The Planning Inspectorate

Costs Decision

Site visit made on 8 July 2019

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2019

Costs application in relation to Appeal Ref: APP/E2001/W/19/3226393
Land South West of Manor Court Hotel, Main Street, Carnaby YO16 4UJ

- 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 Rob McGivern for a full award of costs against East Riding of Yorkshire Council.
- The appeal was against the refusal of planning permission for the proposed erection of a single worker's dwelling.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The applicant submits that the Council has acted unreasonably in that reference has been made, within both the officer's report and decision notice, to a worker's flat in the hotel which does not exist. The applicant further submits that the Council has acted unreasonably, in that it has not applied Policy S4 of the East Riding Local Plan Strategy Document 2016 consistently.

5. Finally, the applicant submits that the Council has acted unreasonably in the way the officer's report dealt with the assessment of whether the site was isolated in the open countryside. Then the subsequent wording of the second reason for refusal which identifies harm to the open character of the area amongst other elements. The Council has defended itself in relation to all the allegations presented.

6. It is common ground between the parties that the worker's flat reportedly within the hotel building does not exist. Reference to it both within the officer's report and the resulting decision notice was therefore a factual error. The applicant confirms that in reaching their decision members of the planning

committee were advised both by the applicant (in their committee speech) and the Planning Team Leader of the Council that this was an error.

7. As the planning committee were, ultimately, presented with the relevant information upon which they were able to make their assessment, the Council has not behaved unreasonably in reaching its decision. Whilst this is a clear error in the officer's report and subsequent wording within the reason for refusal, the reason given does not rest solely on the existence of the flat. Furthermore, the incorrect reference to the flat has not in itself demonstrably required the applicant to undertake additional work for the appeal. Nor was it a matter disputed in the appeal. As no additional justification at the appeal stage on this matter was necessary, it does not constitute sufficient grounds for an award of costs.

8. The PPG indicates that local planning authorities are at risk of an award of costs if they fail to determine similar cases in a consistent manner. The applicant has provided details of other examples where workers' dwellings were assessed and approved under Policy S4 including other tourist accommodation not linked with agriculture, horticulture or forestry uses. In reaching my decision on the appeal I have had regard to these cases.

9. The Council does appear to have given weight to the fact that the appeal proposals are not linked with agriculture, horticulture or forestry uses. However, when the decision and officer's report are read as a whole, the Council has assessed the application against Policy S4 but considers that a functional need has not been established. The appeal proposals are based on a very specific set of circumstances which are not easily compared to the functional needs of another enterprise.

10. With regards to the examples cited there appears to have been no existing house in those cases and the circumstances that applied are not directly comparable. The schemes are not, therefore, so similar that it was unreasonable for the Council to determine the application on its own merits. That is how I arrived at my decision to dismiss the appeal. Consequently, I find that the Council has not acted unreasonably with regard to consistency in decision-making.

11. The second reason for refusal relates to whether the proposals would result in an unacceptable impact on character and appearance with particular regard to the encroachment into the rural and open nature of the area. The applicant contends that because the officer's report accepted that the site was not isolated it is contradictory to make the conclusions regarding the effects on character.

12. The assessment of whether the appeal site is isolated or not is assessed against paragraph 79 of the National Planning Policy Framework. A separate assessment is made on the particular character of the area and the resulting effects emanating from the proposals. It is possible for a site to not be isolated for planning policy purposes but still be open and rural in character.

13. It is not unreasonable for the Council to make an assessment on the site's character and conclude that it has an open, rural character as this exercises a certain amount of subjective judgement. As such I do not agree that the Council acted unreasonably in refusing the application on this basis. I confirm

in this regard that I have made my own assessment as to the character and appearance of the area and the effects of the proposals on this matter.

14. Having carefully considered the points raised, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

Robert Walker

INSPECTOR