



Costs Decision

Hearing held on 5 September 2023

Site visit made on 5 September 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

**Costs application in relation to Appeal Ref: APP/J1860/W/23/3323917
Rosebud Meadow Camping Site, track from Marlbank Road to Welland
Farm, Worcestershire, Welland WR13 6NB**

- 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 Miss Rosie Clare for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of planning permission for a three bedroom rural worker's dwelling as detailed in the Design and Access Statement and the accompanying drawings.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The response by Malvern Hills District Council

2. The Council's response to the costs application was made orally at the hearing. Briefly, they stated that they were co-operative throughout the application process and requested further information. The requested information was not forthcoming and the submissions were not clear but the decision was nevertheless made upon these submissions. The Council also stated that although a request was made for an external specialist, the in-house capabilities were sufficient, and the Council were able to make a full assessment.

Reasons

3. 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.
4. The applicant submits that there was a lack of co-operation from the Council through the planning application process and that the Council were unable to properly assess the financial information submitted and therefore that their decision was flawed. As a result, the applicant considers that the Council acted unreasonably and that this resulted in wasted expense through an unnecessary appeal.
5. The Council clearly did co-operate to some extent through the planning application process, including asking for the submission of the business accounts and further clarifications. However, this clarification related solely to whether, and from where, the applicant and her partner took their wages. The applicant was forthcoming with this information and none of the submissions

before me demonstrate that the Council had concerns as to the presence, or wages for, other employees.

6. However, during the hearing it became clear that the Council's concerns primarily turned upon a lack of clarity regarding wages for any employed staff. Beyond the wages for the applicant and her partner, no further clarification was sought during the application process but, if it had been, I find this would most likely have resulted in the application being approved and, would have avoided the need for an appeal.
7. Moreover, the Council raised in their communications that they were unable to carry out the assessment of the submitted accounts and that an external expert, paid for by the applicant, would be needed. Although the Council did ultimately carry out the assessment, I find that these communications would have sown doubt in the applicant's mind as to the ability of the Council to properly assess the submitted information. This would have therefore undermined the Council's decision and made an appeal more likely.
8. Whilst the Council appear to have been resistant to undertaking a site visit, I find that given the matters upon which this appeal turns, this did not materially affect the application's outcome.
9. Nevertheless, for the reasons given the above, I find that the Council acted unreasonably by preventing development where a more helpful approach could have resulted in the appeal being avoided altogether. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Malvern Hills District Council shall pay to Miss Rosie Clare, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Malvern Hills District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Samuel Watson

INSPECTOR