The Planning Inspectorate

Costs Decision

Site visit made on 10 June 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2019

Costs application in relation to Appeal Ref: APP/J1860/W/19/3225832
Rowley Farm, Ockeridge Lane, Holt Heath WR6 6LY

- 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 Mrs Clare John for a full award of costs against Malvern Hills District Council.
- The appeal was against the refusal of planning permission for change of use of land for the siting of one holiday log cabin.

Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 appellant states that the appeal was unnecessary as the LPA have acted unreasonably by refusing an application that complies with planning policy; presenting a single reason based on landscape and visual impact; and have not substantiated the reason for refusal or produced evidence to support their assertions.

4. The Council's refusal notice states which policies of the South Worcestershire Development Plan (SWDP) have been considered and are relevant. Even in the absence of any reference to landscape officer comments within the report as noted by the appellant, I find that the reason for refusal is adequately supported by the analysis provided within the officer report and why the proposal would result in an unacceptable effect upon the character and appearance of the countryside.

5. The appellant indicates that the Council have failed to attribute sufficient weight to policy SWDP12 'Employment in Rural Areas' of the SWDP. They argue that significant weight should have been given to this in the planning balance, with particular reference to farm diversification. Whilst the Council does not explicitly refer to this policy, it does assess the proposals against relevant policies including SWDP36. The proposals are then weighed in a planning balance including against the principles of the SWDP and the Framework. Whilst the Council did not explicitly refer to Policy SWDP 12, I am satisfied that the Council did nonetheless consider the economic benefits of the proposals in the planning balance and hence did not act unreasonably in this regard.

6. The appellant has also raised concern with regard to a lack of cooperation from the Council during the course of the planning application. These include failure to arrange a site meeting, agree an extension of time and proceeding to determination given the time constraints of the festive period. Whilst I note the appellants concerns, I consider that the decision was appropriately reached on the basis of the planning merits of the proposal as submitted. On balance, I do not find that the Council were unreasonable in terms of when and how it reached its decision to refuse planning permission. In reaching this view, it is of note that the appellant did not enter into pre-application discussions with the Council.

7. Details of discourse between the parties including the opportunity to enter pre-application discussions regarding alternative proposals has also been provided. I note that the Council did notify the appellant of their concerns prior to determining the application and that an opportunity was given to withdraw the planning application. I do not consider that the information submitted as part of this costs application demonstrates a lack of co-operation on the part of the Council.

8. The appellant has indicated that the Council have been inconsistent in approving other similar proposals within the vicinity of the site. Whilst some detail of these applications was provided, it was not possible to fully assess the merits, including visual impact, of each individual case or their relationship to the appeal site. On the evidence before me, and without being familiar with the site specifics of each case, I was unable to make an objective assessment of their relevance to the appeal proposal. On the evidence before me, I do not consider that the Council has been inconsistent in their decision making and do not consider that they have acted unreasonably in this regard.

Conclusion

9. For the reasons outlined above, I therefore conclude that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. Consequently, an award of costs is not justified.

Robert Lankshear

INSPECTOR