The Planning Inspectorate

Costs Decision

Site visit made on 26 June 2018

by B Bowker Mplan MRTPI

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

Decision date: 9 August 2018

Costs application in relation to Appeal Ref: APP/H1840/W/18/3197006
Le Hollier, Stockwood Lane, Little Inkberrow, Inkberrow B96 6ST

- 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 Nick Muscott for a full award of costs against Wychavon District Council.
- The appeal was against the refusal of planning permission for development described as *'replacement cottage based on planning approval 16/02350'*.

Decision

1. The application for an award of costs is refused, for the reasons given below.

Reasons

2. The National 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 or wasted expense in the appeal process.

3. The PPG advises that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration. The PPG also states that a local planning authority acting contrary to, or not following well established case law may give rise to an award of costs.

4. The appellant contends that the Council failed to consider the appeal against the development plan as a whole and having regard to other material considerations. The appellant also contends that the Council failed to give appropriate weight to the fall-back position[1] at the site and failed to give weight to the benefits of moving the dwelling back into the site to facilitate a natural boundary treatment. The appellant also considers that the Council submitted inaccurate information in questioning whether self-build is relevant to a replacement dwelling and therefore failed to have regard to the provision of self-build in a district where there is a persistent and significant undersupply. Finally, the appellant contends that the Council have been deliberately obstructive in preventing the development and have failed to recognise there is no harm other than an alleged technical breach with three criteria in one policy in the whole of the development plan.

[1] With related case law cited in the appellant's appeal submission.

5. Based on its delegated report and Statement of Case, it is clear that the Council considered the proposal against all of the relevant policies in the development plan and to the set out benefits of facilitating a new boundary treatment. In my view and with reference to the accompanying decision, the Council provided a substantive case to conclude that the proposal is not in accordance with the development plan. The Council's case also considered the fall-back position at the site and set out that, in its view, it did not override the conflict with the development plan. Whilst the Council identified no harm arising from the proposal, with reference to the accompanying appeal decision, it is clear that the policy conflict identified was a determinative matter in its own right when taken against the development plan as a whole. Although the Council's Self-Build and Custom Housing Building Register Progress Report includes replacement dwellings, as this was not a determinative matter in the accompanying appeal decision, this aspect of the appeal has not resulted in unnecessary or wasted expense.

Conclusion

6. Therefore, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. For this reason, and having regard to all matters raised, an award for costs is not justified.

B Bowker

INSPECTOR