

Costs Decision

Hearing Held on 17 May 2023

Site visit made on 17 May 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Costs application in relation to Appeal Ref: APP/F0114/W/23/3315938 Skylark Farm, Braysdown Lane, Peasedown St. John Bath BA2 8NL

- 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 Paul Parton of Parton Poulets Ltd for a partial award of costs against Bath & North East Somerset Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for use of land for the siting of timber cabin for ten years for an agricultural worker.
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Decision

1. The application is refused.

Reasons

2. The PPG advises that irrespective of the outcome of the appeal, costs may 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.
3. The applicant asserts that the Council has acted unreasonably in that it failed to address specific evidence related to the avian flu situation in the UK prior to the refusal of planning permission, and erroneously relied upon the superseded PPS7, particularly Annex A to PPS7, in its evidence and approach to the appeal.
4. The concerns about the handling of the additional avian flu evidence relate to conduct during the planning application, not the appeal. The Council's agricultural consultant acknowledged receipt of the further information but did not address it in any detail. However, the Council adequately substantiated its response to this issue in its appeal statement and during the hearing itself. There is no evidence that the appeal would have been avoided had the Council explained itself in more detail prior to refusing planning permission.
5. Whilst the Council made references to PPS7 in its agricultural evidence and appeal statement, when this is read in a straightforward manner it is clear that PPS7 was of marginal relevance to the Council's principal assessment of the scheme against the relevant development plan policy and the Framework.
6. PPS7 is most influential in the Council's case when it relates to the potential for any housing need to be met by a single bedroom dwelling. However, this line of argument was secondary to the Council's principal position that no functional need for a second dwelling existed. Research undertaken by the applicant in relation to this largely peripheral issue I would have anticipated as part of the normal preparation for a hearing of this nature in any event.

7. Accordingly, the Council's conduct does not constitute unreasonable behaviour that has directly resulted in unnecessary or wasted expense in the appeal process, as described in the PPG. The PPG states that the parties in planning appeals normally meet their own expenses, and these are the circumstances present here. An award of costs is not justified.

Matthew Jones
INSPECTOR