



Costs Decision

Site visit made on 9 September 2021

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Costs application in relation to Appeal Ref: APP/P0119/W/21/3272294 Land adjacent Baugh Farm, Fouracre Crescent, Bristol BS16 6PX

- 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 Ms Daveene McCallion for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for Change of use of land to residential use (Class C3) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) in association with Baugh Farm and retention of hardstanding area (retrospective).
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Decision

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

Reasons

2. The Planning Practice Guidance advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The basis for the appellant's claim for costs is the Council's unwillingness to grant consent for the proposed development with appropriate suggested/agreed conditions and/or with a legal agreement/unilateral undertaking (UU) which was offered by the appellant but not considered by the Council. The appellant believed that conditions or a UU could satisfactorily control the development and address the matters which were of concern to the Council. Consequently, the planning application could have been approved and there would have been no need for the appeal.
4. The Council considered that conditions could not reasonably have overcome the planning objections identified, and that the claim of unreasonable behaviour is an attack on its exercise of planning judgement.
5. The National Planning Policy Framework provides that Councils should consider whether otherwise unacceptable development could be made acceptable in planning terms through the use of conditions or planning obligations to mitigate potential impacts. It specifies that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

6. The Council's reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. The Council refused the application for planning permission because it considered it to be contrary to the provisions of the development plan in accordance with exercising its Planning and Compulsory Purchase Act 2004 section 38(6) duty. Whilst the Council did not respond specifically to the offered UU in its submissions, I have no evidence to suggest that it was not considered. Nevertheless, the Council clearly stated in the reasons for refusal and within the submitted evidence that it considered conditions could not overcome the specific planning objections identified.
7. In considering the s78 appeal, although I did not agree fully with the Council, I concurred that removing certain permitted development rights either through the use of conditions or a UU would not mitigate the harm identified by making the development acceptable in planning terms. Therefore, it is unlikely, in my view, that even if the Council had considered the UU properly, it would have come to a different view and that consequently an appeal would have been avoided.
8. I am not satisfied, having regard to the facts and circumstances, that there was unreasonable behaviour on the part of the Council that led the appellant to incur unnecessary or wasted expense in connection with the appeal. I conclude accordingly that an award of costs, either partial or in full, is not justified and the costs application should not succeed.

S A Hanson

INSPECTOR