The Planning Inspectorate

# Costs Decision

Site visit made on 29 November 2022

**by G C Bayliss BA MA MA MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 December 2022**

**Costs application in relation to Appeal Ref: APP/B3030/W/22/3300572 Holme Farm, Maplebeck, Newark NG22 0BS**

- 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 M Combellack for a full award of costs against Newark and Sherwood District Council.
- The appeal was against the refusal of planning permission for the construction of a timber stable and manege for private use, including change of use of part of site from agricultural to recreational use.

## Decision

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

## Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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.

3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The appellant states that the Council misinterpreted the information regarding ownership of the site which was submitted with the planning application. The Council considered that the site ownership was the same as an adjoining private equestrian development. Therefore, it refused the application, considering that the replication of this use in the same ownership would go beyond what could reasonably be considered to constitute domestic equestrian use. The Council accepts that it misunderstood the information regarding the ownership and use of the development and assessed the planning application incorrectly.

5. The Council asserts that this alone did not lead to the refusal of the application and in subsequently approving an amended scheme for 4 stalls, claims that the lesser number of stalls was more acceptable for a domestic scale of use and would be less likely to give rise to future planning applications for additional structures which might harm landscape character. Yet, little evidence was put forward by the Council to explain why the additional 2 stalls would go beyond domestic use or give rise to a risk of further applications, especially when the

overall size of the building would remain the same. In this regard the Council only made vague assertions as to what might happen and lacked any clear evidence. The confusion regarding the site ownership and lack of evidence to support the refusal was also combined with a failure to have regard to an almost identical adjoining development. These were key failings which resulted in the refusal of the application. Although the Council subsequently approved an amended scheme for 4 stalls within the stable this is not what the appellant was seeking.

6. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been approved.

7. The appellant also states that the misinterpretation of the site ownership by the Council on numerous occasions has caused major conflict between the appellant and their neighbours, affected the appellant's persona within the village and caused legal disputes. I note that the Council has apologised for these mistakes, but this is an administrative matter in relation to the processing of the application and does not relate to costs incurred during the appeal process. It is therefore not a matter before me.

8. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that an award of costs is justified.

**Costs Order**

10. 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 Newark and Sherwood District Council shall pay to Mr M Combellack, the costs of the appeal proceedings described in the heading of this decision.

11. The applicant is now invited to submit to Newark and Sherwood 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*G Bayliss*

INSPECTOR