



Costs Decision

Site visit made on 16 September 2022

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2022

Costs application in relation to APP/Y3940/W/22/3296059 Griffin Farm, Bowden Hill, Lacock SN15 2PP

- 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 Spye Farm Ltd for a full award of costs against Wiltshire Council.
 - The appeal was against the grant, subject to conditions, of planning permission for the erection of replacement building (Class E).
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Decision

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

Reasons

2. The case for the award of costs was made in writing and I shall, therefore, not repeat them here.
3. Planning Policy Guidance (PPG) advises that, 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.
4. The PPG indicates examples of unreasonable behaviour, which includes imposing a condition that does not comply with guidance within the National Planning Policy Framework, preventing development that should clearly be permitted and/or vague generalised or inaccurate assertions about a proposal's impact. In such instances, local planning authorities will be at risk of an award being made against them.
5. The case officer was entitled to enquire about the established lawful use of the building at the site and take this into account in the determination of the application. I also do not find it unreasonable that the Council deemed that the existing building at the site was not lawfully within Use Class E. This is despite the officer having a background knowledge of the Griffin Farm site, and the array of evidence provided by the applicant. I note, the Council did offer the applicant the opportunity to bolster its case through the submission of a lawful development certificate, however, this was not taken up.
6. Due to the lack of a lawfully established and unfettered Class E use, the proposed development has the potential to intensify existing activity at the site. This is regardless of the building having an overall smaller footprint than the one it is to replace. The application was not accompanied by robust evidence to demonstrate the potential impacts of the broad range of uses

under Class E, particularly in terms of potential transport and noise impacts. In the absence of such evidence, the Council's condition restricting the use of the building to certain operations within Class E is deemed appropriate.

7. The reason for Condition 4 as set out in the decision notice is complete, precise, specific, and relevant to the proposal. The requirement for the condition has also been adequately substantiated by the Council in its Officer Report. Furthermore, as will be seen from my decision, I have found the condition to be reasonable and necessary.
8. As a result, it follows that I cannot agree that the local planning authority has acted unreasonably in its determination of the application. I therefore consider that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Consequently, having regard to all matters raised, an award for costs is not justified.

Lewis Condé

INSPECTOR