



Costs Decision

Site visit made on 2 February 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Costs application in relation to Appeal Ref: APP/J1860/W/20/3263730 Allsetts Farm, site of former unit1, Broadwas WR6 5NS

- 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 P Brooks for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The application sought planning permission for development of 1no. live/work unit, part retrospective without complying with condition 2 and the variation of condition 3 attached to planning permission Ref 19/01888/FUL, dated 2 April 2020.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Irrespective of the outcome of an appeal, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, 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 has acted unreasonably by preventing a development which should have been permitted and by making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. Whilst the appellant has sought to address comments made during a previous appeal¹, I have found that the Council had reasonable concerns about the impact of the proposed development, as seen from my decision, which justified its decision relating to the impact on the character and appearance of the area.

¹ APP/J1860/W/19/3231183

6. Whilst there is no specific guidance in respect of the appearance or form of live/work units its acceptability or otherwise is a matter of planning judgement. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. Furthermore, the decision notice clearly details the reasons for refusal.
7. I acknowledge that the Officer's report makes references to the existing planning permission² and draws comparisons between this scheme and the one subject of this appeal. However, I am not persuaded that the Council has not considered the current scheme on its own merits.
8. Whilst the Council confirm they do not have an objection with the removal of Condition 2 I am satisfied that no unnecessary or wasted expense was incurred in the appeal process as the appeal was necessary in any event because of the concerns relating to character and appearance.
9. Based on the evidence before me the Council has justified its decision rather than making vague, generalised or inaccurate assertions.

Conclusion

10. 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

² 19/01888/FUL