



Costs Decision

Site visit made on 20 March 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2023

Costs application in relation to Appeal Ref: APP/P1615/W/22/3312746 33 Ford House Road, The Scarr, Newent, Gloucestershire, GL18 1LQ

- 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 Forest of Dean District Council for a full award of costs against Mr & Mrs T Godfrey.
- The appeal was against the refusal of application Ref P1216/22/FUL, dated 23 August 2022, which Forest of Dean District Council refused by notice dated 19 October 2022.
- The application sought planning permission for change of use from agricultural and equestrian land to caravan park to include up to 9 No. static holiday homes without complying with condition attached to planning permission Ref P1667/21/COU, dated 1 June 2022.
- The condition in dispute is number 13 which states that: *Within three months of the date of this permission the acoustic noise barrier shall be installed and maintained strictly accordance with the details as shown on revised drawing No. 2m received on the 21st February 2022 and thereafter retained in perpetuity.*
- The reason given for the conditions is: *To protect and safeguard future users of the site from the adjoining commercial use and the general amenities of neighbouring dwellings in the area and in accordance with the National Planning Policy Framework, National Planning Policy Guidance and Core Strategy Policy CSP.1.*

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. Paragraph 052 of the PPG is not an exhaustive list but states that examples of behaviour by appellants which may give rise to substantive award against them can include where the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
4. The Council claims that the appellant was aware of the mitigation requirements of their own noise survey. The arguments made by the appellant are not against the findings or mitigation requirements of the noise survey and are made on the basis that the Council should not have included conditions which were not part of the original decision. The appellant put forward a consideration

that there was a fallback position of the original permission, and this was a determining matter in my decision. Consequently, on that basis it was not unreasonable of the appellant to conclude that their appeal might have some prospect of success.

5. Accordingly, I do not consider that the submission of this planning appeal resulted in any unreasonable behaviour which directly caused another party to incur unnecessary or wastes expense, so was not contrary to the basic guidance in the National Planning Policy Framework and the PPG.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S Crossen

INSPECTOR