Costs Decision

Site visit made on 28 July 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2020

Costs application in relation to Appeal Ref: APP/C2708/W/20/3249639
Delph Barn, Netherghyll Lane, Cononley, Keighley BD20 8PB

- 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 Mrs Calida Crabtree for a full award of costs against Craven District Council.
- The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for development described as 'change of use of an agricultural building to form 1no. dwelling house, existing barn to be fully retained'.

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 alleges that the Local Planning Authority (LPA) has ignored precise and specific guidance as set out in the PPG and continued to take decisions contrary to best practice set out within the PPG. They are of the view that the LPA has not substantiated its reason for refusal and that it applied a test in relation to sustainability of location, contrary to the PPG and recent caselaw. In applying the policies of the National Planning Policy Framework (the Framework), they consider that the LPA has attempted to frustrate the purpose of the Class Q permitted development right. Furthermore, the applicant states that it was unacceptable and unreasonable for the LPA to simply rely on a previous appeal decision that was introduced at a late stage. In these regards, the applicant considers the LPA to have behaved unreasonably on substantive grounds which led to the unnecessary and wasted expense of submitting the appeal.

4. On the evidence before me, it appears clear that the LPA did not merely refuse prior approval on the basis that the barn is in a location where the LPA would not normally grant permission for a dwelling. Its concerns were born out of the siting and location of the proposal in relation to its subsequent effect on the character and appearance of the surrounding rural landscape. It can be seen

from my decision that I have found these to be legitimate and well-founded concerns.

5. The LPA's Officer Report, and subsequent appeal statement, clearly set out the reasoning for their decision which was made in the context of the relevant legislation and supporting guidance, with relevant parts of the PPG referenced in the report. A test in relation to the site's accessibility to services or sustainable modes of transport was not applied. To my mind, the LPA has correctly assessed the proposal against the requirements of Class Q and appropriately applied the policies of the Framework in so far as they are relevant to subject matter of the prior approval.

6. It was entirely reasonable for the LPA to refer to, and rely upon, a previous appeal decision for development at the site which dealt with similar issues. In this regard, the LPA's approach in refusing prior approval was consistent with its previous decision and the outcome of the previous appeal. Furthermore, the site's planning history is a matter of public record and was set out in the Officer Report, including reference to the previous appeal decision. It was not therefore introduced at a late stage.

7. Consequently, the LPA did not act unreasonably in reaching the decision it made on the application for prior approval. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

8. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Jeff Tweddle

INSPECTOR