



Costs Decision

Site visit made on 27 March 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

**Costs application in relation to Appeal Ref: APP/R3650/W/22/3296211
Land south of Dunsfold Road And east of High Loxley Road, Loxhill,
Godalming GU8 4BW**

- 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 Mr Ashley Ward of Farmers Direct Ltd for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a cattle finishing unit.
-

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. Unreasonable behaviour can be considered as either substantive or procedural in nature.
3. On review of the Council's Statement of Case (CSoC), the applicant considers that the Council behaved unreasonably by inaccurately describing the appeal site in relation to the existing agricultural unit; delaying development by failing to issue a permission for a scheme which is compliant with national and local policy; and introducing new, and failing to substantiate existing, reasons for refusal.
4. Post the appeal submission, and to guide the CSoC, the Council's planning officers took a recommendation report to the planning committee, whereby elected members overturned the officers' findings and considered the proposed development unacceptable. As such the CSoC, by and large, is a representation of the elected members considerations at the planning committee including the specific reasons why they did not agree with the officers' recommendation.
5. Although an unorthodox approach to the CSoC, I do not consider it unreasonable, especially in an appeal against the non-determination of an application. This is because it shows the full process of consideration by all parts of the Council, and how its conclusions were informed. I therefore do not find the Council have behaved unreasonably by including specific comments from the elected members relating to the existing agricultural unit. They do not reflect the Council's ultimate conclusions but shows the evolution of its considerations.

6. Turning to the failure to issue a decision, the application was submitted on 7 June 2021, the appeal lodged 4 April 2022, and the Council was due to take the application back to the planning committee on the 6 April 2022. This is a considerable length of time for no decision to be issued. However, and notwithstanding the Council's indication that the application was likely to be refused at planning committee, it is not clear why the applicant, if concerned about the delay to development, did not submit an appeal considerably earlier once the statutory timeframe had expired.
7. Little evidence from either party regarding the specific reasoning for the delay has been submitted. However, it would appear from the information before me the main parties were in discussions up to just prior to the submission of the appeal. I cannot, therefore, conclude that the Council are wholly responsible for the delay, and although I have found in favour of the applicant within the appeal, it was the applicant's choice not to expedite a decision by submitting an appeal earlier.
8. Finally in relation to the Council's reasons for refusal. The Council did not issue a decision, therefore, there are no formal reasons for refusal to be substantiated. As such it is not unreasonable for the Council to set out all points of concern within its case, such as at paragraph 12 of the CSOC. The Council has also referred to appropriate local and national policies, where relevant, thereby substantiating its concerns.
9. Taking into consideration the evidence before me, and for the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

RJ Redford

INSPECTOR