



Costs Decision

Site visit made on 5 December 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Costs application in relation to Appeal Ref: APP/R0660/W/23/3324389 Land to the south of Dunge Farm, Macclesfield Road, Over Alderley, Cheshire, SK10 4SN

- 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 Mr Tom Gardiner for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for agricultural storage building.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The applicant submits that the Council failed to consider, and give appropriate weight to, the submitted information and, to suitably justify and defend their reason for refusal. Moreover, they state that the Council's determination was inconsistent with previous decisions at the site and that ultimately it resulted in the refusal of prior approval that should have been granted. Collectively, this led to unnecessary expense in the preparatory and administrative works related to the applicant needing to go to appeal.
4. Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) sets out, amongst other matters, a requirement for the development to be reasonably necessary for the purposes of agriculture within that unit. I find that in the consideration of this requirement there is often a strong degree of judgement employed. It is clear from the Council's Delegated Report that they have set out the current context, what the proposal entails, and their concerns with that. To this degree, I find that the Council have justified their case. However, I find that in their assessment the Council have misdirected themselves as to the requirements of the assessment.
5. In particular, the Council's case relates in part to the agricultural business being viable without the barn and that its size was not justified. I find therefore that the Council have, in their assessment, considered whether the development would be 'absolutely' necessary, rather than 'reasonably' necessary. Had the Council followed the assessment as it is required by the

GPDO, I find that the Council would have likely concluded differently and that an appeal would have been unnecessary. In this way, the Council acted unreasonably and this resulted in wasted expense.

6. Although the Council may not have worked proactively through the planning application, I find that the short timescale within which such prior approvals must be determined does not lend itself to the seeking of amendments and further information. Therefore, and whilst unhelpful, I do not find the lack of communication to be unreasonable in this case.
7. Both parties have made much of the previous planning applications at the appeal site in their cases. In particular, although 17/2093M was granted the Council suggest this was due to an error, rather than the Council's support of the applicant's case. I have not been provided with the full details and facts of these applications and decisions. Whilst other planning decisions are capable of being material considerations, all decisions turn on their own circumstances based on the facts and evidence before those decision-makers at the time. Moreover, a significant period of time has elapsed since the 17/0407M and 17/2093M decisions were made and circumstances may well have changed. Therefore, I cannot make any meaningful comparisons to the appeal scheme before me, which I must consider on its own merits.
8. Nevertheless, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cheshire East Council shall pay to Mr Tom Gardiner, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Cheshire East Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Samuel Watson

INSPECTOR