



Costs Decision

Hearing held on 13 September 2016

Site visit made on 13 September 2016

by Matthew Birkinshaw BA(Hons) Msc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th October 2016

Costs application in relation to Appeal Ref: APP/L3245/W/16/3147367 Holly Farm, Stockhall Lane, Hopton Wafers, Cleobury Mortimer, DY14 0EH

- 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 & Mrs Martin Lord for a full award of costs against Shropshire Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for a temporary mobile home to establish a business.
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Decision

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

The submissions for Mr and Mrs Martin Lord

2. The application for an award of costs is made on the grounds that the Council unreasonably considered the appeal proposal as an application for a dwelling and not a mobile home for a temporary period in order to establish a business.
3. It is also argued that the Council took an unreasonable period of time to consider the planning application, did not notify the applicants' of a report from Reading Agricultural Consultants for some three months and ignored relevant submitted evidence. Finally, the applicants' claim that requests to provide financial information relating to a proposed business, and from their previous farm in France, amounts to unreasonable behaviour. In conclusion it is argued that the subsequent delays have cost the applicants and their stallions two years of their working lives.

The response by Shropshire Council

4. In response the Council contend that although the proposal was for temporary accommodation the purpose of the mobile home would be for habitation as the applicants' sole residence. On this basis it required consideration against relevant planning policies concerning housing.
 5. In response to claims regarding delays the Council states that the issues were complex and required a consultant to be appointed. Combined with a staff shortage and overwhelming caseloads this led to a delay in providing reports and determining the application. It is also suggested that the applicants had the option to appeal against the non-determination of the planning application sooner, rather than wait for the formal decision notice.
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6. Finally, with regard to taking evidence into account the Council refers to the Planning Officer's report which cites the additional information provided. It also refers to the need to consider relevant financial and functional tests as set out in *Shropshire Core Strategy* Policy CS5, Policy MD7a of the *Shropshire Site Allocations and Management of Development Plan* (SAMDev), and the *Type and Affordability of Housing Supplementary Planning Document* (SPD).

Reasons

7. The National Planning Practice Guidance states that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
8. As set out in my appeal decision, whilst recognising that a mobile home is materially different to a permanent residence for a rural worker, the appeal proposal nonetheless seeks planning permission for a new 'dwelling'. It would be the applicants' main residence and the Council did not act unreasonably in considering the proposal against relevant policies for housing. The Council's written evidence also makes reference to the additional information provided by the applicants' during the course of the planning application.
9. I agree with the applicants' that reference to the profit and loss of the farm in France was unrelated to the appeal proposal. However, the National Planning Policy Framework ('the Framework') states that new isolated homes in the countryside should be avoided unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work. SAMDev Policy MD7a also requires proposals to demonstrate that relevant financial and functional tests are met, and, the *Type and Affordability of Housing SPD* supports applications for temporary dwellings where "a business case is shown". It was therefore not unreasonable for the Council to consider the functional need of the proposed business and ensure that it was planned on a realistic, sound financial basis.
10. With regard to the handling of the planning application the Planning Practice Guidance states that if it is clear a local planning authority will fail to determine an application within the prescribed time limits, it should give the applicant a proper explanation (Paragraph: 048 Reference ID: 16-048-20140306). Based on the details provided no such explanation was offered, and the Council accepts that delays occurred. I therefore appreciate the applicants' frustrations concerning the length of time it has taken to reach a decision and the uncertainty that this has caused.
11. Nevertheless, whether or not this was unreasonable, there is no evidence to suggest that it has resulted in unnecessary or wasted costs in connection with the appeal, which is the basis on which I can consider this application. Despite empathising with the loss of earnings cited by the applicants, the Planning Practice Guidance makes it clear that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission (Paragraph: 032 Reference ID: 16-032-20140306).

12. I therefore conclude that unreasonable behaviour resulting in unnecessary expense in the appeal process, as described in the National Planning Practice Guidance, has not been demonstrated. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

Matthew Birkinshaw

INSPECTOR