



Costs Decision

Hearing (Virtual) held on 16 May 2023

Site visit made on 17 May 2023

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2023

Costs application in relation to Appeal Ref: APP/J3720/W/23/3316514 Old Pastures Farm, Stratford Road, Hampton Lucy, Warwick CV35 8BQ

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr N Mauro, Valefresco for an award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal of planning permission for the erection of 119,682sqm of horticultural polytunnels for protected cropping of salad and Chinese vegetables; installation of an attenuation basin for the collection of surface water run-off and associated irrigation purposes; and all associated landscaping works.
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Decision

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

Reasons

2. Planning Practice 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.
3. The application centres on the applicant's claim that the Council introduced fresh and substantial evidence at a late stage, necessitating extra expense for preparatory work that would not otherwise have arisen.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they introduced fresh and substantial evidence at a late stage, necessitating extra expense for preparatory work that would not otherwise have arisen.
5. The document *Report on the Scrutiny of Landscape Statements & Evidence submitted by Appellant: Landscape Visual Impact Assessment (LVIA) & Statement of Case (Landscape Matters Only)* (the RSL) by the Council's landscape consultant was appended by the Council to their Appeal Statement.
6. In reviewing the appellant's landscape evidence, the RSL provides some additional commentary that mainly amounts to the following: a) a review of methodological aspects of, and Viewpoint observations in, the LVIA that was submitted by the appellant; and b) expansion on harms with a landscape dimension that were described in the Council's reasons for refusal and associated Delegated Report.

7. Also, in conjunction with commentary on the asserted harm to the Avon Valley Terrace farmlands landscape sub-type, which is at the core of the Council's second reason for refusal and analysis of that main issue in the Delegated Report, the RSL adds comment in various paragraphs about asserted adverse impact on an adjoining Riverside meadowlands landscape sub-type within the Avon Valley.
8. The bulk of the RSL amounted overall to amplification of the core concerns that had already been articulated by the Council. However, I find that unreasonable behaviour by the Council did occur, at this later stage of the appeal process, as follows. The Council submitted, and referred in their Appeal Statement to, the above commentary in the RSL which asserts adverse impact on a landscape sub-type in the Avon Valley that is additional to that specified in the second reason for refusal. In so crossing the line from amplification to addition of argument, at this later stage in the appeal process, this was unreasonable.
9. However, that said, the RSL mainly amplified the core concerns that had been articulated by the Council earlier in their reasons for refusal and Delegated Report. Thus, the Council's Appeal Statement and appended RSL did not fundamentally alter the core arguments in this case.
10. As such, and notwithstanding that the appellant chose to table an additional Landscape and Visual Matters Hearing Note (LHN) at the hearing, which included approximately two and a half page section of response to the RSL, I find as follows.
11. It is not clear that had the Council refrained from expanding on its landscape character concerns, the core appeal arguments would have been substantially different in scope. Furthermore, it is not clear that the appellant would have chosen not to table, along with their other hearing note on heritage, a LHN, even without the Council's later assertions about the adjoining Riverside meadowlands landscape sub-type. And, on the evidence before me, I am not convinced that a discretely identifiable additional expense was incurred, over and above that of the preparations for the hearing that the appellant and their consultants would have undertaken anyway.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper

INSPECTOR