



Costs Decision

Site visit made on 8 November 2022

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2022

Costs application in relation to Appeal Ref: APP/A0665/W/22/3303867 Tushingham Arena, Bell O The Hill Road, Tushingham Cum Grindley, Malpas SY13 4QR

- 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 and Mrs B Kay for a full award of costs against Cheshire West and Chester Council.
 - The appeal was against the refusal of planning permission for conversion of existing equestrian building to accommodate manager's 3-bedroom accommodation, provision 3 No 2-bed holiday lets, cafe with covered outside eating area, kitchen, store and toilets and 6 No stables.
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Decision

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

Reasons

2. Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Guidance provides that a local planning authority is at risk of an award of costs if it does not determine similar cases in a consistent manner. The applicants claim that the Council approved a similar planning application for development, including a café, at Kelsall Hill Equestrian Centre¹, and that the Council have failed to determine the appeal proposal in a consistent manner. The Council refer to differences between the appeal proposal and the development at Kelsall Hill Equestrian Centre. I have not been provided with the substantive details or planning history of that development. In the absence of such details, I cannot reasonably conclude that the Council has been inconsistent in reaching different decisions in the appeal before me and the other application.
4. The applicants contend that the Council relied upon an incorrect highway reason for refusal. However, the Council was entitled to rely on the views of the highway officer, who considers that the proposed café would be likely to attract visitors beyond those using the equestrian facilities, and their assessment of the impacts as set out in the officer report adequately considered how the proposed development would affect highway safety. As can be seen from my decision, I consider that the Council's concerns regarding the effect of the

¹ Council ref. 18/00749/FUL

proposal on highway safety were well founded. The dispute was a matter of planning judgement, rather than the applicants being forced into an appeal by consequence of unreasonable behaviour.

5. The applicants claim that the Council have acted unreasonably by refusing an application which should clearly have been permitted, having regard to its accordance with the development plan, national policy and other material considerations. Based on the evidence, I am satisfied that the Council's officer report and statement of case show that an analysis of the merits of the proposal was undertaken with regard to the specific circumstances of the site, the development plan, national policy and other material considerations. I have reached the same decision as the Council regarding the merits of the proposal. That does not vindicate any procedure or reasoning on their part. However, it establishes that it is not the case that planning permission should clearly have been granted.
6. The Council's decision stands scrutiny relative to the statutory approach to decision-taking. It therefore follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicants were put to unnecessary or wasted expense.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. The evidence does not justify a partial or full award of costs. The application for an award of costs is refused.

M Offerenshaw

INSPECTOR