 2004, 2006 and again in 2021. An enforcement notice for alleged breach of the condition was upheld, subject to minor wording variation, in 2011 and action is ongoing. However, this cost application does not relate to enforcement action.
5. I acknowledge that the application and appeal in this case were not supported by details of either the agricultural or forestry business or the sustainable construction process. However, the appellants presented information on why they believed the proposal was in accordance with relevant policy.

¹ 053 Reference ID: 16-053-20140306

6. Significantly, in this case, the appeal was for a replacement dwelling that retained the occupancy condition, rather than seeking to remove or vary the condition. Therefore, while the matters are linked, the appeal did not follow a recent appeal decision in respect of the same, or a very similar proposal. Consequently, while I agreed with the Council that there were sufficient grounds for refusing planning permission, I cannot agree that the appellants acted unreasonably. As such the Council were not put to unnecessary or wasted expense.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Helen Davies

INSPECTOR