



Costs Decision

Site visit made on 31 October 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 3 November 2017

Costs application in relation to Appeal Ref: APP/J0405/W/17/3179319 Barnwell Farm, Station Road, Marsh Gibbon, OX27 0HN

- 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 Andrew & Mrs Clare Barsby for a full award of costs against Aylesbury Vale District Council.
 - The appeal was against the refusal of planning permission for replacement of flexible use building.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. It goes on to state 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, for example, by 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 or by making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicants suggest that the officer's report contains factual errors. I agree that there are a number of errors in it, such as stating that the proposal seeks to establish a B1 use, or that the access serves two residential units in addition to the existing site. However none of the errors seem fundamental to their decision, and it is apparent from the remainder of the report that the officer was clear about the extent of the proposal, particularly in that it relates solely to operational development.
5. Brief reference is made in the Officer's report to the Conversion of Traditional Farm Buildings design guide, and to Policy MG10 of the Marsh Gibbon Neighbourhood Plan which relates to the expansion of existing small scale businesses. Both of these have little relevance to the proposal. Nonetheless, the Council did not rely heavily on these and they are not referred to in the Council's decision letter.

6. Conversely, the report does not refer to Policy RA.29 of the Local Plan, which relates to farm diversification. However I do not consider this provides any support to the applicants' case, as it advocates redevelopment that is not out of keeping with the characteristics of the locality. In this case, as set out in my decision on the appeal, the proposal would be out of keeping with the characteristics of the locality.
7. I agree that the report is a little confused in that it gives neutral weight to the detailed design of the building, but also suggests that this has been considered under the section entitled 'impact on countryside' which gives significant negative weight to the effect of the of the appearance of the development on the site and landscape. However as design is just one of many contributing factors to the appearance of the proposal and its effect as a whole on the character of the site and the wider landscape setting, I do not consider the officer's report is contradictory.
8. If the development plan is up to date, and the development fails to accord with the policies within it, the presumption in favour of sustainable development, set out in paragraph 14 of the National Planning Policy Framework, does not apply. I agree that the report does not come to a conclusion as to whether, based on all the factors, the proposal constitutes sustainable development. However taking the report as a whole I consider it is sufficiently clear that the development does not accord with the development plan, which I have no reason to believe is not up to date, and therefore cannot be sustainable development.
9. In summary, though the report is a little muddled and contains some minor errors, I do not consider the Council prevented development which should clearly have been permitted, or inaccurately considered the proposal's impact.
10. In summary, I do not consider it has been demonstrated that the Council acted unreasonably or that it has caused the appellant any unnecessary or wasted expense, as described in the PPG. Consequently the application for an award of costs is refused.

Andrew Owen

INSPECTOR