



Costs Decision

Site visit made on 12 October 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2021

Costs application in relation to Appeal Ref: APP/T3725/W/21/3275734 Land to the North of Bakers Lane, Knowle, Solihull

- 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 Variach for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of the Council to grant planning permission for a replacement dwelling and associated landscaping.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance ('PPG') explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal. Costs applications may relate to events, if not expenses incurred, before an appeal was brought.
3. The PPG states that examples of unreasonable behaviour by local planning authorities may include vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, and acting contrary to, or not following well-established case law.
4. The applicants' case for an award of costs is on substantive grounds, including that the Council assessed the proposal as a new dwelling, rather than a replacement for the dwelling approved under Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 for conversion of the existing barn. The applicants consider that the Council took an inconsistent approach to other comparable schemes, failed to take account of the applicants' evidence on this matter, and disregarded relevant case law, thus preventing or delaying development that should clearly be permitted. Furthermore, the applicants consider that the Council made vague, generalised or inaccurate assertions about the proposal's impact, unsupported by objective analysis. Additionally, the applicants consider there to have been a lack of co-operation.
5. I accept that there appears to have been some inconsistency in how the Council assessed this appeal scheme in comparison to the Shrewley Gate Nursery schemes (Ref W/20/0290 and W/21/0446), albeit full details of the site and circumstances of those proposals are not before me. In both of those

decisions, the Council considered the proposal to be a replacement dwelling in accordance with Policy H13 of the Warwick District Local Plan 2011-2019 (adopted 2017) ('LP'), and further that it would fall within an exception to inappropriate development under the Framework.

6. Consequently, their approach to determination of those proposals appears to have differed from their approach on this appeal scheme. Nevertheless, I have concluded that the proposal would be contrary to LP Policy H13 and therefore that policy does not offer support for the proposal. Moreover, the Council reached the same overall conclusion as reasoned in my decision, that the proposal would not fall within any of the exceptions to inappropriate development in the Green Belt.
7. Whether or not the existing barn should be considered traditional in its appearance, I have found that the proposal would harm the character of the surrounding countryside, contrary to LP Policy NE4 (landscape) and LP Policy H13 (replacement dwellings). I consider LP Policy BE4 (converting rural buildings) would not be applicable. However, in this instance, there is no indication that the Council having had regard to that policy and associated guidance would have resulted in additional costs to the applicants.
8. The Council's assessment of the scheme is primarily confined to the officer's report and is consequently not extensive. Accordingly, the Council could certainly be clearer in their consideration of matters such as the fallback position and established case law in that respect. Notwithstanding this, I have reached the same conclusion as the Council in respect of the effect of the proposed development on the Green Belt and the character and appearance of the area. Accordingly, I find that the Council's assessment of the appeal has not prevented development that should have been permitted.
9. I appreciate the applicants' frustration at having sought to liaise with the Council to address their concerns during determination of the application. Nevertheless, it is clear from the email correspondence between the Council and the applicants' agent, that officers considered the amended scheme that was submitted during the course of the application. Whilst this was not consulted on more widely, given that substantial concerns remained in respect of the acceptability of the amended scheme, it was not unreasonable that withdrawal of the application was suggested at that stage. Moreover, such an approach is not unusual and does not preclude further discussion with the Council on a future scheme.

Conclusion

10. For the reasons set out above, I find that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Therefore, no award of costs is made.

Rachel Hall

INSPECTOR