



Costs Decision

Site visit made on 27 April 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 June 2021

Costs application in relation to Appeal Ref: APP/W1850/W/21/3267387 The Piggeries, Llangarron Herefordshire

- 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 L Farr for a full award of costs against Herefordshire Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for the erection of two dwellings and associated works including the demolition of the piggery building.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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. Officers presented their report to the Planning Committee with a recommendation of approval. However, members of the committee requested that the application be deferred so that clarification and information could be provided in respect of the proposal's visual effect on its surroundings, highway safety, site drainage and the need for the housing. These reasons essentially distilled into the main issues I identified in the appeal decision.
4. The applicants' case fundamentally rests on the Council's unreasonable behaviour in requesting further details without substantiating this with reasons to justify delaying the determination of the planning application. In their view, this has resulted in them incurring unnecessary expense.
5. In terms of the proposal's visual appearance, I note that the officer's report considered that sufficient information had been submitted to assess the application in this regard. The fact that members of the planning committee came to a different view should not be seen as unreasonable. Although they have not provided detailed reasons for this it is clear from the officer's report that concerns, on this matter, were expressed by the Council's Built Heritage Officer. Even though, in determining the appeal I am satisfied with the level of information submitted, members of the committee were reasonable to request further clarification if it would assist in their understanding of the proposal and to further inform their assessment. Moreover, this information could reasonably

have been supplied with the revised drawings the applicants submitted in respect of the application site's extent.

6. I note that the applicants refer to the expiry of the date in which the Council could request further information to assess an outline planning application¹. However, in this regard, it is not clear from the submitted details whether the information being requested related to matters originally reserved. In any event further clarification or information can nevertheless be sought by the Council leading up to an application's determination, and this need not relate to those details referred to in the footnote below.
7. Following the application's deferral from the Planning Committee, the applicants submitted amended drawings showing the inclusion of the area for the drainage fields within the application site. This information led to further consultation, and although prolonged the determination process would have provided committee members and third parties with clarity that the site drainage infrastructure is being incorporated into the application site area. I have also included planning conditions in my decision that relate to this part of the appeal site. Consequently, in this respect, I do not consider that the Council acted unreasonably.
8. The appellant had already produced an assessment of the proposal in respect of highway safety and housing need, as part of the information that accompanied the planning application. In lodging the appeal, and in responding to the reasons for deferral, the appellants response is straightforward and has not involved significant assessment beyond what was outlined in the Planning Statement and accompanying technical reports. In effect the appellants have, without difficulty, rebutted the Council's position without wasting expenditure.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R. E. Jones

INSPECTOR

¹ Section 5(2) of The Town and Country Planning (Development Management Procedure) (England) Order 2015