The Planning Inspectorate

Costs Decision

Site visit made on 25 January 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

Costs application in relation to Appeal Ref: APP/L3815/W/20/3260358 Longreach, 14A Chalk Lane, Sidlesham, West Sussex PO20 7LW

- 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 M Long for a full award of costs against Chichester District Council.
- The appeal was against the refusal of planning permission for replacement B1/B8 unit.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process. The PPG further explains that local planning authorities are at risk of an award of costs where they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

3. The Council refused planning permission due to the location of the site outside of settlement boundaries. It cited Policy 2 of the Chichester Local Plan: Key Policies 2014-2029 (CLP) which restricts development in such locations to that which requires a countryside location or meets an essential local rural need. There is no reference on the decision notice to CLP Policy 26 which supports the refurbishment, upgrading or modernisation of existing employment premises. The Council's view is that this policy is not relevant. However, I have been directed to other cases where the authority has applied the policy to sites in the countryside, including employment uses which have come about through changes of use under permitted development rights.

4. There is no logical reason why CLP Policy 26 should not apply to the appeal scheme. The policy makes no distinction for location and therefore it applies just as much to sites outside of settlement boundaries as to sites within. Moreover, the Council accepts that the principle of B1/B8 use of the existing glasshouse has been established. That the notification was given for change of use of the glasshouse under Class R recently is immaterial. The building is now being used for B8 storage as a matter of fact and the use is lawful in perpetuity.

5. The Council has attached limited weight to the fallback position but it fails to provide adequate reasoning as to why. The proposal would not represent a material intensification of employment use on the site. It would deliver a quantum of floorspace no greater than existing and the traffic impacts would be directly comparable. There is no identified harm to the character or appearance of the area or to other acknowledged planning interests.

6. Some attempt has been made within the Council's evidence to differentiate the proposal from planning permissions at Windward Nursery and Liberty Gardens. It is an established principle that applications are determined on their own merits. However, those cases were not so different as to warrant the appeal scheme being treated any differently. Furthermore, I can find no policy grounds to find the appeal scheme unacceptable on the grounds that it would result in an increase in the number of buildings on the site – this aspect of the Council's case has no basis.

7. The failure of the Council to apply development plan policy in a logical and consistent manner has delayed a proposal which should clearly be permitted. This constitutes unreasonable behaviour. A full award of costs to the appellant is therefore justified, to cover the wasted expense incurred in preparing for an unnecessary appeal.

Costs Order

8. In the 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 Chichester District Council shall pay to Mr M Long, the costs of appeal proceedings described in the heading of this decision. Such costs to be assessed in the Senior Courts Costs Office if not agreed.

9. The applicant is now invited to submit to Chichester 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.

Robert Parker

INSPECTOR