Costs Decision

Hearing Held on 6 August 2019

Site visit made on 6 August 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2019

Costs application in relation to Appeal Ref: APP/B3438/W/19/3227624
Cheadle Equestrian Centre, Eaves Lane, Cheadle ST10 1RB

- 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 Staffordshire Moorlands District Council for a full award of costs against Jennifer Thompson of Vecthom Sports Horses.
- The hearing was in connection with an appeal against the refusal of planning permission for the erection of a rural dwelling house for the equine business.

Decision

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

Preliminary Matters

2. The Council's costs application was emailed to the Planning Inspectorate on the afternoon before the Hearing. However, the appellant did not receive it until after the Hearing had opened. Consequently, the Hearing was briefly adjourned for the appellant to review the costs application and to develop their response.

The submissions for Staffordshire Moorlands District Council

3. The Council's application for a full award of costs has two grounds:

   i. The appellant has not responded adequately to concerns raised by the Coal Authority in relation to the appeal.

   ii. The appellant's advance of exceptional circumstances in support of their appeal has been built entirely around unauthorised and unlawful development that has been carried out on site.

The response by Jennifer Thompson of Vecthom Sports Horses

4. The appellant responded to both of the Council's grounds for an award of costs at the Hearing:

   i. The concerns raised by the Coal Authority were not a reason for refusing planning permission for the appeal development and were not raised by the Council during the planning application process.

   ii. The unauthorised and unlawful development is a separate matter to this appeal.

Reasons

5. The Government's Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and that this unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

6. With respect to the Council's first ground for an award of costs, I note that the Coal Authority, a statutory consultee in this case, objected to the appeal development planning application and recommended 'that the applicant should be informed that they need to submit a Coal Mining Risk Assessment Report'. However, the Council did not inform the appellant of the Coal Authority's comments. Furthermore, the explanation given for not doing so, that the comments were somehow 'missed', does not reflect well upon the Council.

7. The appeal has been dismissed partly because the proposed development would be at an unacceptable risk from land instability because a Coal Mining Risk Assessment Report has not been provided. This is a determination I have reached after reviewing the evidence and exploring the circumstances further at the Hearing.

8. The appellant's unwillingness to withdraw their appeal prior to the Hearing in light of the sustained objection from the Coal Authority, as suggested by the Council, is neither procedural nor substantive grounds for an award of costs.

9. The Council's second ground for an award of costs concerns unauthorised works on the land near to the appeal site, that is occupied by the Equestrian Centre, and that some of the uses that are said to operate as part of the appellant's business are not authorised. The Council contends that this fundamentally undermines the appellant's grounds for appeal and that it therefore had no reasonable prospect of succeeding.

10. The unauthorised works referred to by the Council are disputed and are not the subject of the appeal. These matters were raised by the Council at the Hearing and to which I have had appropriate regard as they concerned the appeal, as set out in my formal decision. However, in my view they do not fundamentally undermine the appellant's grounds for appeal. The Council has incurred costs only as would be reasonably expected at appeal and these are neither procedural nor substantive grounds for an award of costs.

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

Conclusion

12. For the reasons given above, I conclude that an award of costs is not justified.

Andrew Parkin

INSPECTOR