
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/18/3200757 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 Malvern Hills District Council for full award of costs against Mr Ball.
 - The appeal was against the refusal of planning permission for a live/work unit.
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Decision

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

Reasons

2. 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 an appellant is required to behave reasonably in relation to procedural matters on the appeal and is at risk of an award of costs being made against them if the appeal or grounds of appeal had no reasonable prospect of succeeding¹.

Ground 1

3. The drawings referred to in section J part 06a of the appeal form include a number of plans that were listed because they did not form part of the original planning application. That does not mean they are newly introduced plans that the Council had not seen prior to the appeal being made. Indeed, it is clear from the evidence that the Council was provided with 3 plans related to a minor adjustment to the red-line boundary and are referred to by the Council in refusing the application. The 5 other drawings were provided to the Council as part of the amended proposals that sought to address the Council's concerns prior to the determination of the application. I therefore have no doubt that the Council had seen these plans.
4. I acknowledge that it may not have been clear exactly which plans were being referred to in section J of the appeal form. However, they are listed in section N and the Council could have cross-checked the plan numbers against the information within their own files.
5. Whilst the appellant accepts that these plans were not included in the appeal documents due to an oversight, I do not consider that the appellant has

¹ Paragraph: 052 Reference ID: 16-052-20140306 and Paragraph: 053 Reference ID: 16-053-20140306

behaved unreasonably in relation to ground 1. Even if I were to conclude otherwise, a case has not been made out as to how the Council incurred unnecessary or wasted expense in the appeal process.

Ground 2

6. The suite of amended plans was provided during the application process and not introduced as part of the appeal. There is no reason why these plans cannot form part of the appeal documents and the decision maker has the discretion whether to accept them or not. I have not done so for the reasons set out in my determination of the appeal.
7. The Council did not have to address the amended scheme within the appeal process in any detail and was at liberty to simply urge me to disregard those plans. Any additional work the Council felt it had to undertake was unnecessary.

Conclusion

8. I do not therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated.

Hayden Baugh-Jones

Inspector