



Costs Decision

Site visit made on 25 May 2023

by David Murray BA (Hons) DMS MRTPI
an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Costs application in relation to Appeal Ref: APP/W1850/X/22/3310231 Land at Redwood Orchard, St Michaels, Tenbury Wells, Worcestershire, WR15 8TL.

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Brigid Eakins for a full award of costs against Herefordshire Council.
 - The appeal was against the refusal of an application for a certificate of lawful use or development to site a caravan ancillary to agriculture.
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Decision

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

Reasons

2. 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. In this case the appellant submits that the Council acted unreasonably in refusing to grant the certificate and questioning the nature of the proposal about whether a timber frame building was being brought to the site, and the legal definition of a caravan. This led to the appellant having to use a planning consultant to pursue the appeal and this amounted to unnecessary costs.
4. The Council's reason for refusal, made in June 2022, refers to the uncertainty inherent in the application over whether the proposal was for the assembly of a timber framed building on site. This reflected some ambiguity over the nature of the evidence submitted with the application where there were photographs of a timber structure being assembled on a site and a photo of a twin unit mobile home. There appeared to be doubt over whether this fell within the definition of a caravan.
5. In the decision on the LDC case I also took into account the planning history of the site and in particular the LDC appeal decision (APP/W1850/X/22/3295616) and Costs decision (issued in September 2022) for the same form of proposal to site a caravan for a use ancillary to agricultural use. In this case the Inspector found that there was some ambiguity in the proposal and had to ask

various questions about the nature of the evidence submitted and how it applied to the proposed use. The Inspector acknowledged that the appellant confirmed that the details of the caravan submitted with the application did not form part of the proposal which relied on the legal definition of a caravan.

6. Initially I also had doubts over the nature of the proposal with the photographs of a timber structure being assembled. Moreover, the submitted plan and elevations and an internal layout plan of a large Park Home bore similarities to the existing timber building on the appeal site.
7. However, it was clarified in the appellant's written statement that the proposed use is based solely on the use of a caravan, simply as defined in law, for purposes ancillary to agricultural without reference to any specific type or construction of a caravan including the timber structure on site. On this basis I concluded that with the caveats set out in the decision letter the LDC could be granted.
8. I find that on the evidence available at the time of the decision on the application now the subject of the appeal, it was not unreasonable for the Council to have doubts about the nature of the case put forward, bearing in mind that the onus of providing verifiable and clear evidence with an LDC application lies with the applicant. Overall, I am satisfied that the Council did not act unreasonably at that time in refusing the LDC and that the appellant's use of a consultant to lodge the appeal and clarify the case was the normal costs arising when the right of appeal is exercised in an LDC case.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Murray

INSPECTOR