



Costs Decision

Site visit made on 17 August 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 08 September 2017

Costs application in relation to Appeal Ref: APP/G1630/W/17/3174740 Chapel Farm, Walton Cardiff Lane, Tewkesbury GL20 7BL

- 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 Joseph Muscat for a full award of costs against Tewkesbury Borough Council.
 - The appeal was against the refusal of planning permission for change of use of land from agricultural use to domestic use, provision of vehicular driveway and alterations to vehicular access and associated landscaping and boundary treatments.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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.¹
3. The applicant submits that the Council failed to provide detailed evidence to substantiate the sole reason for refusal which concerned the alleged adverse effect of the proposed development on the character and appearance of the rural landscape.
4. It is suggested by the applicant that the Council Officer's delegated report contains no detailed assessment of where the harm arose. However, the report does set out relevant policy from the development plan and the National Planning Policy Framework. It then details the nature, length and width of the proposed access driveway and considers its route across an open field and its effect on the character of appearance of the rural landscape. It also assesses the proposal in relation to changes to the existing access gate to the east. I consider that, given the scale of the scheme, the Council's original assessment was reasonably detailed and that its reason for refusal was sufficiently clear and precise.
5. The applicant refers to the Landscape Statement (LS), submitted in support of the re-submitted application, which sought to overcome a similar reason for refusal given to a previous application. It is suggested that the Council does not appear to have given any consideration to that professional report. However, the Council Officer's delegated report refers to the LS on a number of

¹ Paragraph: 030 Reference ID: 16-030-20140306

occasions. Ultimately the planning officer came to a different professional judgement about the effect that a long metalled roadway across an open field would have on the rural landscape, from that expressed in the LS.

6. The mitigation measures contained in the LS were also referred to by the Council but considered to be insufficient to overcome the fundamental harm to the landscape that would be caused by the proposal. Therefore, it is clear that the Council did consider the LS and I find that the proposal and associated mitigation was assessed in reasonable detail within the Council Officer's delegated report. As is apparent from my assessment in the main appeal decision, I was similarly unpersuaded by the content and rationale of the LS.
7. It is further suggested by the appellant that the Council's assessment of harm was inadequate as it was made by the planning officer without additional advice from the Council's specialist landscape or tree officers. The Council says that the scale of the proposal made it appropriate for the Planning Officer to assess it using his or her own professional judgement. Whilst I note the applicant's views on what should be standard practice within the Council, given that character and appearance issues are fundamental to many relatively small-scale planning proposals and this proposal was not particularly complex, it is reasonable for the Planning Officer responsible for the case to be considered competent to make such a professional judgement.
8. The applicant cites a Costs Decision relating an appeal at Bigbury Orchard in Kent,² in support of their claim. I note that the appeal case cited involved a significantly different proposal being for the erection of 6 holiday letting units, a reception building and a store. Furthermore, a Landscape Visual Impact Assessment had been submitted rather than a Landscape Statement (LS) as in the appeal case before. Whilst I note the extracts and copy Costs Decision, I do not have full details of that case, such as the Council Officer's Report or the Statement of Case, and cannot be sure that it represents a direct parallel with the case before me. In any event, for the reasons already given, I do not agree that the Council's reason for refusal or assessment was '*vague and generalised in nature*' in relation to this appeal.
9. Overall therefore, whilst I have fully considered the applicant's submissions, I am not persuaded that the Council has acted unreasonably. As such, I do not agree that the applicant was put to unnecessary or wasted expense.

Conclusion

10. I therefore find, for the reasons set out above, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, no award is made.

Jonathan Tudor

INSPECTOR

² Appeal Ref: APP/J2210/W/16/3166055