



Costs Decision

Hearing held on 7 May 2024

Site visit made on 7 May 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Costs application in relation to Appeal Ref: APP/Y3940/W/23/3327751 Meadow View Farm, Bradford Leigh BA15 2RW

- 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 Andrew Hillier [Norbin Farm Ltd] for a partial award of costs against Wiltshire Council.
 - The Hearing was in connection with an appeal against the refusal of the Council to grant planning permission for the erection of agricultural worker's dwelling and associated works.
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Decision

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

The Submission for Mr Andrew Hillier

2. An application for a partial award of costs was made in writing prior to the Hearing. The basis of the applicant's costs claim is that the Council has behaved unreasonably by not substantiating the first reason for refusal, and that the planning committee took a decision contrary to officer advice, when a consistency of decision was reasonable for the applicant to expect.

The Response by Wiltshire Council

3. The Council's rebuttal was submitted in writing in advance of the Hearing. It suggests that the planning committee formed its own judgement in relation to the merits of the case, following consideration of the officer recommendation, interested party representations and responses to questions at the committee meeting. The Council considers that the committee is entitled to reach a different conclusion to officers.

Reasons

4. 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.
5. It goes on to state that local planning authorities are at a risk of costs, if they behave unreasonably with respect to the procedural handling of the case and the substance of the matter under appeal.
6. The first reason for refusal set out on the Council's decision notice is clearly articulated and states the paragraphs of the National Planning Policy Framework that the proposal would be in conflict with. The Council's statement

of case explains the reason for refusal in more detail. Notwithstanding the officer recommendation, the apportionment of weight is a matter for the decision maker. The committee is not duty bound to follow the advice of its professional officers. It appears from the evidence before me including the Council's statement of case that the committee attached a different weight to the considerations, as is its right.

7. At the Hearing the applicant suggested that the Council's decision was made following erroneous comments of interested parties. In my decision I have found that the interested parties had legitimate concerns regarding the evidence of need for the proposed dwelling. However, the Council refused the application on the grounds that the harm to the openness of the Green Belt and the character and appearance of the area were not outweighed by the essential need for the dwelling, which is a different set of circumstances. On the evidence before me, I am satisfied that the Council substantiated the first reason for refusal. The applicant has not raised any concerns with regard to the second reason for refusal.
8. The proposal the subject of this appeal was wholly different in terms of site location, design and scale such that it was right that the planning committee considered it on its own merits, rather than inferring acceptability because it sought to address concerns raised during the consideration of a previous scheme¹.
9. Even if the proposal was put forward following advice from a planning officer, the PPG is clear that pre-application advice cannot pre-empt the democratic decision-making process, or a particular outcome in respect of a formal application.
10. There is no compelling evidence before me to clearly demonstrate that the Council has behaved unreasonably with regard to either the procedural handling or substance of the appeal.

Conclusion

11. I acknowledge the applicant's frustration with their perception of the Council's approach. However, insofar as is relevant to this costs application, based on all of the evidence before me, I find that no action or inaction taken by the Council amounts to unreasonable behaviour as described in the PPG, directly resulting in unnecessary or wasted expense at appeal. A partial award of costs is not therefore justified.

M Clowes

INSPECTOR

¹ Planning application reference PL/2021/11357 and appeal decision APP/Y3940/W/22/3294187.