



Costs Decision

Site visit made on 30 January 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2024

Costs application in relation to Appeal Ref: APP/P1805/W/22/3313598 Fields off Icknield Street, Beoley, Worcestershire B98 9AH

- 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 Ms Naylor for a full award of costs against Bromsgrove District Council.
 - The appeal was against the refusal of planning permission for the erection of a new agricultural building.
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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 submits that the Council behaved unreasonably due to a failure to work in a positive, proactive and reasonable manner, and by prejudging the proposal rather than properly analysing it against planning policy. Criticisms are made with regards to the Council's complaint process and the conduct of the case officer. The concerns described relate to other planning applications made by the applicant, pre-application advice as well as during the planning application that is the subject of the appeal.
4. PPG¹ confirms that unreasonable behaviour in the context of 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. Moreover, costs can only be awarded in relation to unnecessary or wasted expense at the appeal², rather than during the planning application, although actions at the time of the planning application can be taken into account. Hence, the scope of my consideration is not unfettered and does not extend to an examination of previous planning applications that are not the subject of the appeal, nor the Council's complaints procedure.
5. PPG³ lists examples of what types of behaviour may give rise to a procedural or substantive award against a local planning authority. In relation to procedural behaviour this is qualified by reference to procedural matters at the appeal. It

¹ Paragraph: 031 Reference ID: 16-031-20140306

² Paragraph: 033 Reference ID: 16-033-20140306

³ Paragraphs: 047 Reference ID: 16-047-20140306 & 049 Reference ID: 16-049-20140306

- includes delay in providing information or other failure to adhere to deadlines; and only supplying relevant information at appeal when it was previously requested but not provided at application stage.
6. Reference is made to the delayed provision of a report from the Council's Agricultural Consultants. However, the need for an agricultural building in principle was not a matter of dispute between the parties and did not feature in the Council's refusal reasons on the appeal scheme. The Council's reasoning on its decision notice and in its appeal statement makes its position on this matter sufficiently clear.
 7. Accordingly, whilst it may have been more helpful and transparent, and less frustrating for the applicant if the Council had provided the document upon request, I fail to see that the report was critical to the main issue in dispute at the appeal. Hence, I do not consider its later production directly caused the applicant to incur unnecessary or wasted expense at the appeal.
 8. Neither does the evidence show that the Council failed to adhere to appeal deadlines to provide its statement. Overall, I do not find that the circumstances outlined by the applicant amount to unreasonable procedural behaviour at the appeal within the meaning of the PPG.
 9. Examples of unreasonable substantive behaviour given in the PPG include where the Council prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Inherent in the applicant's concerns alleging negative, biased and restrictive prejudgement on the part of the Council, is the presumption that had they acted otherwise then the application would have been approved rendering an appeal unnecessary.
 10. It will be seen from my decision that I cannot agree, as on the substance of the case I found that the Council's principal concerns were soundly made. I acknowledge that the applicant strongly disagreed with the Council's substantive position but that is not evidence of unreasonable behaviour. The applicant's alleged grievances regarding the comments and conduct of officers have been the subject of a separate complaint to the Council and it is not within the scope of this decision to investigate that process.
 11. Moreover, PPG⁴ further confirms that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. This resonates with the circumstances of this case. As such, the applicant was not put to unnecessary expense when they chose to test the Council's substantive position at appeal.
 12. Therefore, having reference to the PPG, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Helen O'Connor INSPECTOR

⁴ Paragraph: 050 Reference ID: 16-050-20140306