
Costs Decision

Site visit made on 12 July 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Costs application in relation to Appeal Ref: APP/K3415/W/21/3276765 Oak Tree Farm, Drayton Lane, Drayton Bassett, Tamworth B78 3EF

- 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 Jim Clarke (GGHT [Greenmere Ltd]) for a full award of costs against Lichfield District Council.
 - The appeal was against the refusal of a proposed re-use and extension of existing barn for gospel hall (Use class F.1(f)) as a place of worship, with demolition of other agricultural barns and provision of car parking and landscaping.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 3 August 2022.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. In addition, the PPG is clear that the reasons for planning decisions should not be vague, generalised or have inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. In this instance, the Council's reason for refusal is written in general terms but cites potential breaches of various policies of the Lichfield District Local Plan Strategy (2015) (the Local Plan). This includes Policy NR2. In broad summary, this policy is designed to prevent inappropriate development in the Green Belt.
5. The reason for refusal does not specifically explore why the development was considered inappropriate and how this policy was breached.
6. The appellant was therefore required to undertake an assessment as to whether the proposed development would be regarded as inappropriate development in the Green Belt and the effect of the development upon the openness of the Green Belt. However, it is clear from the Council's Statement of Case that there is no perceived harm in respect of these points. Therefore,

the submission of this assessment by the appellant could have been avoided had the Council drafted its reason for refusal more precisely.

7. I note that the Council raised concerns regarding the lack of accessibility of the site. However, Policy NR2 does not pertain to this matter. In consequence, the citing of this policy does not add to the Council's analysis of the harm arising from the proposed development.
8. The refusal reason also refers to insufficient highways information. The decision notice refers to Local Plan Policy ST1. Amongst other matters, this policy references highway safety and the capacity of the local transport network. However, concerns in respect of these points are not articulated within any of the documents before me.
9. In result, the appellant was required to prepare appeal submissions in respect of these points. This could have been avoided had the Council's concerns been expressed in more detailed terms.
10. This amounts to unreasonable behaviour on behalf of the Council. Therefore, the appellant's assessment of the proposal in respect of inappropriateness and openness amounts to wasted expense that could have been avoided had the Council drafted its reason for refusal in more precise terms.
11. I acknowledge that the planning application was refused by the Council's Planning Committee contrary to the recommendation of officers. Whilst Planning Committees are not beholden to follow their professional advice, it is necessary for Committees to outline the reasons for their decisions.
12. I have been provided with a copy of the minutes of the relevant Planning Committee meeting. However, these minutes do not recount the debate that took place at the meeting. Therefore, the appellant was compelled to submit the appeal in order to ascertain the perceived harm that would arise from the proposed development.
13. I am conscious that the Council's reason for refusal refers to other concerns that have been substantiated within their Statement of Case. However, a reason for refusal should be a succinct and accurate summary of the concerns raised by a council. This is not the case with the reason for refusal for planning permission of the appeal proposal.
14. In this case, the appellant was compelled to submit the appeal in order to clarify the nature and extent of the concerns raised by the Council. This amounts to unreasonable behaviour. Therefore, the applicant was put to unnecessary expense in pursuing an appeal.

Conclusion

15. I have found that the Council acted unreasonably by not providing reasons for its position on the application which stand up to scrutiny. Accordingly, I conclude that an award of costs to contest the appeal is justified.

Costs Order

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Lichfield District Council shall pay to Mr Jim Clarke (GGHT [Greenmere Ltd])

the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.

17. The applicant is now invited to submit to Lichfield District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Benjamin Clarke

INSPECTOR