
Costs Decision

Site visit made on 25 June 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Costs application in relation to Appeal Ref: APP/P1615/W/19/3225944 Land adjoining The Laurels, Main Road, Huntley, Gloucester GL19 3EA

- 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 M Bailey for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for residential redevelopment of up to five custom-build dwellings. (demolition of existing commercial buildings).
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Decision

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

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. PPG also provides examples of unreasonable behaviour by local planning authorities. These include providing information that is shown to be manifestly inaccurate or untrue, the failure to produce evidence to substantiate reasons for refusal as well as vague, generalised or inaccurate assertions unsupported by objective analysis. Preventing or delaying development that should have been permitted is also included.
4. The applicant considers that the failure of the Council to provide an appeal statement means that several of her questions remain unanswered, that errors have not been corrected and that much of the appellant's case is unchallenged. She considers that the officers report did not provide a well-reasoned or comprehensive case, and that this has distorted the balancing exercise. Had this been done, and issues and relevant policy and guidance been correctly interpreted, she feels this would have avoided the appeal. Furthermore, the Council failed to properly consider whether conditions might overcome the reasons for refusal.
5. The Council are not bound to submit an appeal statement and were satisfied that the Officer report presented their case sufficiently. That they have not responded to the appellant's queries does not indicate they have been uncooperative or unreasonable.

6. While an objective analysis of the relevant matters is required, there will inevitably be an element of subjectivity. In this case that included what parties considered to be satisfactory facilities and the suitability of the routes to access these.
7. The officer report and decision notice gave reasons for the refusal of the application and identified where the Council considered the proposal was contrary to local and national policy. The officer report considered many aspects of the proposal and recognised positive features of it. Ultimately the Council considered these did not outweigh the negative impacts. That the main parties disagree over the weight to be afforded to certain matters in the planning judgement is not uncommon and does not imply one party has been unreasonable.
8. While I disagreed with the Council on certain matters, their refusal reasons were adequately substantiated. Even if the Council had considered the site to be previously developed land there is no indication that this would have led to planning permission being granted given their findings on other matters. Therefore, the appeal would not have been avoided.
9. The Council did provide a schedule of suggested conditions as part of their appeal submission. However, I did not consider that those or any other conditions suggested would overcome the harm that led to the appeal being dismissed.
10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such, there can be no question that the appellant was put to unnecessary or wasted expense.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Stuart Willis

INSPECTOR