
Costs Decision

Site visit made on 7 November 2017

by Melissa Hall BA(Hons), BTP, MSc, MRTPI

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

Decision date: 16 January 2018

Costs application in relation to Appeal Ref: APP/Y3940/W/17/3179869 Dragonhead Barn, West Dean, Wiltshire SP5 1HR

- 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 R Parker for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the change of use of existing agricultural building to workshop / storage and erection of two agricultural buildings.
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Formal Decision

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

The submissions for Mr Parker

2. The applicant considers that the development should have been granted having regard to the development plan, national policy and other material considerations which seeks to support the re-use of existing rural buildings and goes so far as to allow certain changes to take place under permitted development rights.
3. The application was refused based upon the misinterpretation of the planning policy and not taking into account all the relevant national policy and material considerations.

The response by Wiltshire Council

4. The assertion that the Council has acted unreasonably by the refusal of planning permission on substantive grounds is difficult to understand, particularly as the application was made retrospectively and the development was already being undertaken. The Council has not taken any legal action to prevent or cease the continuation of the current use and activities at the site.
5. The Council in coming to the conclusion that the proposed development is discordant with local plan and national planning policy guidance has duly, appropriately and proportionately considered and assessed all relevant planning policy, guidance and the material circumstances of the case. In doing so, it came to a balanced and well rationalised decision. The appellant is entitled to interpret the wording of policies and guidance as he sees fit and has come to a different conclusion from the Council as to how the proposal fits within the local and national planning policy context. This, in itself, does not amount to 'unreasonable behaviour' on the part of the Council.

Reasons

6. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process.
7. Paragraph 49 of the PPG outlines the type of behaviour which may give rise to a substantive award against a local planning authority. It states that local planning authorities may be at risk of an award of costs where their actions are *"...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 where they have made *"... vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis."*
8. The Council assessed the planning application against local and national planning policies relating to new development outside the defined limits of development and the conversion and re-use of rural buildings. That is, it took into account development plan policies and national planning policy which it found to be relevant to its consideration of the impact of the proposal on the character and appearance of the area. I did not agree with the Council regarding the relatively remote location of the site and whether it is likely to result in additional vehicle movements to and from the site, resulting in an unsustainable form of development. Nevertheless, I dismissed the appeal insofar as there is clear conflict with national and local planning policies seeking to control the location of new development which were not outweighed by any other material planning considerations. Thus I do not find that the Council prevented, inhibited or delayed development which could reasonably be permitted.
9. In such circumstances, the Council was entitled to interpret national and local planning policy and come to its own conclusion regarding the nature of the development proposed. Although the applicant claims that the Council did not properly assess the impact of the development in light of the policies it applied, the Council has clearly indicated in its evidence why it considered that the policies were of relevance to the development the subject of the appeal.
10. The applicant also argues that the Council's reason for refusal relating to vehicle movements was not supported by any evidence of the likely movements associated with the existing [agricultural] and proposed [workshop/ storage] uses. Whilst he states that the workshop / storage use is considered to result in a similar amount of vehicle movements to that of the agricultural use, neither was this statement corroborated by compelling evidence.
11. The Council's decision involved, in part, matters of judgement and it does not mean that it acted unreasonably in deciding that factors did not warrant approval of the planning application. I find that the Council has, overall, met its obligation to give proper consideration to the planning application.
12. As such, I do not find that the applicant has incurred unnecessary or wasted expense in the appeal process. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG has not taken place and that a full award of costs is not warranted.

Melissa Hall

INSPECTOR