
Costs Decision

Site visit made on 4 July 2023

by Roy Curnow MA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Costs application in relation to Appeal Ref: APP/N0410/C/22/3301780 Redbarn Farm, Beaconsfield Road, Amersham HP7 0JY

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Buckinghamshire Council for a partial award of costs against Mrs Jen Axten.
 - The appeal was against an enforcement notice alleging material change of use of land to a mixed use of agriculture and farm shop, including integral operational development.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. There are, therefore, two tests – that unreasonable behaviour has occurred, and that this has led to unnecessary or wasted expense.
3. The Council makes an application for a partial award of costs. It says that it kept to the timetable for submitting evidence, set out in section 8.2 of the 'Procedural Guide: Enforcement notice appeals – England'. It refers to the April 2022 revision. However, this has been superseded by the version dated 21 December 2022, which I use.
4. It states that her evidence that, in respect of the applicability of the 4-year 'rule' to certain elements of the development, was submitted late. This was unreasonable and led to the undertaking of additional work at short notice.
5. In response, the Appellant states that the Council's Final Comments were shorter than its costs application and no evidence of additional costs, in the form of gaining a legal opinion, is provided. She says that the Council's position on the 4 year or 10 year rule was not provided with the Enforcement Notice. It did; the Notice says "It appears to the Council that the above breach of planning control has occurred within the last TEN years".
6. I agree with the Council that the submission, made after the 6-week deadline, amounted to unreasonable behaviour. However, there is scant evidence before me that this led to wasted or unnecessary expense.
7. Furthermore, that submission set out the legal case as to why the Council's position on the legality of some of the buildings at the site was wrong. The

Appellant's position in this regard was justified by the decision in the *Caldwell* case that came out during the processing of the appeal. As I had to write to the parties for comments on this, the Council would have had to have carried out the same assessment in any event.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Roy Curnow

Inspector