Costs Decision

Hearing held on 15 November 2016

Site visit made on 15 November 2016

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 19 January 2017

Costs application in relation to Appeal Ref: APP/B1740/W/16/3152221
Maple Field Farm, Martin, Fordingbridge, Hampshire, SP6 3LR

- 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 Nicholas Snelgar for a full award of costs against New Forest District Council.
- The hearing was in connection with an appeal against the refusal of planning permission for a development described as: "To extend temporary residential permission to become permanent. To change the status of the on-site mobile home into permanent house (wooden)."

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 and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The appellant submits that the Council took an overly prescriptive approach to the financial test, which was unreasonable given that Planning Policy Statement 7 (PPS7) was revoked in March 2012 and that the financial test no longer appears in the National Planning Policy Framework (the Framework).

4. Policy DM21 of the New Forest District (outside the National Park) Local Plan Part 2: Sites and Development Management does include a financial test similar to that of the now revoked PPS7. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Policy DM21 is up to date, as it was adopted in April 2014, having been found to be sound and consistent with the principles and policies set out in the Framework. As such it carries significant weight. It was therefore not unreasonable for the Council to consider policy DM21 and the financial test therein in determining the planning application.

5. Both of the main parties are in broad agreement that the milk processing business currently being carried out at Maple Field Farm is viable. However, this is based on figures relating largely to bought in milk rather than milk solely from the appellant's own herd. Therefore, the Council were not unreasonable to state that the proposed agricultural enterprise under consideration, i.e. the

appellant's micro dairy business processing milk from his own herd of 25 cows, did not meet the financial test set out in Policy DM21.

6. Reference is made to appeal APP/Y9507/W/15/3002893 where the main issue was the financial test. In that case the business had not yet fully developed therefore the inspector found that a temporary permission was a reasonable option. Each appeal must be determined on its own merits. It will be seen from my decision that the fundamental issue in this appeal relates to the failure to demonstrate an essential need for the appellant to live permanently at Maple Field Farm and, as I have explained in my decision, granting a temporary permission to allow the appellant's business to develop further would not overcome my concerns in this respect.

7. In respect of matters of character and appearance these are subjective and cannot simply be said to be inaccurate or untrue. It is based on a judgement made by the decision maker. The Council clearly substantiated the harm they perceived the proposal to have on character and appearance at all stages of the application and appeal process, and this went further than just the roof material of the structure. Therefore they did not behave unreasonably in this respect.

8. Since I have found that the Council did not act unreasonably it is not necessary to consider the question of unnecessary or wasted expense.

9. For the reasons set out above I conclude that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Therefore, having regard to all other matters raised, an award for costs is not justified.

Hayley Butcher

INSPECTOR