The Planning Inspectorate

Costs Decision

Site visit made on 28 July 2020

by M Scriven BA (Hons) MSc CMgr MCIHT MCMI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2020

Costs application in relation to Appeal Ref: APP/P1133/W/20/3251793
Meadow Court, Chudleigh, Devon TQ13 0DH

- 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 Elliot-Ogden for a full award of costs against Teignbridge District 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 for the change of use of field to equine use with stables.

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 claims that the Council has acted unreasonably in three main ways. Firstly, that Condition 6 of 19/01603/FUL, which states "*The stables hereby permitted shall not be used, let, leased or otherwise disposed of for any commercial purpose*" was neither necessary or reasonable. Secondly, that the condition had the effect of modifying the details of the original application, which the appellant considers should have been subject to consultation. Thirdly, that the reasoning for the condition is neither clear nor precise.

4. The PPG advises that local planning authorities are at risk of an award of costs if they impose a condition contrary to the guidance of the National Planning Policy Framework, 2019 (the Framework). Conditions should be necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.

5. With regard the first point, as set out in my appeal decision, I consider that the condition is both necessary and reasonable. Irrespective of there being no objection from the highway authority it is likely that commercial use of the proposed tables would result in highway safety issues associated with vehicles reversing on to the highway. Therefore, I do not consider the Council to have acted unreasonably on this matter.

6. With regard the second point, there is no dispute that the Council did not consult the applicant on the conditions applied to the original planning permission. Although the PPG states that early engagement and dialogue can

result in fewer conditions being necessary, only pre-commencement conditions require the prior agreement of the applicant. The PPG also states that conditions may be imposed which make minor modifications to the proposed development. Planning permission was given for the proposed change of use of the field and the development of the proposed stables, albeit the proposed stables' usage was restricted.

7. When the applicant sought permission for the removal of the condition it is understood that the Council requested further information from the appellant with regard the nature of any planned commercial activity at the proposed stables to inform their decision making. However, this does not appear to have been provided by the applicant. Similarly, such information has not been provided for the appeal for the Council to respond to. As such I do not consider the Council to have acted unreasonably on this point in the appeal process.

8. With regard the third point, as detailed in my decision I consider the wording of the condition to be clear and precise. The reasoning for the condition and the subsequent reason for refusal for its removal is sufficiently clear such that the applicant would have understood the concerns of the Council prior to submitting the appeal. Therefore, I do not consider the Council to have acted unreasonably on this matter during the appeal process.

9. Furthermore, the applicant has also provided little substantive evidence to demonstrate the nature of any costs considered to have been unnecessarily incurred in their appeal.

10. In conclusion, I therefore find that unreasonable behaviour resulting in unnecessary wasted expense, as described in the PPG, has not been demonstrated.

M Scriven

INSPECTOR