Costs Decision

Site visit made on 20 May 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Costs application in relation to Appeal Ref: APP/G2713/W/21/3268767
Dunelm, Sneck Gate Lane, Newby TS8 0AQ

- 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 Richard Stinton for a full award of costs against Hambleton District Council.
- The appeal was against the grant subject to conditions of planning permission for change of use of ancillary room to a clinic room for home therapy business.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The PPG states that *'where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs'*.

4. The applicant considers that the Council has behaved unreasonably which has caused unnecessary or wasted expense in the appeal.

5. The applicant engaged in pre-application discussions with the Council in which they were advised the proposed development would be considered favourably. They were advised that the comments received were informal officer opinion. The Council sought to grant planning permission for the proposed development subject to a condition that the use was on a temporary basis. The fact that there may have been inconsistency, or failure to highlight factors that then became apparent, between the informal pre-application and the formal planning application does not amount to unreasonable behaviour, despite being of obvious frustration to the applicant.

6. The Council, in their decision, gave weight to the Covid-19 pandemic in granting consent for a temporary period. I find that this was a material consideration in the case, and the weight attached to this factor was a matter of planning judgement. The fact that the Council gave weight to the pandemic as a reason to impose the disputed condition does not amount to unreasonable behaviour.

7. Although the reason for the condition refers to Policies that do not appear relevant to the reasoning given in the Council's evidence, it is clear to me from the submissions the reason why the Council sought to impose the disputed condition. Therefore, an apparent erroneous reference to Policies does not amount to unreasonable behaviour.

8. As can be seen from my decision, I did not find that the imposition of a condition restricting the development to a temporary period had the effect of altering the nature of the proposed development, despite the applicant's desire for a permanent consent.

9. In their decision the Council gave reason why the proposed development was deemed to be acceptable subject to a condition that it was for a temporary period. This reason has been adequately substantiated by the Council in its appeal statement which demonstrates how, without the disputed condition, it would result in an unsustainable form of development, taking into account the use and the location of the appeal site.

10. The applicant considers that the Council failed to give due weight to Policy DP18 of the Hambleton LDF (Development Policies) (2008) which outlines how the importance of small businesses will be recognised through support for, amongst other things, home working. That the development would create a defined planning unit in its own right, separate and in a different use from the remainder of the building, would bring to question the pertinence of a Policy related to support home working. Regardless, the Council gave weight to the need to support local businesses in the 'planning balance'. Therefore, the Council has not acted unreasonably in this regard.

11. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense. I find nothing to suggest that the condition is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated. Therefore, a full award of costs is not justified.

A M Nilsson

INSPECTOR