



Costs Decision

Site visit made on 9 January 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 February 2025

Costs application in relation to Appeal Ref: APP/X1735/W/23/3323722 Stoke Farm Northwood Lane, Hayling Island PO11 0LR

- 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 G North for a full award of costs against Havant Borough Council.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for change of use of land and a building from an agricultural use to a building used for log storage (Class B8) and log processing (Class B2), extension to the building and an area of hardstanding.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance)¹ advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that unreasonable behaviour by local planning authorities in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
4. The applicant is seeking a full award of costs on substantive grounds. Specifically, it considers that the Council prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and that it acted contrary to, or did not follow, well-established case law.
5. The applicant's concerns primarily relate to the Council's handling of a previous Agricultural Prior Approval application² (the 2022 PA) in respect of the barn which has been recently erected on the appeal site and is the subject of the appeal scheme.

¹ Paragraph: 028 Reference ID:16-028-20140306

² LPA Ref: APP/22/00069 – *Application to determine whether prior approval is required for new barn (for farm machinery storage) and hard standing, within caravan site* – Submitted to the Council on 1 February 2022

6. The 2022 PA was not validated, and a decision was not made within 28 days. This costs application goes into detail in respect of why the applicant considers it should have been validated, and why it considers that, because of the manner by which 2022 PA was dealt with by the Council, the existing barn is now deemed to be lawful under Schedule 2, Part 6, Class A of the GPDO.
7. The applicant's view is that, should the above be the case, the subsequent planning application³, which is the subject of the appeal to which this costs application relates, should have been validated and determined. In not so doing, the applicant considers that the Council has acted unreasonably, resulting in the current non-determination appeal.
8. Although costs cannot be claimed for the period during the determination of the planning application, the Guidance confirms that costs applications may relate to events before the appeal. It goes on to say that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded. The Guidance also states that all parties are expected to behave reasonably throughout the planning process.
9. My appeal decision, which accompanies this costs decision and should be read in conjunction with it, explains why the disagreement between the main parties in respect of the lawfulness of the existing barn, and therefore the description of the planning application proposal, comprised only one of the Council's stated reasons for not validating the planning application.
10. Moreover, my appeal decision explains why, having regard to the Guidance, reaching agreement on the description of the proposed development is not in itself a reason for delaying the validation of a planning application.
11. My decision explains why I have found that the Council acted reasonably in respect of the remaining 4 outstanding items listed in its letter to the applicant dated 13 February 2023 and why I found the requested information to be relevant, necessary and material to the determination of the planning application. As such, I found that the Council were correct to invalidate the planning application and have not behaved unreasonably in so doing.
12. Furthermore, the Council's appeal statement confirms that, had the Council found the application to be valid and had proceeded to determine it, the Council would have likely raised concerns in respect of matters including the impact on the character and appearance of the area, neighbouring living conditions, highway safety and the SPA supporting site. As such, it is not certain that an appeal could have been avoided, should the planning application have been validated.
13. Accordingly, having regard to the above, it follows that I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

S Leonard

INSPECTOR

³ LPA Ref APP/23/00056