Costs Decision

Hearing Held on 4 July 2017

Site visit made on 4 July 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 28th July 2017

Costs application in relation to Appeal Ref: APP/F1040/W/17/3169303 Long Croft, Staker Lane, Mickleover, Derby DE3 0DJ

- 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 Mrs R Thomas for a full award of costs against South Derbyshire District Council.
- The hearing was in connection with an appeal against the refusal of planning permission for erection of new staff accommodation, creation of new car park area and re-opening of existing gated access.

Decision

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

The submissions

2. The appellant's case was made in writing, as was the Council's response. The appellant made no final comments at the Hearing.

Reasons

3. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and has thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. An example of this, cited by the applicant, includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

4. Section 17 of the application form describes the development as a live-work unit, the planning statement submitted with the application states 'The dwelling will be located to the west of the current car park facing the existing property' and the supporting statement submitted prior to the determination of the application refers at paragraphs 3.15 and 3.17 to a 'workers dwelling'. Moreover, the plans show that the proposed staff accommodation would comprise a self-contained building with a bedroom, shower room and open plan kitchen, living and dining room, thereby affording occupiers all the facilities required for day-to-day private domestic existence. The Council's delegated report considers the size, siting and use of the proposed staff accommodation

and the facilities proposed within the building. On the basis of the evidence before me, the Council did not act unreasonably in coming to the view that the proposal would constitute a dwelling. As set out in my Decision, I have reached the same conclusion.

5. It is clear from the delegated report that in considering the application the Council took account of the case set out in the supporting statement regarding the need for the proposed staff accommodation, but found that the essential need for 24 hour cover on the site is fulfilled by the appellant's occupation of the existing bungalow. Based upon the submitted evidence, the Council did not act unreasonably in reaching this finding. In my Decision I have concluded that adequate justification does not exist for a new dwelling in the countryside having regard to the essential needs of the enterprise.

6. Taken together, the Council's delegated report and the reason for refusal set out in the decision notice clearly explain the Council's conclusion that the proposed staff accommodation would amount to an additional dwelling in the countryside in connection with an existing rural business that already has a dwelling associated with it, and that the proposed dwelling would not be essential to the operation of the business and would thus conflict with the development plan and National Planning Policy Framework (the Framework). The reason for refusal clearly identifies which development plan policies and paragraphs of the Framework the proposal would conflict with, and the policies identified are directly relevant to the consideration of the proposed development.

Conclusion

7. In conclusion, for the reasons set out above, I find that unreasonable behaviour resulting in unnecessary and wasted expense as described in the PPG has not been demonstrated.

CL Humphrey

INSPECTOR