
Costs Decision

Site visit made on 6 March 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2023

Costs application in relation to Appeal Ref: APP/L3245/W/22/3306210 Horton House Farm, Horton, Wem, Shrewsbury SY4 5ND

- 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 & Mrs M & J Sissens for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for the conversion of a former agricultural building to tourist let including parking and amenity area.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that 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. A Council would be vulnerable to costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The substantive costs application alleges that the Council has behaved inconsistently in consideration of both to previous decisions it has made and with respect to the findings of an appeal decision.
4. The claim asserts that the Council has:
 - Misapplied policy CS5, of the Shropshire Core Strategy 2011 (CS) and
 - Arrived at a different view regarding matters of the accessibility of the site in comparison to similar cases, resulting in inconsistent decision making.

Policy considerations

5. CS Policy CS5 lists criteria for suitable development in the Countryside. The first and second criteria, relate to 'small scale economic development' and 'dwellings for essential countryside workers'. A subsection of these two development types requires such development to demonstrate the need and benefit for the development. It also requires these activities to take place primarily in named settlements or be linked to other existing development and business activity where appropriate. The sixth criterion supports sustainable rural tourism and leisure facilities which require a countryside location, and that would be in accordance with policy CS16.

6. Consequently, the issue of need and benefits and for sites to be within a named settlement, relates specifically to small-scale economic development and essential countryside workers. Although the proposed development could be described as small-scale economic development, as a separately named type of development in the countryside, rural tourism is distinct from the first two types. If tourist accommodation were required to be subject to a needs/benefit test it seems to me that it would have been placed as bullet point three, above the subsection of text. Instead, it is specified as a separate type of development further down the list implying a separation and distance from the matters of need/benefits. This understanding of policy is consistent with several previous decisions taken by the Council.
7. As such, the issue of need/benefit is not relevant to a tourist related activity by virtue of CS policy CS5. Furthermore, the Council has provided insufficient evidence to justify or explain a requirement to diverge from these previous decisions. For these reasons the Council has behaved unreasonably in seeking such justification for the proposal.

Suitability of location

8. In my main decision I have found that the appeal site is poorly located for access other than by the private car. This was largely based on the character of the connecting highway to Wem, being a highway without footways or streetlights and having a 60mph speed restriction. The Appellant referred to a number of planning decisions made by the Council, and an appeal decision, that consider tourist related matters in the countryside.
9. The schemes referred to include Old Barn, March Lane. However, this was closer to a named settlement and offered a variety of options for travel. The Summer House is also closer to Wem and close to the village of Tilley and a bus stop, providing access to the site by several options of travel. The barn at Gravel Hole Farm, is also closer to a named settlement and would deliver visual enhancements that would enhance its historic setting, a matter the Council ascribed substantial weight to. I am cognisant of the visual benefits of the proposed conversion, in the case of the appeal proposal, would be modest and of limited weight.
10. Other case such as Drift House and Coton Farm were subject to a fall-back position and agricultural worker requirement, respectively, that weighed in favour of these proposals despite their reliance on the private car for travel. Also, the appeal decision for holiday lodges in Much Wenlock was found to be materially different in location and accessibility, preventing any clear comparisons being made with the appeal site.
11. In contrast to the above, the scheme at Mayfield Farm for a holiday let was approved despite being a similar distance from Wem and being only accessed from the B5063. The Council has been not adequately explained why this scheme was approved despite its poor accessibility. Nonetheless, whilst demonstrating locational similarities with the appeal scheme, this alone does not demonstrate a clear pattern of inconsistency and does not outweigh the otherwise clear consistent approach advanced by the other decisions taken by the Council.
12. Although considering each case on its own merits, the submitted cases were different from the context of the appeal site and have not demonstrated that

the proposal was determined in an inconsistent manner. Therefore, the Council's the decision was consisted with most previous decisions, and these findings do not demonstrate unreasonable behaviour.

Summary

13. Although finding that the Council behaved unreasonably with respect to the first matter, this did not result in unnecessary expense as the matter of accessibility would have prevented the scheme from being allowed in any event. As a result, an appeal would not have been avoided had the Council not raised issues of need/benefits. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Ben Plenty

INSPECTOR