



Costs Decision

Site visit made on 26 October 2020

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 December 2022

Costs application in relation to Appeal Ref: APP/D3125/W/22/3299348 Church Farm, Church End, South Leigh, Witney OX29 6UR

- 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 Church Farm Partnership for a full award of costs against West Oxfordshire District Council.
 - The appeal was against the refusal of the Council to grant subject to conditions of planning permission for the change of use of land to allow the siting of 3 glamping wagons together with the erection of a bike storage shed and provision of 4 no. parking spaces.
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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 applicant's case for an award of costs is on substantive grounds. Firstly it is submitted that the Council prevented or delayed development which should clearly be permitted. Second, that vague, generalised or inaccurate assertions were made about the proposal's impact. Third, that planning permission was refused on a ground capable of being dealt with by condition. Fourth, that the Council did not determine similar cases in a consistent manner. Fifth, that the Council did not review their case promptly as evidenced by the delay in submitting their appeal questionnaire and statement.
4. In respect of the first matter, the Council's decision placed reliance on their assertion that the proposal would conflict with Policy SLD6 of the Neighbourhood Plan. This was in part due to the proposed use not being in compliance with those uses specified as acceptable within the policy. A matter which is not disputed by the main parties. Therefore given a degree of policy conflict it is not inevitable that the development should clearly have been permitted.
5. The second costs issue relies in part on the fact that Council Officers recommended that planning permission be granted, and that Council Members took a different course of action without adequate reasons to do so. Cases such as this can involve a matter of judgement on the planning merits. The Council

Members were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. The Council's statement of case sets out, in more detail, its evidence to substantiate the reason for refusal. This includes comments on the effect of the proposal on the open, rural character of the site and a perceived domesticating impact of the proposed huts. In spite of my decision to allow the planning appeal, the Council has properly taken part in the appeal proceedings including the provision of evidence to support its reason for refusal.

6. In respect of whether the Council refused permission on a ground capable of being dealt with by condition, I note that the Council accepts a condition could minimise light pollution. However, the Council's case also raised concerns on the domesticating impact of lighting on landscape character. Therefore, considering the Council's reasoning it was not unreasonable for that ground to remain. Furthermore, conditions relating to ecological enhancement would not clearly have avoided a ground for refusal.
7. In respect of whether the Council has demonstrated inconsistent decision making by not determining similar cases in a similar manner, the applicant has provided examples of similar proposals in the District. However, without further details of those schemes I am unable to make a meaningful comparison on the Council's findings including on their impacts on the character and appearance of their surroundings and with respect to lighting and noise. In any event, decisions are often highly context specific, particularly taking into account relevant Neighbourhood Plan policies which may vary between those sites.
8. I accept that there was a delay in submission of the Council's evidence. However, the applicant acknowledges that this is not a significant point. Therefore I find that it has not been clearly demonstrated how that has resulted in wasted expense. Furthermore, that a Councillor requested clarification on the difference between relevant Use Classes is not evidence of unreasonable behaviour likely to have led to wasted expense.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified.

Rachel Hall

INSPECTOR