
Costs Decision

Site visit made on 6 February 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Costs application in relation to Appeal Ref: APP/L3815/W/19/3230672 Black Field Barn, Marsh Lane, Merston, Oving PO20 1EE

- 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 Claudia and Victoria Langmead for a full award of costs against Chichester District Council.
 - The appeal was against the refusal of planning permission for change of use from agriculture to a mixed use comprising of agricultural storage and the storage of up to 10 vintage cars.
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Decision

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

Reasons

2. Paragraph 028 of the Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on substantive grounds.
4. Paragraph 049 of the Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include: 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; failure to produce evidence to substantiate each reason for refusal on appeal; and inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The applicant's case is that the Council's reason for refusal was unreasonable, having regard to the merits of the scheme and its compliance with local and national planning policies. As such, the applicant asserts that the delay caused by the appeal has resulted in a delay in implementing an acceptable scheme.

6. The applicant states that the Council has failed to produce evidence to substantiate the reason for refusal, and has made inaccurate assertions about the harm that would result from the proposal which are unsupported by objective analysis. The applicant's view is that the Council has not taken account of the relevant development plan policies and guidance in the National Planning Policy Framework (the Framework), and has not applied policies objectively and in accordance with their wording.
7. In particular, the applicant asserts the Council has not correctly assessed the proposal against Policies 45 and 46 of the Chichester Local Plan: Key Policies 2014 – 2029 (CLP) and against the current aims of sustainable development contained within the Framework.
8. The reason for refusal as set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly sets out the policies of the CLP against which the Council considers the proposal would be in conflict. The refusal reason has been adequately substantiated by the Council in its Officer Report and Statement of Case. These documents demonstrate why the Council consider that the proposal would not accord with CLP Policies 2, 8, 45 and 46 and would not comprise a sustainable form of development within the countryside.
9. Notwithstanding that I have come to a different conclusion in respect of the aforementioned CLP policies than the Council, I find that the Council has reasonable concerns about the impact of the development, which justifies its decision. The Officer Report explains why the Council considers that the appeal scheme does not accord with Policy 45.
10. The Council has not provided an in-depth consideration of the proposal against the criteria of Policy 46. However, Policies 2, 45 and 46 are linked and, having regard to the Council's findings with respect to Policies 2 and 45, and the Council's opinion that the proposal would not provide any specific employment use and would have very limited economic benefits, I find that in this instance, detailed consideration of the scheme against the criteria of Policy 46 would not undermine the Council's view that the proposal is unsustainable.
11. Whilst no objection was raised by the Council's Highways Officer on grounds of highway safety, the Planning Officer Report and Statement of Case adequately explains the Council's concerns with respect to the location of the site in respect of accessibility by means of transport other than private motor vehicle and why the Council considers the proposal would result in an increased dependence upon the use of a private motor vehicle, having regard to CLP Policy 8 in addition to the aforementioned CLP Policies.
12. I acknowledge that the CLP contains a number of policies, such as Policy 3, which support economic growth, including within rural areas and that the Framework places significant weight on the need to support economic growth and productivity. However, whilst such policies are not included within the refusal reason, the Council, both in its Officer Report and Appeal Statement, weigh the economic contribution of the scheme in the sustainable development 'planning balance'. Therefore, the Council has not acted unreasonably in this regard.
13. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could

not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The appellant had to address those concerns in any event.

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

S Leonard

INSPECTOR