Planning Inspectorate

Costs Decision

Site visit made on 15 May 2025

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2025

Costs application in relation to Appeal Ref: APP/P1805/W/24/3354513
Flourishing Fields Farm, Stonehouse Lane, Hopwood, Worcestershire B48 7BB

- 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 Graduately Developing Futures Limited for a full award of costs against Bromsgrove District Council.
- The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for general purpose agricultural storage building.

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 PPG advises that all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceedings, 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.

4. Development proposed under Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) must be on land used solely for agriculture, for the purposes of trade or business. If the site, building or land is in a mixed use – put to one or more primary uses which are not incidental to each other – permitted development will not apply under Part 6. For the purposes of Part 6, the land must have been so used before works are begun.

5. While acknowledging that the educational use on site has not been granted planning permission the Council had concerns that the land where the building was proposed was not used for agricultural purposes. Given that several buildings have been erected near to where the appeal building is proposed that do not appear to be used or proposed to be used for agricultural purposes, it was not unreasonable for the Council to consider whether the site was agricultural land used for the purposes of a trade or business within an established agricultural unit. The use of the land was a material consideration and the weight that is attributed to the material considerations is a matter of planning judgement by the decision maker.

The Council considered the evidence before it and what the Officer saw on site and provided objective analysis to support its stance.

6. Whether a material change of use had taken place given the building works that have been undertaken and the identified intentions of the applicant to open an educational facility on part of the wider site was a material consideration before the Council. A material change of use can take place without permission being granted for it. It would then be a case of whether it would be lawful or not, but this is not a matter to be considered as part of this costs application. This, again, was a matter of planning judgement, and the weight attributed to this material consideration was for the decision maker to make.

7. An agricultural unit is defined in Part 6, paragraph D.1 of the GPDO, for the purposes of Part 6, as agricultural land which is occupied as a unit for the purposes of agriculture but including specified dwellings.

8. The Council note that the Officer was given a plan by the applicant when they met on site and its understanding, was that the land outlined in red showed the land owned by the applicant which amounted to 2.49ha. The Officer acknowledged that the plan also showed the other parcels of land at acquisition or conveyancing stage. This was evidence provided by the applicant and the Council duly considered this evidence, which is reasonable, but note that it did not change the decision outcome. The Council acknowledge that the land holding equated to 6.2 hectares(ha) but had concerns whether the building would be within an agricultural unit of 5ha or more used for the purposes of a trade or business. This was a similar conclusion to that made by the agricultural consultant.

9. The matter of determining a planning unit was considered in Burdle v Secretary of State for the Environment [1972] 3 All E.R 240. An agricultural unit is not the same as a planning unit and it may comprise more than one planning unit and the tests relate to whether the site, building or land is solely in agricultural use, and whether the site, building or land is comprised in an agricultural unit. If the site, building or land is in agricultural use, but other land within the planning unit is in other uses, as may be the case in this instance, it will be necessary to consider whether or not there is an agricultural unit for the land, site or building to be part of.

10. Given that the applicant makes specific reference to the educational use in their covering letter for the application for this agricultural building it was not unreasonable for the Council to have concerns regarding the use of the land. It was also reasonable for the Council to have concerns regarding whether the activities taking place on site amounted to agricultural purposes and it is evident that they undertook a site visit and spoke with the applicant on site regarding this proposal. In this regard, it is evident that the Officer did work proactively in undertaking the site visit and meeting the applicant on site.

11. It was the Case Officer’s judgement whether they needed to visit the entirety of the land said to be owned by the applicant to make a decision. Given that the Case Officer was the decision maker in this instance, the fact that the agricultural consultant did not visit the site does not amount to unreasonable behaviour as they were not the decision maker. The evidence provided by the agricultural consultant was a material consideration and the weight to be given to this was a matter of planning judgement by the decision maker.

12. The Council undertook an assessment whether or not there is an agricultural unit for the land, and it made a planning judgement based on the evidence before it. Whilst the applicant may disagree with the Council’s conclusion on this matter, this was not an unreasonable approach for it to take.

13. The concerns raised regarding the suitability of the building were reasonable as for development to be permitted under Part 6 it must be reasonably necessary for the purposes of agriculture within that unit and concerns were raised about the suitability of the building for the purposes of hay storage.

14. Whilst the applicant has concerns about the handling of the application, vague, generalised, or inaccurate assertions about the proposal’s impact was not made in the reason for refusal. The Council did not act unreasonably in making its own judgement on the weight to the given to these matters and it did not prevent development which should clearly have been permitted.

15. The applicant was disappointed with the Council’s handling of the application, procedures, and outcome. However, its submissions were, on balance, sufficient to substantiate its case and its behaviours and actions at the time of the planning application and this appeal have not resulted in unreasonable behaviour or unnecessary or wasted expense at the appeal stage. Therefore, an award of costs is not warranted.

G Sibley

INSPECTOR