
Costs Decision

Site visit made on 9 January 2024

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2024

Costs application in relation to Appeal Ref: APP/F2605/W/23/3320656 Land adj Starbucks, A11 Southbound, Besthorpe, Norfolk NR17 2PU

- 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 Ms Rosanna Wiseman for a full award of costs against Breckland District Council.
 - The appeal was against the grant subject to conditions of planning permission for the change of use from an agricultural field to a dog walking field with the retention of crop cricket bat willow trees and associated parking and footpath.
-

Decision

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

Reasons

2. Planning Practice Guidance 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 or wasted expense in the appeal process.
3. In this case, the appellant argues that the local planning authority were unwilling to discuss the original planning application and there was an unwillingness to co-operate proactively, with the result that conditions were attached to the permission that failed to meet the necessary tests. This led to an unnecessary appeal and consequently wasted expense.
4. The costs regime does not provide the opportunity of recompense for any expense, frustration or delay that may arise from the application process itself but rather the costs of an appeal process that should not have been necessary due to the unreasonable nature of the decision that was made.
5. In this case the appeal was against three conditions attached to the planning permission that were said to be contrary to the tests in the National Planning Policy Framework and thus their inclusion constituted unreasonable behaviour. However, condition no 7 has been found to be necessary and reasonable to maintain control over potential changes to the fencing around the site. Whilst conditions 3 and 5 have been revised to remove unnecessary prescription and inappropriate control over crop trees, the conditions overall meet the relevant tests and including them was not unreasonable.
6. Better communication and dialogue between the Council and appellant may well have increased understanding of the proposal and resulted in more precise wording for the conditions. The apparent lack of communication between the

parties in this respect is regrettable but this was not so deficient as to amount to unreasonable behaviour by the Council.

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

David Reed

INSPECTOR