



Costs Decision

Site visit made on 4 June 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Costs application in relation to Appeal Ref: APP/E3715/W/23/3330858 57 Moat Farm Drive, Hillmorton, Rugby, Warwickshire CV21 4HQ

- 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 T Webb on behalf of Tacit Golf for a full award of costs against Rugby Borough Council.
 - The appeal was against the refusal of planning permission for erection of an additional storage building for business.
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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. Paragraph 047 of the PPG provides examples of behaviours that may give rise to a procedural award against a local planning authority, including providing information that is shown to be manifestly inaccurate or untrue. In addition, PPG paragraph 048 provides examples of behaviours that may give rise to a substantive award against a local planning authority, including preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other considerations; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant asserts the Council's determination of the planning application was based on an incorrect assessment of the landscape's status informed by inappropriate documents, and therefore was inaccurate and prevented development which should have been permitted.
5. Policy NE3 of the Rugby Borough Council Local Plan 2019 seeks to ensure that significant landscape features are protected and enhanced. All development proposals are subject to the requirements of Policy NE3, irrespective of whether the landscape in which it is situated is subject to a formal designation.
6. In its assessment of the scheme within the context of Policy NE3, the delegated report draws on the Rainsbrook Valley Landscape Sensitivity Study 2017 (RVLSS) which identifies features of landscape value and the landscape's sensitivity. Whilst the RVLSS does not bestow the landscape with any formal designation, it forms a part of the Council's evidence base and therefore is relevant for consideration by decision-makers.

7. Since the RVLSS also serves to identify potential development opportunities for housing, the applicant asserts use of the RVLSS in relation to the proposal is not appropriate. The applicant refers to an appeal decision¹ relating to a scheme for prior approval for a machinery and wine processing store at land within the appellant's ownership and near the appeal site. In the decision, the Inspector concluded the RVLSS should be afforded "appropriate weight proportionate to its status", which as I have identified above provides evidence of landscape value and sensitivity.
8. Moreover, since the cited appeal decision related to an application for prior approval, the principle of development was established through the grant of permission through The Town and Country Planning (General Permitted Development) (England) Order 2015 and the scheme was not determined on the basis of the development plan.
9. Conversely, the appeal proposal relates to an application for full planning permission. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires it be determined in accordance with the development plan unless material considerations indicate otherwise. This includes the requirements to protect and conserve landscape character as set out at Policy NE3. Therefore, I do not consider the Council's assessment to have been predicated on inappropriate documents, nor does its assessment suggest it relied on inaccurate assertions about the landscape's status.
10. The Council's reasons for refusal, as set out at its Decision Notice, make clear that it considers the cumulative effects of development would create adverse impacts on the wider setting by encroachment into the rural landscape., and the assessment in the delegated report considers the siting, scale, appearance, and screening would not be sufficient to avoid such harms. Whilst in my own decision I have reached different conclusions from the Council, such issues are a matter of planning judgement and may differ between decision-makers. The application does not therefore demonstrate the Council prevented development that should clearly have been permitted.
11. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

E Dade

INSPECTOR

¹ APP/E3715/W/22/3305282