



Costs Decision

Site visit made on 7 May 2024

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2024

**Costs application in relation to Appeal Ref: APP/P1615/W/23/3335637
Ty Lydia, Land adjacent to Rosewood Cottage, Belmont Road, Hewelsfield,
Gloucestershire GL15 6UX.**

- 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 Neil Bishop for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for restoration of a stone building to form a 1-bed holiday let and associated works including the creation of a new access, drainage works and landscaping.
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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 PPG¹ advises that a Council as Local Planning Authority may be at risk of costs on substantive grounds if it prevents or delays development which should clearly be permitted having regard to the Development Plan, national policy and any other material considerations. It may also be at risk if it fails to produce evidence to substantiate its position or makes vague, general or inaccurate assertions about the impact of the proposal.
4. A Council also risks a costs award where it persists in objections which an Inspector has previously indicated to be acceptable, or the Council refuses to enter into pre-application discussions where this would have reduced the expense caused by the appeal. The list of examples of unreasonable behaviours provided by the PPG is not exhaustive.
5. The Development Plan is broadly supportive of tourist development in rural areas. It does not require the submission of a Business Plan, though the appellant chose to submit one. As such, the Council was justified in taking it into account. I have found that the site lies within an area with few services or facilities locally, where occupiers of the accommodation are likely to be reliant on private vehicles for many of their day-to-day activities. Therefore, whether the adverse effects of the proposal outweigh its benefits including to the local economy is essentially a matter of planning judgement.

¹ Paragraph: 049 Reference ID: 16-049-20140306

6. The design of the proposed extension and its effect on the National Landscape is similarly a matter of professional opinion. The evidence of the appellant's ecologist and the Council's own Sustainability consultee found that mitigation could make the proposal acceptable regarding bats. Natural England also raised no objection. Nevertheless, Regulation 55 of the Habitats Regulations has licencing tests which require an element of planning judgement. Against these, the Council was entitled to conclude that a licence might not be issued by Natural England and that permission should not be granted on this basis.
7. Therefore, although I have reached different conclusions to those of the Council, it did not delay development which should clearly have been permitted. It has provided sufficient evidence including in the Officer Report to substantiate its position in respect of each reason for refusal. Different Inspectors² have reached similar conclusions to mine in respect of the need for a Business Plan and Regulation 55 of the Habitats Regulations. However, these decisions relate to different schemes on different sites. As such, the objections of the Council in respect of the proposal before me were not in my view unreasonable.
8. The Council did not refuse to enter into pre-application discussions. Although generally supportive of the proposal, the advice of the Council did identify the need for the public benefits of the proposal to outweigh its negatives. It also made clear that the advice constituted informal, non-binding observations. In contrast, the formal decision was made in light of a greater amount of information and following public consultation. I do not therefore consider that its handling of pre-application advice amounts to unreasonable behaviour.
9. Accordingly, I find that the Council has not behaved unreasonably, having regard to the advice in the PPG. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

O Marigold

INSPECTOR

² APP/P1615/W/22/3311165 and APP/P1615/W/23/3317214