The Planning Inspectorate

Costs Decision

Site visit made on 28 August 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Costs application in relation to Appeal Ref: APP/H1840/W/24/3339168
Land at Abbots Morton

- 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 Ian Thompson for a full award of costs against Wychavon District Council.
- The appeal was against the refusal of planning permission for demolition of existing workshop and storage yard and erection of 2 residential dwellings and associated infrastructure.

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's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense for the reasons, as considered below.

4. The LPAs fourth reason for refusal ('RfR 4') relates to the effect of the proposal on protected species. RfR 4 concerns the loss of a bat roost arising from the proposal. The LPA is required to consider whether there would be a reasonable prospect of a licence being granted by applying the three derogation tests.

5. The LPA has confirmed that the final part of the wording for RfR 4 is inaccurate. Also, the LPAs Delegated Decision Report fails to provide a cogent and robust application of the derogation tests.

6. Therefore, RfR 4 makes inaccurate assertions about the proposal's impact, which is unsupported by any objective analysis. As such, this constitutes unreasonable behaviour.

7. However, to make an award of costs, I need to be satisfied that these matters resulted in unnecessary or wasted expense in the appeal process.

8. In this case, the LPAs refusal relates to other matters. Therefore, while I cannot be certain, it seems likely that even if the LPA had not included RfR 4, this would not have altered the LPAs decision to refuse the planning application on matters relating to the suitability of the location of the appeal site for housing and the effect of this on the character and appearance of the area. Therefore, an appeal could not have been avoided.

9. Moreover, there is no dispute that the redevelopment of the appeal site would result in the loss of a bat roost. As set out in my Decision, I am also required to apply the above derogation tests. Accordingly, the applicant's appeal submissions in respect of RfR 4 were relevant in my consideration of these tests. Therefore, the applicant's submissions in respect of RfR 4 are more than likely to have been required irrespective of RfR 4.

10. Given all the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal

INSPECTOR