The Planning Inspectorate

Costs Decision

Site visit made on 11 October 2016

by William Fieldhouse BA (Hons) MA MRTPI

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

Decision date: 1 November 2016

Costs application in relation to Appeal Ref: APP/P1615/W/16/3151357
47 Orchard Road, Newent, Gloucestershire GL18 1DQ

- The application is made under sections 78, 322 and Schedule 6 of the Town and Country Planning Act 1990, and section 250(5) of the Local Government Act 1972.
- The application is made by Mr Tim Chance for a full award of costs against Forest of Dean District Council.
- The appeal was made against the refusal of planning permission for the erection of four holiday chalets with parking spaces.

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process[1]. I shall, therefore, consider whether that has occurred in this case.

3. Following the grant of outline planning permission for the erection of four single-storey holiday lets and associated works on the site, the appellant arranged to meet a Council representative to discuss the reserved matters as encouraged by Council guidance. A scheme for larger buildings than proposed at the outline stage was put forward and, whilst the Council did not provide a written response or note, it is not disputed that conditional support was offered without a request for sections showing the relative heights of existing and proposed buildings.

4. It was not until late on Friday 22 January 2016, several weeks after the detailed planning application had been registered, that concerns about the massing and height of the proposal were raised by the Council and a sectional drawing requested. The requested drawing was provided by the deadline of 27 January that had been set by the Council in order to allow determination of the application within the statutory time period. Planning permission was then refused a few days later on the grounds that the massing and height of the proposal would mean that it would have an adverse impact on the character and appearance of the site and the surrounding area.

5. Whilst the PPG advises that pre-application advice should provide a clear, timely

[1] PPG ID16-028 and 029.

and authoritative view on the merits of a proposal, it also acknowledges that it cannot pre-empt the democratic process[2]. It is clear from the information provided by the Council that the case officer and the vetting panel gave the proposal careful consideration, and whilst concerns about massing and height were not raised until relatively late on this was a result of the normal assessment process. Furthermore, in order to properly address these concerns, the Council asked for further relevant information and then took this into account.

6. The reason for refusal is clearly set out in the decision notice, is based on a proper understanding of the proposal, including the design rationale which is referred to in the officer report, and an assessment of its impact having regard to relevant development plan and national planning policy. Whilst I came to a different judgment about the effect on the character and appearance of the area, I had the benefit of additional and more accurate information about ground levels and the relative heights of existing and proposed buildings that the appellant provided at the appeal stage[3]. Furthermore, the judgment about the effect on the character and appearance of the area is essentially subjective, albeit needing to be informed by an understanding of the site, its surroundings and the proposal.

7. The Council has substantiated its reason for refusal, and whilst it would have been helpful to the appellant if its concerns about massing and height had been raised earlier none of the procedures that it adopted in terms of providing pre-application advice, determining the application, or dealing with the appeal were out of the ordinary, inappropriate, or unreasonable.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

William Fieldhouse

INSPECTOR

[2] PPG ID-20-010 and ID-20-011
[3] Proposed site section facing north ref 12/687.10-D dated March 2016.