The Planning Inspectorate

Costs Decision

Inquiry held on 5, 6, 7, 8, 12 and 13 September 2017
Site visit made on 11 September 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 15 November 2017

Costs application in relation to Appeal Ref: APP/H1840/W/17/3167269 Poultry Houses, Beckford, Worcestershire GL20 7AE.

- 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 ECV Partnerships (Beckford) Ltd for a partial award of costs against Wychavon District Council.
- The appeal was against the refusal of outline planning permission for the proposed demolition of existing intensive poultry unit buildings and other structures and the development of a Care Village comprising (up to) 145 assisted living and close care units (C2 use class); a core building containing domiciliary care provision, reception, treatment room, cafe/dining area, wellness suite, kitchen, administration offices and other common/shared amenities; together with access, parking and external amenity areas.

Decision

1. The application for an award of costs made by ECV Partnerships (Beckford) Ltd against Wychavon District Council is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeals process and that the application needs to clearly demonstrate that this is the case. Unreasonable behaviour may be procedural and/or substantive.

3. Both parties submitted their cases in writing and therefore there is no need to repeat them in full but where additional comments were made orally these are addressed.

4. The applicant is seeking a partial award of costs on the basis that the Council did not refer to any supply issues or matters of unmet need in its statement of case but did so in its evidence. In response to the Council's evidence, the applicant prepared a rebuttal of the Council's evidence prior to the inquiry.

5. The Council confirmed in writing prior to the inquiry that it was not disputing the need for the proposed Use Class C2 accommodation. Nevertheless, in spite of this statement it does not appear unreasonable that the Council presented evidence in relation to the supply of sites to demonstrate that the proposed location within the AONB was not necessary to meet the acknowledged need for the form of development. In reaching this conclusion a distinction can be

drawn between evidence of general need and matters relating to supply and its specific location.

6. The difficulties in interpreting different types of accommodation for older people was apparent at the inquiry and the Council made concessions in relation to the supply of sites on this basis. Given the difficulty of identifying such accommodation it was appropriate for sites to be subject to scrutiny during the inquiry. Evidence presented by both the Council and the applicant was subject to scrutiny and challenge and accordingly I do not consider the Council's behaviour, in putting forward sites which were subsequently acknowledged to not address the identified need, to be unreasonable.

7. Moreover, it has not been demonstrated that the Council's introduction of evidence relating to the supply of sites has denied the applicant an opportunity to consider options as to the conduct of the appeal.

8. I have also had regard to the advice within PPG which states that where a local authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.

9. The applicant's rebuttal made no reference to an application for costs being made and nor was it necessary to do so at that stage. PPG indicates that an application for an award of costs should be made as soon as possible and that while they must be made before the inquiry is closed it is good practice for an application to be made before the inquiry. On this basis I find that the Council suggestion that the timing of the application was unreasonable to be without foundation but in any event the Council has not submitted an application for an award of costs.

10. For the reasons given above I conclude that the application for an award of costs against Wychavon District Council should be refused.

Kevin Gleeson

INSPECTOR