The Planning Inspectorate

Costs Decision

Site visit made on 10 September 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Costs application in relation to Appeal A Ref: APP/J0405/W/24/3344010 Gubbins Hole Farm, Edgcott Road, Marsh Gibbon, Buckinghamshire OX27 0AN

- 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 Kate Solomon for a full award of costs against Buckinghamshire Council.
- The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use and associated building operations to convert existing agricultural building to single dwellinghouse.

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. The appellant's claim for costs relies on that the Council have not considered the submitted unilateral undertaking, considered matters beyond the scope of Class Q of the GPDO, did not consider a fallback position, went against the advice of consultees and did not consider the nature of the use of the land.

4. In an attempt to overcome the Council's concerns in relation to the use of the buildings nearby the appeal site the appellant provided a draft unilateral undertaking with the application which sought to ensure that parts of the appeal site were not sold separately. The Council considered that preventing the sale of parts of the site would not overcome their concerns, particularly as buildings could be rented and used for agricultural purposes that might harm the living conditions of future occupiers.

5. I note the appellant's frustration that the Council did not work proactively with them, as the Framework encourages, however, the Council are not obliged to and instead considered the draft unilateral undertaking that was put before them. I therefore find that the Council were not unreasonable to take their approach that the unilateral undertaking as drafted would not overcome their concerns.

6. The Council considered that the use of conditions requiring demolition and/or restrictions in usage of buildings could undermine the use of the wider agricultural unit. While not a specific consideration of Class Q, the Council are required to consider conditions against the tests outlined in Paragraph 55 of the Framework. The Council were therefore not unreasonable to consider the wider implications of the imposition of the proposed conditions.

7. The appellant proposed a fallback position through the conversion of a nearby agricultural building into an office. The Council dis not address this within the officer report, however, I note their reasoning in response to this cost's application. While the Council should have addressed this fallback position within the officer report it is clear that this is not fundamental to the appeal scheme, and it would not have addressed all of the Councils concerns.

8. The Council's Environmental Protection Officer considered that an acceptable level of amenity would be provided for future occupiers on the basis of the measures proposed by the appellant. While the Council officer found differently it is clear from the evidence before me the reasons as to why they considered this would not be the case and it is supported by relevant Policy. I therefore do not find it unreasonable that the Council officer came to a different view.

9. The appellant provided information with the application to demonstrate the current use of the farming enterprise and that the existing dairy and livestock uses had ceased. I acknowledge that the proposal is envisioned to be occupied by the owners, however, the Council must consider the long-term future of the site which could change, resulting in new occupiers who might have less control. Also, the Council visited the site and noted farm machinery being stores as well as livestock in the barns and therefore were not unreasonable to reach their view based on all the evidence before them.

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

D Wilson

INSPECTOR