
Costs Decision

Site visit made on 17 December 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 22 January 2020.

Costs application in relation to Appeal Ref: APP/W3330/W/19/3237811 Pipistrelle Holiday Units, Pipistrelle House, Smeatharpe, Honiton, Devon EX14 9RE

- 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 Robin Lockyer for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
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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 applicant contends that the Council failed to consider a number of matters when determining the application: national policy and permitted development legislation in relation to conversion of rural buildings; the presence of local facilities; rural travel patterns; the contribution of the site to housing supply and mix; and the contribution of residential use to supporting local services and facilities. They suggest that the Council overstated the isolated location of the appeal site and that, had the Council taken a more wide-ranging view of the proposal, it could have taken a more balanced consideration of the benefits and lack of harm to the wider public good and the appeal could have been avoided.
4. Paragraph 49 of the PPG sets out examples where local planning authorities may be at risk of a substantive award of costs, including preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. Local policies for the location of housing are consistent with national policy in seeking to direct residential development to sustainable locations. There is no moratorium in local policy on development outside towns, with many smaller settlements in rural areas identified as suitable for housing. The appeal site lies outside of these settlements however, in the open countryside. Therefore, the Council's consideration of the proposal in relation to local and national policies which seek to restrict development in the countryside was not unreasonable.

6. The Council acknowledged the changes in local and national policy since the original decision and considered the proposal against the policies of the development plan and the provisions of the National Planning Policy Framework (the Framework), both of which were referenced in the reason for refusal. In particular, it considered whether the appeal site was isolated for the purposes of Framework paragraph 79 and concluded that the requirement of paragraph 79d) was not met as the proposal would not enhance the immediate setting.
7. The Council went on to assess the sustainability of the location in relation to day-to-day services and public transport. It considered the proposal in relation to local policies which seek to reduce the need to travel. Its conclusion was supported by clear reasoning, with particular reference to Framework paragraph 103 which recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The Council's behaviour was not therefore unreasonable in this regard.
8. The Council also considered the benefits to the local economy and services of permanent occupation of the Units compared to holiday occupation. It further considered whether the proposal would meet the needs of rural workers, eligible local needs or provide key worker accommodation. It therefore took into account material considerations, including the Framework.
9. While the Council did not consider the proposal in relation to Class Q of the General Permitted Development Order¹ this was because the buildings are no longer in agricultural use. In these circumstances, the absence of consideration of this national legislation by the Council was not unreasonable.
10. The proposal would have resulted in 3 permanent dwellings, making a contribution to the local housing market. The Council made no assessment of this issue, which, given the clear emphasis on boosting housing supply in the Framework, was unreasonable behaviour. The applicant provided limited information on local housing need however, with references to demand for rental properties, high house prices and affordability supported by very little detailed evidence. Given the limited amount of information provided on this issue, I find that no wasted expense or effort has been demonstrated.
11. The applicant's contention that a more balanced consideration could have been given suggests that they consider different weight should have been accorded to the various benefits and harm resulting from the proposal. It is a well-established principle in planning law that the attribution of weight is a matter for the decision maker. The Council considered the proposal in relation to the development plan and other material considerations, including changes in national policy, and reached a reasoned and balanced conclusion that the disputed condition remained necessary.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

L McKay

INSPECTOR

¹ Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)