
Costs Decision

Site visit made on 14 January 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2020

Costs application in relation to Appeal Ref: APP/Y9507/W/19/3236309 Hill View, Cams Hill Lane, Hambledon PO7 4RQ

- 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 & Mrs Toms for a full award of costs against the Council of the South Downs National Park Authority.
 - The appeal was against the refusal of planning permission for the erection of a stable block.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicants state that the Authority has failed to provide any clear policy objection, provided no consideration of the Policies of the adopted and emerging development plan (at the time of the decision), or substantiate its reasons for refusal. However, I find that the Authority's formal Decision Notice clearly expresses the proposed development submitted by the applicants. Furthermore, this sets out clear and relevant reasons for refusal to the development as described. These are supported by the relevant Policies at the time including those emerging. Therefore, I find that the Authority has adequately substantiated its reasons for refusal.
4. The applicants detail that the Authority disregarded the potential fall-back position of field shelters being installed on site without the need for planning permission. However, I find that the weight to be afforded to material considerations is a matter for the decision maker. Furthermore, in the appellants' planning submissions they acknowledge the difficulties of moving a field shelter around the appeal site such as to not require planning approval¹. Therefore, as a potential fall-back I find that this consideration has limited weight. Furthermore, I do not find it necessary for the Authority to cover every argument presented to them by interested parties if it is of limited significance.
5. The applicants consider that the Authority behaved unreasonably in stating that the landscape officer maintained their objection. However, from the evidence

¹ Email from the planning agent to the planning officer dated 26 February 2019

before me it appears that the landscape officer did maintain an objection but acknowledged that the stable was sited as sensitively as possible. Moreover, the consultees' views are not determinative of the planning merits. I am satisfied that the Authority adequately exercised its own planning judgements in light of the material considerations before them.

6. Furthermore, the applicants state that the Authority did not apply appropriate weight to the existing lawful use of the land and access to it. They state that the Authority disregarded their evidence about the level of vehicular movements to and from the site. However, within the delegated report the Authority's attempts to gain further information and have a dialogue on the matter are set out. Furthermore, the planning application was considered in the context of third-party objection on highway safety grounds as set out in the report at sections 4 and 5. This provided anecdotal evidence that the erection of the stable block had resulted in an intensification of vehicular movements at the site. I have no substantive evidence that the Authority disregarded the appellants comments. Whilst I have concluded differently to the Council in my Appeal Decision, I am satisfied that a planning judgement was exercised in light of a range of opposing views.
7. A lack of communication and opportunity to try and resolve issues within a timely manner has also been raised by the applicants as unreasonable behaviour. However, from the evidence it appears to me that this was a contentious matter drawing objection from a number of parties. Furthermore, I have seen correspondence through the application process to demonstrate that communication did take place. Additionally, in exercising its judgement the Authority found the retrospective proposal to be unacceptable and that it could not be amended so as to allow the grant of planning permission for it. Therefore, I do not find that the level of communication, or time the decision took, to represent unreasonable behaviour.
8. Finally, the applicants state that the Authority unreasonably considered the proposal as a material change of use to an equestrian use. I note comments to this effect within the Authority's evidence, including its delegated report. However, the Authority's formal Decision Notice makes no reference to change of use being part of the reasons for refusal. Furthermore, the Authority do not refer to any equestrian Policies within the Decision Notice. The Decision Notice is sufficiently clear and sets out that the erection of a stable block has been refused, not a change of use.
9. Therefore, on balance, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

James Taylor

INSPECTOR