



Costs Decision

Site visit made on 24 March 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Costs application in relation to Appeal Ref: APP/N1025/W/22/3309586 Draycott Fields Farm, Hopwell Road, Draycott, Derbyshire DE72 3PE

- 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 Mrs L Gratton for a full award of costs against Erewash Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of an agricultural building to one dwellinghouse (Use Class C3) and for associated operational development.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The applicant has set out that the Council has behaved unreasonably by not producing evidence to substantiate its decision and relying on vague, generalised or inaccurate assertions about a proposal's impact, which the PPG sets out¹ are examples of unreasonable behaviour.
4. The Council has provided a Delegated Report which sets out, amongst other matters, their concern on the proposed partial conversion of an agricultural building. Although the applicant considers that a reasonable assessment has not been undertaken, the Delegated Report provides an adequate level of reasoning to justify its stance on why it would be impractical or undesirable for it to change partly from an agricultural use to a residential use.
5. The Council in their Delegated Report has also made reference to details that were provided by the applicant setting out the nature of the farming operations. It is evident that they have taken account of the information and evidence presented but remained concerned on the unrestricted agricultural use that would remain. Although I consider that future intensification would be limited for the reasons set out in the accompanying appeal decision, the Council was entitled to exercise its planning judgement as it saw fit. Whilst I do not share the Council's overall assessment of the appeal proposal, I do not consider they acted unreasonably by making vague, generalised or inaccurate assertions.

¹ Paragraph: 049 Reference ID: 16-049-20140306

6. The applicant has stated that a condition relating to noise mitigation would have overcome concerns and avoided an appeal. Although this condition was suggested by a consultee, it was put forward in the event that the Council were minded to approve the application. In this regard, the Council has suggested this condition without prejudice. As such, an appeal would still have been necessary, and this matter has not resulted in unnecessary or wasted expense for the applicant.
7. It has also been stated that the Council did not convey consultee comments relating to a request for a noise survey. I appreciate the applicant sought to work with the Council and a lack of communication is regrettable. However, it was open to the applicant to submit such a survey, particularly as the Council's concerns would have been clear in correspondence with them. In any event, it is not clear to me that better communication and the provision of further information would have led to a different decision by the Council.

Conclusion

8. With the above in mind, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified in this instance.

F Rafiq

INSPECTOR