



Costs Decision

Site visit made on 4 February 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Costs application in relation to Appeal Ref: APP/Y3940/W/19/3239988 Plum Tree Cottage, Kemble Wick, Cirencester GL7 6EQ

- 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 Dominic David for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the creation of a concrete plinth and erection of stable block.
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Decision

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

Reasons

2. Planning Practice Guidance 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 expense in the appeal process.
3. The applicant asserts that the Council acted unreasonably in that it made vague, generalised or inaccurate assertions about the proposal's impact unsupported by any objective analysis, failed to consider whether matters identified in the refusal could be dealt with by condition and therefore, prevented development which should clearly be permitted having regard to development plan and national policies. In addition, he asserts that there was a lack of engagement by the Council leading to the refusal and a failure to review the case promptly following the receipt of the appeal.
4. The reason for refusal on the decision notice is reasonably specific and relevant to the application and identifies which policies in the development plan the Council considered to be most relevant. These reasons were adequately substantiated by the Council in its case officer report, that outlined the nature of the harm resulting from the proposal using the evidence and plans submitted by the applicant, the Council's observations, representations received and referred to relevant local and national policies.
5. The Council further elaborated on their position in their appeal statement which referred to their concerns regarding the technical evidence¹ that accompanied the appeal and was reasonably specific as to the nature of the harm. On this basis, the evidence does not show that the Council failed to promptly review the case following the receipt of the appeal. Neither is it shown that it was

¹ Paragraph 3.9 Council's Appeal Statement

necessary for the Council to produce its own technical evidence in order to act reasonably in this regard.

6. Moreover, the level of detail relating to the storage of manure is expressly referred to in the Council's statement² which, although the applicant did not accept the view given, demonstrates that the Council did consider whether a condition would be suitable.
7. It is reasonably clear that there is significant background information regarding wider development by the appellant at the site and land in his control. As such, the proposal that is the subject of this appeal, formed part of a more complex picture. Moreover, the information suggests that there had been significant communication³ between the applicant and Council, albeit not solely about the subject of the appeal application. Although I acknowledge that the applicant did not always agree with the substance of those communications, that does not equate to a lack of engagement.
8. The central issue of disagreement in the case before me was the effect of the proposal on the living conditions of the occupants of 'Woodlands'. Whilst the technical evidence provided by the applicant informed the assessment at the appeal, this was not the only consideration, and ultimately it is a matter that requires the exercise of judgement.
9. I appreciate that the applicant disagrees with the judgement exercised by the Council. However, this does not necessarily point to unreasonable behaviour but rather indicates a difference of opinion as to the likely impact and acceptability of the proposal. As will be seen from my decision, based on its merits, I have found that the Council had some reasonable concerns about the impact of the proposed development which justified its decision. Furthermore, planning conditions would not fully address these concerns. I came to that decision on the basis of my consideration of the details and merits of the scheme, having regard to all the evidence and representations submitted. On that basis, I cannot agree that the proposal should clearly have been permitted, nor that the Council acted unreasonably.
10. The appeal provided an opportunity to test the decision made by the Council and the appellant has not been put to unnecessary or wasted expense in doing so.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Helen O'Connor

Inspector

² Paragraph 3.12 Council's appeal statement

³ Schedule of correspondence with Local Planning Authority provided by applicant, prepared October 2019 & emails in Appendix 5, Council's appeal statement