The Planning Inspectorate

Costs Decision

Site visit made on 1st March 2022

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Costs application in relation to Appeal Ref: APP/H1840/W/21/3273643
Barn to the rear of Providence House, Rous Lench WR11 4UJ

- 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 Mrs M Twist against the decision of Wychavon District Council.
- The appeal was against the Council's refusal to grant prior approval for proposed change of use of agricultural building to 1no dwellinghouse.

Decision

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

Reasons

2. The applicant has applied for a full award of costs. Parties are aware that irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. The sole issue in the appeal was whether the site is located within or outwith the Rous Lench Conservation Area (RLCA). The applicant suggests that the Council's Decision was based on the opinion of the Conservation Officer (CO), who concluded the site was outwith the RLCA.

4. In summary, the applicant contends that: no justification was provided to substantiate the opinion expressed by the CO; the Council referred to and relied upon irrelevant mapping sources and a speculative review of the RLCA boundary; the Council failed to provide an explanation as to why the original RLCA map was drafted using a double-dashed line; the Council's Decision was based on an incomplete and inaccurate assessment of the RLCA boundary; no detailed explanation or rationale was provided as to why the appellant's interpretation, supported by the Heritage Report submitted with the application, was not accepted; concluding the site is outwith the RLCA for the purposes of assessing planning applications but is considered to be within the RLCA for the purposes of the Town and Country Planning (General Permitted Development) (England) Order is manifestly unreasonable.

5. The applicant contends that the Council were given the opportunity to avoid an appeal, following submission of additional evidence post decision, which further supported the view that the site was outwith the CA. However, the Council refused to change its opinion, concluding that the issue was one of planning judgement.

6. The applicant considers the above matters collectively constitute unreasonable behaviour by the Council, and that this has prevented development which should have been granted from being undertaken. It is therefore contended that this has caused the appellant to incur unnecessary and wasted expense in the appeal process.

7. In summary, the Council contend that: its statement clearly explains the rationale behind its conclusion regarding the RLCA boundary; although the double dashed line denoting the RLCA boundary is imprecise and ambiguous, it is not uncommon of the time; however, given the passage of time the Council is unable to offer further explanation of the approach adopted; the Council of the time sought to address what it considered to be a lack of precision and ambiguities on a range of Conservation Area (CA) maps during the 1990's, which subsequently informed CA boundaries now shown on the Council's geographic information system and land charges information.

8. The Council believes that: this information correctly shows the RLCA boundary; this conclusion is based on the available evidence and national advice and guidance in relation to conservation area designation provided by Historic England; the conclusion is sound and reasonable, based on the evidence of the case and recognised professional advice/guidance. The Council contend that the Heritage Report submitted in support of the application was considered carefully in reaching its decision.

9. I have considered all the evidence presented by each of the parties. Ultimately, a judgement was required as to whether the site is within or outwith the RLCA. Both parties reached opposing judgements with reference to various materials. Notwithstanding my Decision on the appeal, the Council was entitled to reach a judgement. I believe the Council acted in good faith in reaching its judgement and taking the decision it subsequently took. As such, I conclude that the Council did not behave unreasonably.

10. I therefore conclude that it has not been demonstrated that the Council behaved unreasonably in respect of any substantive or procedural matters associated with the determination of application Ref 20/01848/GPDQ. Consequently, there has not been any unreasonable behaviour which caused the applicant to incur unnecessary or wasted expense in the appeal process, as described in the PPG. I therefore conclude that a full award of costs is not justified. Nevertheless, notwithstanding the decisions I have reached regarding both the costs application and the appeal, the Council may wish to consider taking the necessary action required to avoid similar situations arising in the future.

J Williamson

INSPECTOR