



Costs Decision

Site visit made on 8 November 2022

by L Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Costs application in relation to Appeal Ref: APP/H1840/W/22/3301590 Castle Fields Farm, Harvington Lane, Norton WR11 4TN

- 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 Latham for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for Erection of 2No. live/work dwellings and associated works (resubmission of application 21/02358/FUL).
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that 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. Paragraph 049 of the Planning Practice Guidance sets out the examples of unreasonable behaviour by local planning authorities and the applicant considers that the Council have exhibited unreasonable behaviour on a number of these.
4. At the time that the decision was made, the Council considered that they were able to demonstrate a five-year supply of housing, despite the findings of previous Inspectors which concluded otherwise. I note that it was in early September 2022 when the Council was in a position to concede that it did not have a five-year housing land supply, which was after the decision made on the planning application associated with this appeal (March 2022) and the registration date of the appeal (June 2022). Given that a housing land supply calculation is a snapshot in time, it was not unreasonable of the Council to change their position over the course of the application and appeal process. In any event, as confirmed by the Council's appeal statement, the lack of a five-year housing land supply would not have resulted in a different decision on the application. Therefore, the Council have not caused the applicant wasted expense in the appeal process in this regard.
5. The Council agreed that the proposal would accord with Criterion G of Policy SWDP 8 of the South Worcester Development Plan (SWDP) (adopted 2016) and that Policy SWDP 8 was an exception to Policy SWDP 2. However, the conflict with Policy SWDP 2 was as a consequence of finding conflict with Policy SWDP

4, in regard to the locational sustainability in regard to the live/work units. Even though in these circumstances I took a different view from the Council, there is a balance to be struck, and a judgement to be made, between what is considered as acceptable sustainable rural development, such as live-work units and maximising the available sustainable transport opportunities, as acknowledged in my decision. Due to this finely balanced balancing exercise, I consider that it was a reasonable argument of the Council to come to a different conclusion on this matter.

6. The Council also acknowledge that other live/work schemes have been permitted in rural locations. However, I have been provided with very little information on these other permitted schemes in order to make any direct comparisons. Nevertheless, the circumstances in each proposal are likely to be different and emphasises the need for a decision maker to exercise their planning judgement, based on the specific circumstances of the scheme before them. I do not consider that the Council have behaved unreasonably in regard to the consideration of other live/work appeal decisions and planning applications.
7. As I have found in my appeal decision, the other site along Harvington Lane¹ referred to by the applicant is not 'adjacent' to the appeal site. Based on the limited evidence before me of this other scheme, there appears to be differences between the two schemes which have justified the Council's decision, most notably that this site is situated closer to the village of Norton, rather than Harvington. I therefore do not consider that the Council have behaved unreasonably in regard to the consideration of another appeal decision.
8. It was also not unreasonable for the Council to come to a different conclusion in regard to the layout and design of the proposal. Whilst the Officer's report and the Council's Statement of Case dealt with these matters somewhat vaguely, the Council did ultimately explain the impact of the layout and design, linking it through to the impact on the rural character of the area. The decision is one which is subjective. Whilst I took a different view from the Council on this matter, I am not persuaded that the Council has acted unreasonably.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Laura Cuthbert

INSPECTOR

¹ Granted under appeal reference APP/H1840/A/14/2213555