
Costs Decision

Site visit made on 17 December 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2019

**Costs application in relation to Appeal Ref: APP/J1860/W/18/3201427
Bluebell Farm, Pershore Road, Earls Croome, Worcestershire WR8 9DJ**

- 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 Ball for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for a live/work unit.
-

Decision

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

Procedural matter

2. The appellant has referred to a number of grounds for an award of costs and I note that in his application ground 2 is listed twice, which appears to me to be a drafting error. I have therefore considered the contents of the application that appear in paragraphs 7-11 of his submission to constitute ground 3.

Reasons

3. Planning Practice Guidance (PPG) sets out that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal; for example by unreasonably refusing planning permission or defending appeals. Examples include a failure to produce evidence to substantiate each reason for refusal and making vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis and refusing permission on planning grounds capable of being dealt with by conditions.

Ground 1

4. The Council obviously have a vastly differing view of the appeal scheme to the appellant and has made its costs application on the basis of what it sees as the appellant's failings in the appeal process. Regardless of whether the Council is right or wrong on that, it is open to any party in an appeal to pursue an award of costs. In my view, it is valid to make a costs application if one party believes the other has behaved unreasonably. I do not consider the bar of unreasonableness has been crossed in relation to ground 1.

Ground 2

5. The Council did not express the view that there “would” have been different consultation responses arising from the provision of the latterly introduced plan. Rather it was stated that this “may” have resulted in them. However, in my view, this must be seen in the context of an application that potentially included an equestrian use. However, it is unclear to me how this has resulted in wasted expense by the appellant in the appeal process given that the plan was provided at appeal stage and that the appeal had already been made.
6. The appellant did not have to provide the additional plan even though it may have assisted the decision maker. Accordingly, I do not find a reason to justify an award of costs on ground 2.

Ground 3

7. The Council may have misunderstood the position regarding land ownership and the availability of grazing land around the appeal site. Nevertheless, a misunderstanding does not constitute unreasonable behaviour and I found no clear evidence of a lack of analysis in the Council’s officer report or within its appeal evidence. Although, I have not found in favour of the Council’s reasoning in the appeal, there is no basis on which to justify an award of costs on ground 3.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as set out in the PPG has not been demonstrated. As a result, neither a full or partial award of costs is justified.

Hayden Baugh-Jones

Inspector