The Planning Inspectorate

Costs Decision

Site visit made on 21 July 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 8th August 2017

Costs application in relation to Appeal Ref: APP/P0119/W/17/3174496 The Cornfields, A38 Whitfield, Wotton-Under-Edge, South Gloucestershire GL12 8ED

- 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 Graham Howell for a full award of costs against South Gloucestershire Council.
- The appeal was against the refusal of the Council to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) sets out 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. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal; for example by unreasonably refusing planning permission or defending appeals. Examples include a failure to produce evidence to substantiate each reason for refusal and making vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis.

3. The highway authority raised no objection to a new grant of planning permission without condition 3 and that stance was supported by the Council's officer in the report to Committee.

4. I have no doubt that a full explanation on the details of the application was provided by the Council's officers to Members. This would appear to be borne out by the Committee Minutes and the decision of Members to visit the site and assess the situation for themselves. Having done so, it is evident that they drew their own conclusions based on what they observed. I am not therefore persuaded that Members ignored the advice of either the planning or highways officers. Rather, I am satisfied that they simply exercised their own judgement, which is a perfectly reasonable thing to do.

5. However, whilst Members are of course, free to take this course of action, where they do so, it is incumbent upon them to provide substantive evidence

at the appeal stage to bolster their position. In this case, beyond being provided with details of discussions at Committee, which to my find fall within the realm of 'generalised assertions', I have no substantive evidence before me of the necessary subjective analysis of any alleged harm arising from the appeal proposal.

6. On that basis, the assertions put forward do not, in my view, go any way towards substantiating the reason for refusal. Planning permission should have been granted by the Council and the appellant has been put to the expense of an appeal that should not have been necessary.

7. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Gloucestershire Council shall pay to Mr Graham Howell, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

9. The applicant is now invited to submit to South Gloucestershire Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Hayden Baugh-Jones

Inspector