



Costs Decision

Site visit made on 3 January 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2023

**Costs application in relation to Appeal Ref: APP/G1630/W/22/3302491
Liberty Farm, Stanway Lane, Stanton, Broadway, Worcestershire
WR12 7NE**

- 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 William Hance for a full award of costs against Tewkesbury Borough Council.
 - The application Ref 20/00675/FUL, is dated 23 July 2020, was refused by notice dated 11 January 2022.
 - The development proposed is described as "retrospective application for the erection of an agricultural building (amended scheme to planning permission re: 07/01385/FUL and the erection of a permanent agricultural workers dwelling."
-

Decision

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

Reasons

2. The Planning Practice 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.
3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. The applicant alleges that the Council acted unreasonably during the planning application stage.
5. Essentially the applicant is seeking a full award of costs due to the Council's validation and determination period of the application.
6. The applicant claims that the Council created a delay in validating and then determining the planning application and that the delay resulted in unnecessary expense for the applicant. However, the Council has submitted evidence demonstrating that the delays in validation were partially caused by inaccurate plans from the applicant, delays in response to information requests, and a 6 week delay in paying for the revised planning application fee. The Council state that the application was validated in 4 working days upon receipt of the planning application fee. Consequently, I do not find the Council to have behaved unreasonable during the validation of the application.
7. The application was not determined by the Council within the 8-week period, however an extension of time was requested by the Council and the application

was subsequently refused. While I understand the applicant's frustration at the delays, I have seen no sufficiently compelling evidence that the Council behaved unreasonably in terms of the timescale for determining the planning application.

8. Furthermore, the Council refused the application and provided clear and detailed reasons why it did not grant permission. It is not therefore the case that the appeal could have been avoided and therefore the applicant has not incurred unnecessary expense. Moreover, I have found that the Council had reasonable concerns about the proposal in my findings on the appeal.
9. In addition, the applicant considers that the Council has not had proper regard to both national and local planning policy guidance in respect of proposals for permanent rural workers dwellings. However, I find that the Council exercised their planning judgement as decision maker and were entitled to come to the conclusions they did based on the adopted Development Plan for the area. Unacceptable harm was identified to the character and appearance of the area, including the Cotswold Area of Outstanding Natural Beauty. Therefore, I find the Council to have acted reasonably in this regard.
10. The applicant also considers that the Council has mistakenly dealt with the pitch of the roof and did not adequately explain their identified harm with regard to the height of the eaves. However, the Inspector for the previous appeal¹ was clear that the scheme should be built in accordance with the submitted plans for 07/01385/FUL and the steel frame should not exceed 9.66m. Based on the evidence before me, I agree with the Council that this means the eaves height of the previously approved building should have been in accordance with the submitted plans for 07/01385/FUL. The Council explained its reasons for the harm identified with the proposal. As such, I do not find the Council to have acted unreasonably in this instance.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

Helen Smith

INSPECTOR

¹ Appeal Decision (APP/G1630/C/08/2089558 and APP/G1630/A/08/2085813/NWF)