



Costs Decision

Site visit made on 10 May 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Costs application in relation to Appeal Ref: APP/A0665/C/22/3308901 Green Lane Farm, Green Lane, Kelsall, Chester, Cheshire CW6 0QA

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr David Blything for a full award of costs against Cheshire West and Chester Council.
 - The appeal was against an enforcement notice alleging the demolition of an agricultural building and construction of agricultural produce storage building.
-

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. Unreasonable behaviour can be either procedural – relating to the process, or substantive – relating to issues arising from the merits of the appeal.
3. The application was not made on the form provided by the Planning Inspectorate. On that form there is a question as to whether the claim is for a partial or full award of costs. The Applicant's claim does not specify this, but I have taken it to be a claim for a full award of costs.
4. It is clear however that the award of costs is sought on substantive grounds. The applicant's reasons are in summary that the enforcement notice did not reference all relevant development plan policies, and that the stated reasons for issuing the notice contained inaccurate and repetitive errors. As these reasons were at the centre of the Council's decision making, they led to the enforcement notice being served. The applicant had therefore been put to the expense of pursuing an appeal.
5. The Council's enforcement notice and the planning officer's report appended to the written appeal statement contained a site specific explanation of the planning harm caused by the development, which set out why the Council considered that planning permission should not be granted. The Council also explained why it considered the development did not accord with the development plan and listed the specific policies it was contrary to. The applicant however contends that the Council did not reference all relevant development plan policies, with particular reference to policies STRAT9 and DM6.

6. The Council however has clearly substantiated its case and reasoned why, when read as a whole, the development was considered contrary to the development plan. The failure to specifically reference every policy, including those that the development may accord with, is not unreasonable nor has it led to the appellant incurring unnecessary or wasted expense.
7. The applicant's other grounds relate to the Council providing inaccurate or incorrect statements within its reasons for issuing the enforcement notice. This includes reference being made to a 'converted barn' which the Council accept is an error. Notwithstanding this error, the alleged breach on the notice clearly refers to the demolition of an agricultural building and the construction of a new building, with several other references to the erection of a new building contained within both the notice itself and the appeal statement. I therefore consider that it is readily apparent from both the notice and the appeal statement that the breach relates to the demolition of the existing building and erection of a new building.
8. Reference is also made in the notice to an 'encroachment of the village into the surrounding countryside' and that the building has 'a number of domestic openings that would easily be fitted with domestic fenestration and doors'. Though the applicant objects to these statements and considers them to be incorrect, they are used in the context of the Council describing the new building as being, in their view, of domestic appearance. In any event, it is clear from reading both the enforcement notice and the subsequent appeal statement that the Council's objection was with the appearance of the building and its impact upon the character and appearance of the area.
9. Accordingly, there is nothing to suggest that the Council acted in a manner that would amount to unreasonable behaviour or that the Council's actions resulted in the applicant incurring unnecessary or wasted expense. It follows that the conditions for an award of costs have not been met.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

David Jones

INSPECTOR