



Costs Decision

Site visit made on 3 September 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Costs application in relation to Appeal Ref: APP/C1625/W/24/3338429 Land at Ringfield Farm, Bath Road, Nailsworth, Gloucestershire GL6 0JB

- 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 Stewart for a full award of costs against Stroud District Council.
- The appeal was against the refusal to grant subject to conditions planning permission for one single storey dwelling with associated works including green walls and solar panels.

Decision

1. An award of costs is allowed in the terms set out below.

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. Paragraphs 047 and 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes 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; lack of co-operation with the other party and delaying providing information or other failure to adhere to deadlines.
4. The decision is one which is a matter of planning judgement based on the merits of the proposal. As seen from my decision I have found that the Council had legitimate concerns about the impact of the proposed development in respect of the character and appearance of the area. Officers have produced a cogent report and the reason for refusal set out in the decision notice is complete and relevant to the application. It also clearly states the policies of the Stroud District Local Plan that the proposal would be in conflict with. As a result, it follows that I do not agree that the Council acted unreasonably in this case.
5. In terms of the likely impact upon the Rodborough Common Special Area of Conservation (RCSAC) and the Cotswold Beechwoods Special Area of Conservation (CBSAC) the applicant provided two unilateral undertakings (UU) securing financial contributions towards mitigating the impact of the development. I note that the Council commented that for a number of reasons

the UUs were not fit for purpose and would not be accepted by them. In response the applicant has made mitigation payments directly to the Council.

6. Whilst the applicant has addressed the reasons for refusal relating to the RCSAC and CBSAC through making the mitigation payments, this is only after the Council expressed deficiencies in respect of the submitted UUs. With this in mind and having regard to the available information I am not persuaded that the Council has failed to co-operate with the applicant or acted in an unreasonable manner in this regard.
7. The Council also object to the proposal on the grounds of insufficient ecological information. I note that the Preliminary Ecological Assessment (PEA) originally submitted contained a minor error referencing another address. However, it is apparent from the contents of the PEA including photographs and aerial maps that the survey relates to the appeal site. Moreover, the applicant has provided an amended PEA omitting this minor error. In my view the Council has acted unreasonably by objecting to the proposal on these grounds when it is clear that the PEA relates to the appeal site, despite the error and even more so following submission of the corrected PEA. As such, I find that the applicant has incurred unnecessary and wasted expense in the appeal process in relation to ecology.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a partial award of costs is therefore warranted.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stroud District Council shall pay to Mr Stewart, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of reason for refusal 2; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Stroud District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

B Thandi

INSPECTOR