
Costs Decisions

Site visit made on 5 August 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2019

Costs application in relation to Appeal A Ref: APP/B3438/W/19/3226745 Cuckoo-Well-Hollow, Bradley Lane, Threapwood, Alton, Stoke-on-Trent ST10 4DG

- 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 P Capewell for a full award of costs against Staffordshire Moorlands District Council
 - The appeal was against the refusal of the Council grant planning permission for a proposed additional holiday chalet without complying with a condition attached to planning permission Ref SMD/2010/1041 (former ref: 10/00828/FUL) dated 1 February 2011.
 - The condition in dispute is No 9, which states that: *The holiday unit hereby permitted shall only be occupied for short stay purposes only and no other form of residential occupancy at any time and by people who have permanent accommodation elsewhere.*
 - *The development shall not be occupied by any one person or group of persons for a period exceeding 28 consecutive days and for no more than a total of 16 weeks (112 days) in any calendar year. The owner shall maintain a register of all guests, (including names, addresses and dates of stay) for each calendar year which shall be made available for inspection by the District Council on request.*
 - The reason given for the condition is: *To define the permission and to prevent permanent residential use which would not be appropriate in this area of strict control.*
-

Costs application in relation to Appeal B Ref: APP/B3438/W/19/3227012 Cuckoo-Well-Hollow, Bradley Lane, Threapwood, Alton, Stoke-on-Trent ST10 4DG

- 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 P Capewell for a full award of costs against Staffordshire Moorlands District Council
 - The appeal was against the refusal of the Council grant planning permission for a renewal of planning permission SM97-9933 (erection of two holiday chalets and use of haulage yard for holiday accommodation) without complying with a condition attached to planning permission Ref SMD/2002/1130 (former ref: 02/01239/FUL) dated 7 January 2003.
 - The condition in dispute is No 7, which states that: *The premises shall be used for short stay holiday accommodation not exceeding four weeks at any one time and for no other purpose, including any purpose in Class C3 (dwelling houses) of the Town and Country Planning Use Classes Order 1987.*
 - The reason given for the condition is: *The premises are not considered suitable for permanent residential accommodation.*
-

Decisions

1. The application for an award of costs in respect of Appeal A is refused.
2. The application for an award of costs in respect of Appeal B is refused.

Reasons

3. The 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 and wasted expense in the appeal process.
4. The applicant's substantive claim for full costs in respect of both Appeals A and B are broadly submitted on the same grounds. The applicant contends that the Council have been overly prescriptive and relied on policies not appropriate to the proposal. The applicant further considers that the Council did not approach the applications in a positive manner, that it has made inaccurate assertions about the proposals, not determined cases in a similar manner and refused the planning permissions on a ground capable of being dealt with by a condition.
5. In terms of the Council's approach to the applications, a decision is one which is a matter of judgement. Whilst the National Planning Policy Framework (the Framework) does encourage authorities to approach decisions in a positive and creative way, it is in order to secure developments that will improve the economic, social and environmental conditions of the area. The Council evidently made the applicant aware of the likely outcome and whilst the applicant clearly disagrees with the conclusions reached by the Council, I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal in each case. In these respects, I do not find that the Council behaved unreasonably.
6. In relation to the specific contention that the reference within the Council's statement as to why the properties could not be sold is misleading, it will be seen from my decisions that the marketing of the chalets is held as a matter of neutral weight. In any event, it was not specifically cited within the Council's Delegated Decision Report, which clearly sets out the basis for its decision. The Council did not, therefore, behave unreasonably.
7. Turning to the consistency of decision making, my attention was drawn to a number of examples. However, for the reasons set out in my decision, on the evidence available to me, I did not find them to be directly comparable and the Council has not been inconsistent in its decision making as a result.
8. The applicant also considers that the Council acted unreasonably as it could have imposed conditions that would enable the proposed developments to go ahead, with specific regard to the use of fencing to mitigate overlooking. However, I agree with the Council that the introduction of solid boundary fences would create its own issues given the proximity between the chalets. In light of the harm that I have identified, I am satisfied that the appeals could not have been avoided by the imposition of a boundary treatment condition. In this respect, I do not find that the Council behaved unreasonably.
9. I appreciate that the decision of the Council will have been a disappointment to the applicant, and that costs have been incurred as a result of pursuing the appeal. However, the applicant exercised a right of appeal and planning

permission was not unjustifiably withheld, given the harm that I have found. The parties are expected to meet their own costs in the appeal process, and I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

10. For these reasons, and having regard to all other matters raised, an award for costs is therefore not justified in the case of either Appeal A or B.

Kate Mansell

INSPECTOR