The Planning Inspectorate

Costs Decision

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2023

Costs application in relation to Appeal Ref: APP/W1850/X/22/3307001
Lower Ledicot Farm, Ledicot Lane, Shobdon HR6 9NX

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Herefordshire Council for a full award of costs against Mr and Mrs A and G Roberts.
- The appeal was against the part refusal of a certificate of lawful use or development for a dwellinghouse, driveway and access.

Decision

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

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.

3. The LPA's case is predominately predicated on the basis that it says the appellants introduced fresh and substantial evidence at a late stage necessitating extra expense for preparatory work that would not otherwise have arisen and, have provided information that is shown to be manifestly inaccurate or untrue.

4. The LPA say that the initial LDC was supported by no substantive evidence and made solely on the basis that there was an absence of information. I see nothing unreasonable about the extent of the appellant's initial submission. They are free to make their case on the evidence they have available to them. Indeed, it is for the appellant to make their case and the LPA to determine if the burden of proof of demonstrating lawfulness has been met. Similarly, there is nothing unreasonable in providing additional evidence to the case if it only came to light at a later stage, as is the case here with the plans from the 1969 permission. I acknowledge that statutory declarations could have been submitted at an earlier stage than they were. However, ultimately, they did not lead to a different outcome at appeal stage. Indeed, the LPA's overall position on the main issue did not change as a result of receiving the appellant's statutory declarations. Thus, I am not satisfied such behaviour was unreasonable leading to unnecessary or wasted expense on behalf of the LPA.

5. Ultimately, whilst the appellants have pursued an appeal which has been unsuccessful, I see nothing in the LPA's claims that their behaviour was unreasonable and led to unnecessary or wasted expense to be incurred.

Conclusion

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

J Whitfield

INSPECTOR