



Costs Decision

Site visit made on 18 April 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2023.

Costs application in relation to Appeal Ref: APP/J1860/W/22/3310222 Land at Castle Lane, Holt Heath

- 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 P Watson for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for change of use of land for siting of 3no. holiday cabins.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. The applicant considers that the Council has made vague, generalised and inaccurate assertions about the impact of the proposal, based on conjecture rather than objective analysis. Examples of such behaviour are the requirement of the Council for the proposal to have an agricultural appearance despite accepting that nearby uses are residential, and by referring to visual harm despite accepting public views of it would be limited. The Council has also described the low-density proposal as cramped but contradicted this by also referring to it as sprawling.
4. In the applicant's view, the Council has also been unreasonable by making unfounded criticism of the proposed glazing and by stating that internal cleaning of the cabins and the voices of occupiers would be significantly detrimental to neighbouring properties. By refusing to accept an amended plan, the Council has not worked in a positive or proactive manner and has prevented or delayed development which should clearly be permitted. This has necessitated the preparation and submission of the appeal, causing the appellant unnecessary expense.
5. The Council believes that it has not acted unreasonably. It has valid concerns with the proposal in terms of its impact on the landscape, noise and nuisance to nearby residents and harm to protected species, which the appellant has failed to sufficiently mitigate. The Council was under no obligation to accept the amended plan, which would require another period of consultation, and so it was not unreasonable for the Council to determine the application as submitted.

6. The PPG gives examples of unreasonable behaviour. These include 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; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
7. For the reasons set out in my decision letter, I was unable to accept the amended plan submitted at appeal stage. I do not therefore consider that the Council was unreasonable to determine the application based on the proposals as initially submitted. In terms of the planning merits of the proposal, I have not agreed with some parts of the Council's case, for example in respect of the design of the cabins. However, these are essentially matters of planning judgement and I do not consider that the Council was unreasonable in raising these concerns.
8. Moreover, for the reasons set out in my letter, I have concluded that the proposal would have a harmful effect on the character and appearance of the area, on the living conditions of nearby properties and in respect of badgers. As a result, I have found that the proposal would conflict with the Development Plan and that material considerations do not indicate a decision other than in accordance with it.
9. As such, the Council has not been unreasonable in delaying development that should have been permitted and has provided sufficient analysis and evidence to justify its concerns. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

O Marigold

INSPECTOR