Costs Decision

Hearing Held on 7 February 2023

Site visit made on 7 February 2023

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2023

Costs application in relation to Appeal Ref: APP/K0425/W/22/3295063
Mudd Banks Stud Farm, City Road, Stokenchurch, HP14 3EW

- 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 Mrs Jill Clark for a full award of costs against Buckinghamshire Council.
- The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for a rural worker's dwelling for a temporary period of 3 years.

Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are expected to meet their own costs. Costs can be awarded where, amongst other things, the following conditions apply: the party against whom the cost award is sought has behaved unreasonably and that unreasonable behaviour has caused the party applying for the costs to incur wasted or unnecessary expenditure in the appeal process.

3. The main grounds the appellant cites for an award of costs to be made relate to the actions of the Council during the planning application process. These can be summarised as:

    - lack of cooperation with, and delays in responding to the appellant by the Council during the processing of the application;
    - inaccurate assertions made by the Council about the proposal which are unsupported by objective analysis;
    - not determining similar cases in a consistent manner, by not appointing an independent consultant to review the case.

Lack of cooperation

4. In the appeal decision itself I have set out that in order for the appeal proposal to be acceptable it needed to show that it was either not inappropriate development in the Green Belt or if it was inappropriate development that other considerations existed which would amount to very special circumstances

sufficient to clearly outweigh the harm to the Green Belt caused by the proposal.

5. Additionally the National Planning Policy Framework states at paragraph 80 that planning decisions should avoid the development of isolated homes in the countryside unless, amongst other things, there is an essential need for a rural worker to live permanently at or near their place of work.

6. It is clear to me that you relied on an interpretation of Policy DM27 of the Wycombe District Local Plan which sought to disregard criteria which applied in Section 1 of this policy. I have set out in the appeal decision the reasons why I disagree with such an approach. In order to test whether other considerations are sufficient to constitute very special circumstances sufficient to clearly outweigh harm to the Green Belt or in order to establish an essential need specific information is required. Therefore the Council were correct in seeking to ensure that this information was provided.

7. I can see from the timelines provided by the parties that there were delays in responses from the Council and that some information was requested relatively late in the process. However I do not consider that this amounted to a lack of cooperation on the part of the Council and appears to be partly due to the lack of information provided with the application at the outset which was a consequence of the way Policy DM27 was interpreted. Moreover, it appears to be that some of the delays were a consequence of the Council seeking more information in order to find ways of approving the application, as they had indicated at an earlier point that on the basis of the submitted proposal that they were minded to refuse the application.

8. I therefore find for the reasons given above that the Council has not behaved unreasonably in this respect.

Inaccurate assertions made by the Council

9. The appellant appears to be arguing a narrow point that the Council disregarded the calculations relating to the labour requirements and number of horses on the site and that this approach is unsupported by objective analysis. In assessing the proposal the Council would have had to take into account a range of factors, including the number of horses present on the site and any labour requirement for the enterprises, including whether there was a need for someone to live full time at the premisses. It is also important to bear in mind that the Council did not make a decision on the proposal. So it is difficult to understand how they did not take into account this requirement when they did not make a decision.

10. Therefore I find that there is no unreasonable behaviour relating to this matter which led the applicant to incur wasted or unnecessary expenditure.

Not determining similar cases in a consistent manner

11. In this point you appear to be arguing that in other cases the Council has appointed an independent consultant to assess the evidence, but despite an offer from the appellant to fund such an appointment that did not happen in this case. As far as I can see the Council did not decline to follow such an approach, but appeared to be still considering the request when the appeal was

lodged.

12. In these cases it is clear that other considerations which amount to very special circumstances which clearly outweigh the harm to the Green Belt caused by the proposal and that it is essential for a rural worker to live at the site need to be demonstrated. This needs to be demonstrated by the appellant.

13. It is clear given your approach to Policy DM27 that you did not intend to provide such information. In terms of other applications for rural workers accommodation in the countryside the Council has in the past determined similar cases consistently with the appeal proposal. This is illustrated by the previous decision on this site for a rural workers dwelling[1].

14. As a result of the above I find that the Council has not acted unreasonably and caused the appellant to incur wasted or unnecessary expenditure in having to lodge the appeal.

15. I therefore conclude, having taken into account the matters raised by the applicant, as required by paragraph 033 of the PPG, that for the reasons set out above, unreasonable behaviour resulting in unnecessary expenditure has not been demonstrated by the applicant. For this reason, an award of costs is not justified.

Peter Mark Sturgess

INSPECTOR

[1] APP/K0425/C/18/3204653