



Costs Decision

Site visit made on 3 October 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date 10 November 2023

Costs application in relation to Appeal Ref: APP/P1805/X/23/3321060 Sugarbrook Nurseries, Sugarbrook Lane, Bromsgrove, Worcestershire, B60 3AU

- 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 Mr Mark Banham for a full award of costs against Bromsgrove District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for use of timber building and land surrounding the cabin and the timber building for incidental domestic purposes.
-

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. PPG provides examples of unreasonable behaviour by local planning authorities. These include the failure to produce evidence to substantiate reasons for refusal and making vague, generalised or inaccurate assertions unsupported by objective analysis as well as preventing or delaying development that should have been permitted.
4. The applicant considers that the Council did not undertake an objective analysis of the evidence before them and had no evidence to counter that provided. Moreover, that the Council had visited the site several times and not taken any enforcement action.
5. The Council did not suggest there was nil use of the land or that there was no curtilage associated with the Cabin when granting the LDC for the use of it as a dwelling. Similarly, when questioning the evidence of the applicant they did not ask for an explanation as to why plants were grown or for photographs to be taken each time the areas were used. Whether to take enforcement action against any potential breach is a matter for the Council and does not preclude them from refusing the LDC.
6. While I have not agreed with the Council on the balance of probability, they had reasonable and justified questions about the evidence provided by the appellant. That parties disagree does not demonstrate unreasonable behaviour.

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Stuart Willis

INSPECTOR