



Costs Decision

Hearing Held on 2 November 2020

Site visit made on 2 November 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Costs application in relation to Appeal Ref: APP/P1133/W/20/3250242 Moorwood, Moor View, Ipplepen, Newton Abbot, Devon TQ12 5TP

- 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 and Mrs Jon Clyne for a full award of costs against Teignbridge District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the temporary siting of a log cabin for 3 years to serve as a key worker supervisory dwelling to meet the needs of an equestrian enterprise.
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Decision

1. The application is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may 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 appellants written submissions contend that the Council has acted unreasonably by refusing the planning application for reasons that do not stand up to scrutiny. They were added to at the hearing with oral submissions that the Council has prevented development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal on appeal, and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Members of planning committees are entitled to reach a different opinion to their professional officers, and indeed often do. In this case, the members considered the proposal to be contrary to Policy WE9, a view at odds with the professional opinions of the appellants' consultants, the planning officer, and the Council's own consultant. It is especially important that when members reach a view which runs contrary to the weight of expert opinion, that they do so for sound planning reasons that can be rationalised in the evidence.
5. The members made their decision on the basis that the proposed equine enterprise at Moorwood has not commenced. However, the Council failed to explain how this situation runs counter to local or national planning policy, both in its written evidence and at the hearing. This is unsurprising as I see nothing in policy to justify the member's position either. Moreover, members would or should have been aware that the PPG identifies the potential for a temporary dwelling to be permitted where an enterprise has not commenced.

6. The other reason for refusal relates to the carbon footprint of the temporary dwelling. Given that the proposed development would be inherently temporary, occurring over a three-year period well before 2030, I see no rational basis for the finding of conflict with Policies S7 and EN3. Furthermore, concerns raised regarding the reuse of the temporary dwelling after its removal from Moorwood are beyond the scope of a reasonable assessment of the appeal proposal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Teignbridge District Council shall pay to Mr and Mrs Jon Clyne the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Teignbridge District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Matthew Jones

INSPECTOR