The Planning Inspectorate

Costs Decision

Site visit made on 9 January 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Costs application in relation to Appeal Ref: APP/N4720/W/23/3330921
Land at Thorpe Lane, Guiseley, Leeds

- 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 J Ogden (Hawksworth Estates) for a full award of costs against Leeds City Council.
- The appeal was against the refusal of planning permission for erection of agricultural building for livestock housing and storage.

Decision

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

Reasons

2. 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. PPG explains that unreasonable behaviour in the context of an application for an award of costs may be either:

   - procedural – relating to the process; or
   - substantive – relating to the issues arising from the merits of the appeal.

3. The applicant considers that the Council has based its reasoning for refusal on unreasonable and incorrect understanding of both the national policy and the Councils' adopted local policy. It is further alleged that the policies referred to in the decision notice are not relevant to the reasons given for refusal and that vague, generalised, and inaccurate assertions were made regarding the proposed development without any specific evidence.

4. In response to the appellants' claims, the Council has confirmed that it has behaved reasonably by justifying the reasoning for refusal as set out within their officer report and appeal statement. The Council also consider that the policies as referred to are indeed relevant whilst setting out the reasoning for this and that they have not made incorrect assumptions about the development as justified in their appeal statement.

5. The PPG advises behaviour that may give rise to a substantive award of costs including, amongst other matters, 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 as well

as failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

6. It shall be seen from my decision upon the planning appeal that is the subject of this application that I have identified that the proposed development would not represent inappropriate development in the Green Belt. I accept that the Framework does not set out any limiting criteria relating to size or any other matters when considering new buildings for agriculture and forestry in the Green Belt and if considered not inappropriate, then there is no requirement to assess the impact of the development on the openness of the Green Belt. However, engineering operations are covered under a separate provision of the Framework whereby such developments which would include the proposed access track are also not inappropriate in the Green Belt, but this is on the provision that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

7. Even if assertions were made regarding the impact of the proposed agricultural building on the openness of the Green Belt which would not be substantiated, the Council still identified conflict with paragraph 155 of the Framework which requires an assessment to be had relating to the openness of the Green Belt including any conflict with the purposes of including land within it. This requires a level of planning judgement.

8. Notwithstanding the successful outcome of the planning appeal, it was not unreasonable for the Council to not support the proposed development given that they considered that overall, it would be harmful to the openness of the Green Belt. Despite any reference to the agricultural building itself, development was not prevented or delayed that should clearly have been permitted as the associated engineering operations would still have been considered inappropriate as well as other matters which are discussed below and thus an appeal on this basis could not have been avoided.

9. It is also not unreasonable for the Council to raise concerns about the impact of the proposed development on the character and appearance of the site and surrounding area including its effect on the Special Landscape Area in which it is located. This informed its decision given the site context and relationship to public vantage points and I do not find that inaccurate assertions about the proposal's impact have been made as this is indeed a matter of planning judgement. I note the specific wording of Policy N37 of the Leeds Unitary Development Plan (Review 2006) which relates to Special Landscape Areas. However, this would not have changed the overall assessment particularly taking into account other local and national policies which I find to be relevant to the appeal for the same reasons the Council has provided as well as paragraph 180 of the Framework which explains that planning policies and decisions should contribute to and enhance the natural and local environment by amongst others, protecting and enhancing valued landscapes. The location from the Farmhouse and discrepancy over the size of the building would not have changed the Councils' outcome and this element had little bearing on the outcome of the appeal.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated such that an award of costs is not justified.

N Teasdale

INSPECTOR