



Costs Decision

Hearing Held on 15 October 2019

Site visit made on 15 October 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6th November 2019

Costs application in relation to Appeal Ref: APP/Y2810/W/18/3214161 Clipston Gate Farm, Sibbertoft Road, Clipston, Northamptonshire LE16 9UB

- 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 Philip Wright for a full award of costs against Daventry District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for a farm workers dwelling.
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Decision

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

The submissions for Mr Philip Wright

2. The Applicant submits that the Council have been totally intransigent throughout the whole process of the planning application, its refusal, and the subsequent appeal process. This has delayed development which should clearly have been permitted having regard to the National Planning Policy Framework (the Framework) and Development Planning policy together with the support from the Councils agricultural consultant.
3. The Council has been given several opportunities to reconsider its position in the light of representations made and evidence submitted by the Applicant. Each opportunity has been spurned by the Council without good reason or solid evidence, forcing the Applicant to go through the full steps of an appeal.
4. It is also the Applicants opinion that this is a rogue decision and should have been approved at the application stage. The Applicant has no objection to being asked about the existing building but clarified at a very early stage that it wasn't available. However, the Council continued to pursue that route. Furthermore, half way through the Council raised the issue of a temporary building again taking up time to rebut that particular suggestion.
5. Finally, the Council had a chance to be proactive when the appeal was submitted which included a full rebuttal of the reason for refusal in the appeal statement. If the Council had followed the Frameworks advice they could have invited us to submit a free-shot application.

The response by Daventry District Council

6. The Council consider that they have not acted unreasonably and have provided evidence to substantiate their case. They consider it is reasonable to look at

other buildings on the site and have provided evidence when it was required to the Inspectorate as well as the Applicant.

7. It therefore comes down to a matter of judgement as to whether the Council was right to consider that other buildings could be used for the same purpose given the information the Council had before it.
8. Whilst the Applicant considered that the reuse of the existing building was not possible, the Council's view is different to that and have provided evidence to back up that opinion.
9. With regards to submitting a written representations appeal, this is part of the normal process to challenge a decision made by the Council.

Reasons

10. The National Planning Practice Guidance (PPG) advises that, parties in planning appeals and other planning proceedings normally meet their own expenses. However, the PPG also sets out that irrespective of the outcome of the appeal, 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.
11. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations. An award of costs could also be made if it fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
12. In considering the appeal I noted that the Council accepted that there was an agricultural need for the new dwelling and the Council limited its concerns to whether the existing building should be used. This approach therefore focussed in on the crux of the disagreement between the main parties.
13. In my decision, I took into account the guidance contained within the Framework and the PPG in respect of residential accommodation for rural workers which includes whether such accommodation could be met through improvements to existing buildings. I therefore consider that the Council were correct to consider this matter.
14. From the evidence before me, the information before the Council in respect of the blockwork barn was limited to a statement that it was not available for conversion as it provided essential storage. Other than the need for additional storage of feed (as a result of mitigating the risk against the failure of just-in-time deliveries and as a result of the increase in the numbers of chickens), there is little evidence to demonstrate that the blockwork barn could not be used as a basis for the rural workers dwelling.
15. Whilst I agree that there is a need for storage facilities at the farm, it was significant that the blockwork barn was not heavily utilised for such storage and it was clear that it did not provide an efficient layout for such storage. I am also of the view that a new purpose built storage building could perform that function and would be likely to be smaller in size than the blockwork barn.

16. Taking this into account, I find that the Councils decision was well founded and they provided sufficient evidence to substantiate its reason for refusal. As such I consider that no unreasonable behaviour occurred.
17. I have also taken into account that the Council suggested a mobile home for the site. However, this was as part of the consideration of the planning application and did not form part of the reason for refusal, nor the Councils case at appeal.

Conclusion

18. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR