The Planning Inspectorate

Costs Decision

Hearing Held on 12 July 2017

Site visit made on 12 July 2017

by R J Jackson BA MPhil DMS MRTPI MCMI

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

Decision date: 25 July 2017

Costs application in relation to Appeal Ref: APP/C1625/W/17/3171262
Court Farm, Beards Mill, Stanley Downton, Stonehouse GL10 3QZ

- 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 Stroud District Council.
- The hearing was in connection with an appeal against the refusal of planning permission for development described as "retention of farm workers accommodation building".

Decision

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

Procedural matter

2. The application was given in writing prior to the Hearing with the Council also making its response in writing. The applicant made his final comments verbally at the Hearing. As all parties are aware of the grounds of the application and the responses I will not repeat them in this decision.

Reasons

3. The Planning Practice Guidance 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.

4. The application was made under a number of grounds and I will consider each in turn.

Change in reason for refusal and lack of engagement

5. The appeal application was made in November 2016 and refused in February 2017. Following this the applicant made a second application (Council Ref: S.17/0541/FUL) in March 2017 with additional information that sought to address the Council's concerns about the timing of when calving took place. I have not been provided with a copy of the decision notice refusing that second application but understand the reason for refusal was in a different form to that of the appeal application.

6. Although the appeal was against the earlier decision the discussions at the Hearing proceeded on the basis of the information submitted with the second application.

7. The particular concern that the applicant makes is that the Council did not seek to negotiate on the appeal application when it received the response of its agricultural consultant but rather refused the application without giving the applicant the chance to respond to the issues it raised, particularly as regards the question of seasonal calving.

8. The National Planning Policy Framework in paragraph 187 emphasises that local authorities should look for solutions rather than problems and that implies that where there are issues local planning authorities should revert to applicants to seek additional information. However, local planning authorities can equally be criticised for delaying decisions.

9. The Council was initially at a misunderstanding as to how the agricultural enterprise operated and seeking further information would have been beneficial. However, I do not believe it would have led to a different result in that the Council was of the view that notwithstanding the current calving regime it could be reasonably reorganised to a seasonal calving approach.

10. The appeal could have proceeded on the basis of the information submitted at the first application stage; but that might not have led me to the same conclusions that I did. The additional information was necessary to allow me to consider the matter fully.

11. Although I disagreed with the Council as to whether there was an essential need for accommodation on site, it explained and justified why it took the approach it did. It was only at the Hearing that the applicant fully explained to me the difficulties that following a seasonal calving regime would cause. I am therefore satisfied that while asking for the additional information earlier may have led to a different result the reality was that it would (and did in the second application) not. As such I am satisfied there was no unreasonable behaviour leading to wasted expense in this regard.

Flood risk

12. The Council did not refuse the appeal application on flood risk grounds but it is clear that the site lies in Flood Zone 3 of the Environment Agency's maps and that flood risk was a matter to be addressed. It was a matter for the Council's judgement as to whether it had an objection on flood risk grounds and it can hardly be criticised for <u>not</u> including a reason for refusal to the benefit of the applicant.

13. However, it was also entirely proper for the Environment Agency to seek to continue in its objection on flood risk based on the location if it felt that was appropriate. The applicant then sought to address this issue and the expenditure in this area was pertinent to me in dealing with the Sequential and Exception tests. I therefore find that there was no unreasonable behaviour leading to wasted expense in relation to this issue.

Objectivity

14. The applicant's criticism is that the Council followed blindly the concerns of its consultant and did not take into account all factors. However, I do not consider that this is made out. The Council took into account the information in front of it and came to a conclusion. That it followed its own consultant is not, of itself, unreasonable and I have dealt with the issue of whether it should have reverted to the applicant above. That it also took into account an objection

from the Environment Agency and then did not refuse the application on flood risk grounds demonstrates to me that it looked carefully at all the issues and came to its own view.

Policy

15. In the reason for refusal the Council did not refer to any development plan policies. Decisions should be made in accordance with the terms of the development plan unless other material considerations indicate otherwise. Not citing development plan policies where they are clearly material and as required in legislation is unreasonable.

16. However, it was clear which development plan policy was particularly under consideration and the applicant was fully aware of this. It has not been demonstrated to me that there was any unnecessary or wasted expense the applicant was required to expend to address this failing.

Conclusion

17. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

R J Jackson

INSPECTOR