Planning Inspectorate

Costs Decision

Site visit made on 28 January 2025

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

an Inspector appointed by the Secretary of State

Decision date: 03 February 2025

Costs application in relation to Appeal Ref: APP/D3505/W/24/3347507
The Mount, Bridge Street, Long Melford, Suffolk CO10 9BQ

- 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 and Mrs Paul & Lorraine Cooper for a full award of costs against Babergh District Council.
- The appeal was against the refusal of the Council to issue a notice of their decision within the prescribed period on an application for the erection of new off grid passive dwelling as replacement for permitted barn conversion dwelling. (1980's barn). Access as previously approved and implemented.

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. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the procedural handling of the case, and the substance of the matter under appeal. The applicants' cost claim is made on the basis that the reason for refusal does not stand up to scrutiny having regard to the referenced policies and precedent from other decisions issued by the Council.

4. The Council's reason for refusal is clearly articulated on its decision notice and the relevant policies of the development plan are referenced. The officer report provides more explanation of the reasons behind the decision.

5. Whilst the applicants suggest that the wording of Policy SP03 of the Babergh and Mid Suffolk Joint Local Plan – Part 1 (2023), provides support for the proposed development due to the reference to extant permissions. In my decision I have not found this to be the case. It is merely a statement acknowledging that new housing development may come forward from amongst other things, extant planning permissions. Policy SP03 is clear that for new development to be permitted outside of the settlement boundaries it must meet 1 of the 4 criteria specified. From the evidence before me, I have found that the proposal would not meet any of the 4 exceptions.

6. I am clear that the proposal could not reasonably be considered as a replacement dwelling, wherever it would be positioned within the appeal site. The existing barn is not currently occupied as a dwelling. Therefore, irrespective of what planning permissions may have been granted, there is no existing dwelling to replace. I am

therefore satisfied that the Council has applied the relevant policies correctly and that their reason for refusal stands up to scrutiny. I find no evidence that the Council has introduced any additional 'tests' not laid out in existing policies.

7. The Council gave clear consideration to the suggested fallback position of the approved barn conversion in its officer report, and it has substantiated its reasons in its statement of case. Just because it did not share the applicants' view, does not mean it was silent on the matter.

8. In any case, in my decision I have determined that the extant permission for the conversion and extension of the existing barn cannot constitute a fallback position, as no satisfactory mechanism to prevent it from being implemented alongside the appeal proposal, has been provided.

9. The applicants consider that similar cases have been approved against the same policies. From the limited information supplied, it appears that there are differences in the types of proposals and their circumstances, that means a different conclusion is not irrational.

10. For these reasons, I find that unreasonable behaviour has not occurred but instead, this highlights the difference of opinion between the parties in respect of the merits of the proposal. It therefore follows that unnecessary or wasted expense has not been incurred.

11. Any concerns with regard to the Council's handling of the application including the alleged lack of engagement, are a matter for the parties.

Conclusion

12. I find that unreasonable behaviour as described in the PPG, resulting in unnecessary or wasted expense has not been demonstrated. An award of costs is not justified.

M Clowes

INSPECTOR