

Costs Decision

Site visit made on 30 September 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 3 November 2016

**Costs application in relation to Appeal Ref: APP/B3030/W/16/3153789
Land North of Staunton Works, Alverton Road, Staunton in the Vale,
Nottinghamshire NG13 9PE**

- 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 Edward Mayman for a full award of costs against Newark and Sherwood District Council.
 - The appeal was against the refusal of planning permission for the erection of 6 No poultry buildings, boiler building, site office, access and hardstandings.
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Decision

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

Reasons

2. 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. That the Officer's report recommended that planning permission be granted subject to conditions does not prevent the Council from taking a different decision. Where it does so, however, reasonable planning grounds should be given for taking a contrary decision and relevant evidence should be produced at appeal to support that decision.
4. In this case, the Council's reason for refusal, which refers to the scale of the new buildings and the associated level of activity and to the visual impact of the development on the countryside and the rural character of the area, is precise, specific and relevant. It refers to relevant development plan policies and the National Planning Policy Framework. The Council's statement of case, which should be read along with the Officer's report and other background papers, substantiates that reason. It explains the Council's concerns in the light of the development plan policies that are cited in the reason for refusal. To my mind, this evidence provides a reasonable basis for the Council's stance.
5. The Council's decision was not taken lightly. It followed consideration of the Officer's report, a debate to which Members of the Committee appear to have contributed and a site visit. At the site visit, Members would have had the opportunity to experience and appreciate the site and its surroundings and form their own opinion about the potential consequences of the proposal if it

were to be approved. Given the considerable scale of the new built form and size of the intended poultry operation, I consider that Members were entitled to reach a conclusion that planning permission should be withheld.

6. It is unfortunate that the Officer's report identified the site as falling within the wrong Landscape Character Zone (LCZ) as defined in the Landscape Character Assessment Supplementary Planning Document (SPD). The site was incorrectly identified as being within the 'Alfreton Village Farmlands', which was classified as being in very good condition with moderate landscape sensitivity. That category thus set the bar higher with regard to landscape quality and sensitivity than would have been the case had the correct LCZ been reported, which was the Cotham Meadowlands. The condition of the landscape in this area is described in the SPD as very poor and its sensitivity as very low. As such, Members of the Committee were misinformed and may well have considered the quality of the landscape to be higher and its sensitivity to be greater than should have been the case. The Council acknowledged this error in its statement of case.
7. From the minutes of the Committee's meeting, it is not possible to gauge the significance of the landscape classification in the debate or the weight that was attributed to it by Members. Consequently, I am unable to conclude that the Council's decision turned on this particular issue. It is clear, however, that Members did visit the site beforehand and their opinions would have been shaped by their impressions of the landscape at that time. As such, Members would not have been solely reliant on the advice provided by Officers.
8. Had the correct LCZ been reported at the Committee meeting it is possible that Members could have resolved to grant planning permission thus negating the need for the recourse to appeal with its associated costs. However, the Council's reason for refusal goes beyond the effect of the proposal on the local landscape. Furthermore, there is no clear indication from the minutes of the Committee meeting that the debate was so finely balanced as to hinge on this particular issue. To the contrary, the concerns that were expressed by Members at the meeting appeared to be wide ranging.
9. Landscape that is graded lower for its quality and sensitivity may well be better suited in principle to accommodate new development than landscape that is ranked higher. However, it does not necessarily follow that the development sought would therefore have been considered to be acceptable given that much depends on the details of the proposal and its relationship to the landscape, amongst other matters. For these reasons, I am not convinced that a more favourable outcome to the applicant would have resulted from the Committee meeting if its Members had been informed of the correct LCV at that time.
10. The applicant is critical of the Council in failing to promptly review its decision and to reappraise the proposal in the light of the correct landscape designation. However, as the Council had determined the application there was no formal opportunity for it to do so. Officers could have invited the applicant to resubmit the application to allow the Council to reconsider and re-determine the scheme. Equally, that option was available to the applicant to pursue in any event, which, if successful, could have avoided the appeal.

11. Reference is made in the Council's evidence to that part of DPD Policy DM8 that deals with employment uses rather than agricultural development. My reading of this part of the Council's statement is that it primarily outlines the content of the policy. It does not explicitly treat the proposal as an employment use nor is the development assessed as such against this element of the policy.
12. My assessment of the effects of the proposal differs from that of the Council. This arose mainly because I made different judgements on the evidence, rather than because of any significant inadequacies in the content of the Council's case. That I came to a different conclusion, and allowed the appeal does not mean that the Council failed to show clearly why in its view the development should not be permitted or that it failed to substantiate its case.

Conclusion

13. Overall, I consider that the Council has not prevented or delayed development that should clearly have been permitted, having regard to the development plan, national policy and other material considerations. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated.

Gary Deane

INSPECTOR