
Costs Decision

Site visit made on 20 May 2024

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 5th July 2024

Costs application in relation to Appeal Ref: APP/P2114/W/24/3341904 Knightsbridge Farm, Roud, Ventnor, Isle of Wight PO38 3LH

- 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 Knightsbridge Farms for a full award of costs against Isle of Wight Council.
 - The appeal was against the refusal of planning permission for agricultural prior notification for extension to existing barn.
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Decision

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

Background

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.
3. The Applicant considers that the Council acted unreasonably as whilst it concedes that the building is reasonably necessary for the purposes of agricultural within the unit, it has provided no evidence to substantiate its position. As such, it is considered by the Applicant that the Council has prevented or delayed development without clear and accurate reasons.
4. To the contrary, the Council points out that the proposed extended barn would be readily visible within the street scene and the wider rural area. That engagement with the pre-application advice service would have provided the appellant with written feedback regarding the considerations and likely issues and that the Council submits that it is not reasonable for the appellant to expect that negotiations regarding the design and appearance of the development should have taken place during the processing of the application, particularly bearing in mind that it was subject to a statutory 28 day determination period. In addition, it would not have been possible to secure landscaping through a condition of the appeal application. Lastly, the Council considers that it is not considered that a landscaping condition could have secured a meaningful level of screening and improvement to the proposal, bearing in mind the scale of the building.

Reasons

5. The Council continue, within their costs response, to reiterate their view that the existing building 'has a level of visual harm' that would be compounded by the extension. However, the existing barn, to which the proposal would be

directly attached to and match the form, materials, colours and external appearance is not the subject of the appeal. Instead, it is the proposed extension that is at the heart of the planning decision. The Council considered that the external appearance of the proposal would result in excessive or harmful landscape impacts.

6. However, the proposal is for an extension to an existing rural barn building in similar form, siting and appearance. Whilst the site is not within a designated landscape, the Council's case revolved around a few viewpoints in the local area. However, from looking towards the appeal site from these, viewers would see a larger agricultural building within a rural setting. In such circumstances, it is surprising that an extension to the barn under the prior approval regime as proposed would be objectionable.
7. Furthermore, the specific conditions of the Prior Approval referred to by the Council revolve around '*siting, design and external appearance of the building*'. These are considered in detail within the planning appeal decision, but within the context of the application for costs, it is unclear as to why the impact on an undesignated landscape in which it sits forms a substantive reason for refusal of the prior approval.
8. I note the points made in respect of not being able to impose a landscaping condition. However, the planting of plants in and around farm buildings is not typically a matter for planning controls. Moreover, given the absence of harm identified in the appeal decision on this matter, it would be unlikely that any such planning condition could fulfil the 'test' of necessity.
9. Taken in the round, whilst I respect that the Local Planning Authority is able to refuse prior approvals, I find that the Council did act unreasonably in this instance for the reasons stated above. Furthermore, this unreasonable behaviour resulted in unnecessary and wasted expense for the Applicant in having to prepare and present their case at appeal.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

11. 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 Isle of Wight Council shall pay to Knightsbridge Farms, 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.
12. The applicant is now invited to submit to Isle of Wight 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.

C Parker

INSPECTOR