The Planning Inspectorate

Costs Decisions

Hearing held on 6 and 7 December 2016
Site visit made on 6 December 2016

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 13 January 2017

Costs application in relation to Appeal refs: APP/E2734/C/16/3147091, W/16/3147110 and 3147113
Land at Wood Hill Farm, Wood Hill Lane, Clifton, Otley LS21 2HE

- The application is made under the Town and Country Planning Act 1990, sections 78 and 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr and Mrs Nicholson for a full award of costs against Harrogate Borough Council.
- The hearing was in connection with appeals against an enforcement notice alleging without planning permission, the material change of use of the land from agriculture to agriculture and residential caravan site facilitated by the stationing of two caravans and the construction of a timber porch, and the refusal of planning permission for 4-berth and 1-berth static caravans.

Decision

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

The submissions for Mr and Mrs Nicholson

2. Essentially, this application is based on the claim that the Council has not engaged with the appellants in a proper or meaningful manner. It refused planning permission without warning and failed to substantiate its objections. Officers could have requested a business plan, which might have resolved matters and avoided the appeals all together. It simply refused permission without any discussion. The agricultural appraisals show a functional and financial need for a rural worker and these could have been provided earlier had the Council asked for this type of evidence.

The response by Harrogate Borough Council

3. Determination of the planning applications was based upon the evidence presented at the time. The appellants did not demonstrate an existing functional or financial need for a rural worker to live permanently on the site. The reason for refusal clearly outlines local and national planning policy conflict. Nowhere did it say an agricultural appraisal had not been submitted.

The further reply by Mr and Mrs Nicholson

4. The planning officer reports refer to the absence of a business plan. Had the Council requested agricultural appraisal, it would have been provided. There has been total lack of cooperation.

Reasons

5. Irrespective of the outcome of the appeal, costs may only 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. The Planning Practice Guidance (PPG) advises that, awards against appellants may be either procedural (behavior in relation to completing the appeal process) or substantive (planning merits of the appeal).

6. My decisions explain the reasons why I have found in favour of the appellants in Appeal B. This has led to a grant of temporary planning permission for a 4-berth static caravan to facilitate a residential caravan site, due to the essential need for a rural worker to live permanently at the site. This amounts to the very special circumstances needed to justify the development inside the Green Belt.

7. The appeal documents included papers that had been submitted during the application stage. An agricultural appraisal by Stephenson & Son, dated March 2016, was also included with the grounds of appeal. It seems to me the latter was prepared in response to the Council's decision to refuse planning permission, because the appellants perceived absence of a business plan did not assist them. Nevertheless, pursuant to the appeal timetable, the Council submitted its statement, which included a response to the agricultural appraisal. On 31 August 2016, the planning agent confirmed that the appellants had no final comments to make.

8. The appellants were professionally represented and, in this type of development, it is down to them to show essential need for a rural worker to live on the site. I find it very surprising that a proper and coherent agricultural appraisal had not been submitted during the planning application stage. At appeal stage, the necessary evidence had been provided although at a late stage, but that is due to exceptional circumstances. In the light of all of the evidence now presented, the Council did not change its stance.

9. I understand that the appellants' were very frustrated with the Council's decision to refuse planning permission and swiftly issue an enforcement notice. Nevertheless vague, generalised or inaccurate assertions were not been made about potential impact of the residential caravan site upon matters of acknowledged importance, including spatially designated Green Belt.

10. I have taken note of the apparent lack of constructive engagement with the planning agent, but the Council submitted sufficient oral and written evidence to substantiate all of its reasons for refusing planning permission and taking enforcement action. While I have arrived at a different conclusion in respect of Appeal B planning merits, officers provided evidence to substantiate their opposition to the development. There is nothing before me to indicate the Council has behaved unreasonably in terms of defending its approach.

11. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs, partial or full, is unjustified in this case.

A U Ghafoor

Inspector