



Costs Decision

Site visit made on 21 February 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2023

Costs application in relation to Appeal Ref: APP/H1840/W/22/3298688 Ashley Barn, Cow Lane, Sytchampton, Worcestershire DY13 9SY

- 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 Costin for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal to grant planning permission for a change of use of existing barn from B8 light industrial storage building to a single residential dwelling house and demolition of store building.
-

Decision

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

Reasons

2. Irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance (PPG) sets out the examples of unreasonable behaviour by local planning authorities which includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failing to produce evidence to substantiate each reason for refusal on appeal and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. I note that the applicant contends that the Council have failed to fully consider the accessibility of the site to services and facilities in the area. However, in my judgement, this is a matter of planning judgement for the decision maker to come to a view on based on the individual merits of the case. Based on the information before me I am not persuaded that the Council failed to properly evaluate the application or consider the merits of the scheme in respect of sustainable transport. Therefore, I find that the Council were not unreasonable in coming to their decision.
5. The Council produced a cogent report and a decision notice which detailed the reasons for refusal. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the South Worcestershire Development Plan that the proposal

would be in conflict with. The Council has substantiated its position at appeal rather than making vague, generalised or inaccurate assertions. I therefore conclude that the actions of the Council do not amount to unreasonable behaviour.

6. I acknowledge the applicant's frustration that Council Officers did not advise them that a planning obligation would be required in respect of affordable housing. Whilst this is unfortunate a planning obligation is nonetheless required, and the Council did not act unreasonably by refusing the application in relation to this matter. As such, I am satisfied that no unnecessary or wasted expense was incurred in the appeal process as a result of these actions. In any event the appeal was necessary because of the Council's concerns relating to the location of the proposed development.
7. Whilst I sympathise with the applicant, informal discussions and advice given before an application is determined is given without prejudice and cannot pre-determine the final outcome of the application.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

B Thandi

INSPECTOR