

Costs Decision

Site visit made on 20 June 2017

by G Powys Jones MSc FRTPI

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

Decision date: 10 July 2017

**Costs application in relation to Appeal Ref: APP/C1625/D/17/3170889
Partstreet Farm, Tinkley Lane, Nympsfield, Stonehouse, Gloucestershire,
GL10 3UH**

- 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 Alan Smith for a full award of costs against the decision of Stroud District Council.
 - The appeal was made against the Council's decision to refuse planning permission for erection of proposed garaging/Hobby-storage (RE-SUBMISSION following refusal of S.16/1161/HHOLD).
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Decision

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

Reasons

2. The *Planning Practice Guidance* (the Guidance) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The appellant considers that the Council improperly applied local development plan policy. I have dealt with this aspect in the substantive appeal decision letter, and little would be gained by repetition. But in brief, whilst I recognised that tension existed between certain aspects of policy, which in my experience is not unusual, I found aspects of all policies relied upon by the Council to be relevant in differing respects.
 4. The appellant takes the Council to task for failing to take appropriate account of the alleged '*fall-back*' argument, that is, the appellant's entitlements to erect outbuildings as permitted development. This argument however is considered illogical since the appellant acknowledges that the proposed outbuilding, given its height and size, and location within an Area of Outstanding Natural Beauty (AONB) would not qualify as permitted development wherever it was sited within the curtilage. To my mind, no '*fall-back*' has been established, and the pursuit of an '*almost a fall-back*' argument has little or no planning validity. Accordingly, I find no fault on the Council's part in giving this aspect scant weight, since it is clear that planning permission was required for the proposed development.
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5. The appellant points to errors in the officer report, and to the introduction of new reasons for refusal when compared with the previous decision. However, the errors concerned had little or no impact on the reasons for the determination, and the Council is not prevented from introducing new reasons for refusal when dealing with a fresh application, if reasonably justified.
6. For the reasons set out in the decision on the substantive appeal, the principle of erecting the proposed outbuilding may have proved acceptable to the Council. However, it seems to me that the Council's main concerns centred on the siting of the proposed building and its subsequent alleged impact on its surroundings and on the AONB. These are valid considerations.
7. Although my view of the proposal differs from that of the Council, the necessary judgments in cases of this nature are not always founded on prescriptive rules but are essentially subjective in nature, albeit having regard to policy and other guidance. Whilst I did not agree with the Council on the merits of the scheme, on balance, I do not consider it was unreasonable for it to have determined the application in the way that it did, based on policy, officer opinion and judgment.
8. In the circumstances, I am satisfied that the Council did not act unreasonably at application stage, and was entitled under the terms of local policy to arrive at a decision based on its subjective judgment and its statutory responsibilities, having regard to the AONB designation.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for costs is refused.

G Powys Jones

INSPECTOR