



Costs Decision

Site visit made on 10 November 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2020

Costs application in relation to Appeal Ref: APP/J1860/W/20/3256489 Land off Jennett Tree Lane

- 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 A Grant and Mr G Smith for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for construction of detached agricultural building (for storage of plant, machinery, feed and shelter).
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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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes preventing or delaying development which should clearly be permitted and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant contends that the Council have acted unreasonably by questioning the need for the proposed development and Council Members producing a contrived reason to refuse the application.
5. I note the recommendation of the Council's Officers. However, the decision is one which is a matter of planning judgement. Whilst Council Members have taken a different view from that of their officers, they are not duty bound to follow the advice of their officers, provided that there are sufficient planning grounds to come to a contrary view.
6. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. However, the Council has substantiated its position on appeal rather than vague, generalised or inaccurate assertions. Furthermore, the reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the South Worcestershire Development Plan that the development is considered to be in conflict with. As

a result, it follows that I do not agree that the Council acted unreasonably in this case.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

B Thandi

INSPECTOR