The Planning Inspectorate

Costs Decision

Site visit made on 20 June 2017

by B Bowker Mplan MRTPI

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

Decision date: 27 June 2017

Costs application in relation to Appeal Ref: APP/L3245/W/17/3170391
The Workshop, South View, Ludlow Road, Little Stretton, Shropshire SY6 6RF

- 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 Andrew Keenan for a full award of costs against Shropshire Council.
- The appeal was against the refusal of an application for planning permission for the demolition of existing industrial workshop and erection of a new detached dwelling.

Decision

1. The application for an award of costs is refused for the reasons given below.

Reasons

2. The National Planning Practice Guidance (PPG) advises that 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.

3. The PPG also advises that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. Other examples include not determining similar cases in a consistent manner and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration.

4. The appellant contends that the Council's determination of the application was inconsistent with the advice it provided at pre-application stage. The appellant also contends that the Council determined the application after agreeing to extend the application period by one month to allow for the submission of additional plans. Furthermore, the appellant contends that the Council withheld consultation feedback, which in the case of comments made by the Flood Specialist Team, meant the application was not determined at Planning Committee.

5. It is also contended that the Council failed to have regard to comments from its Land Drainage Section and that its refusal of planning permission is inconsistent with how it determined a nearby application. The appellant also considers that the benefits associated with the proposal were not fully considered in the planning balance. The appellant considers that the above

constitute unreasonable behaviour that has resulted in unnecessary and wasted cost in having to appeal the decision.

6. It is common practice that informal advice given regarding an application is done so without prejudice and cannot pre-determine the outcome of a subsequent application. Therefore it was not unreasonable for the Council to take a different view during the application stage.

7. Based on my reasoning in the accompanying appeal decision, I have taken the same view as the Council regarding the need for the proposal to be accompanied by a sequential test. It follows that I cannot agree with the appellant that the Council behaved unreasonably in this respect. The Council did not make consultation responses publically available and determined the application after agreeing to extend the deadline (uncontested). This to my mind constitutes unreasonable behaviour.

8. However, based on the substantive issue of flood risk, the Council had a reasonable basis upon which to refuse permission. In addition, whilst I have taken a different view, the Council also had reasonable grounds in relation to its concerns about neighbouring living conditions and the proposal's compliance with its development strategy. Therefore, regardless of the Council's unreasonable behaviour noted above and its different approach to a nearby application, an appeal was not avoidable and thus I cannot conclude that the appellant has incurred wasted or unnecessary costs as a result.

9. Finally, based on the Council's officer report it is clear that comments from the Parish Council and Conservation Section were sufficiently reported and that the proposal was acknowledged to enhance the conservation area. Consequently the Council did not behave unreasonably in how is considered the overall balance of the proposal.

Conclusion

10. Therefore, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. For this reason, and having regard to all matters raised, an award for costs is not justified.

B Bowker

INSPECTOR