



Costs Decisions

Hearing (Virtual) held on 11 January 2022

Site visit made on 12 January 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2022

Costs applications in relation to Appeal Ref: APP/L3245/W/21/3276073 Little Acorns, Adderley Road, Spoonley, Market Drayton, TF9 3SR

- The applications are 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 applications are made for full awards of costs by i) Mr Lee Gilbert against Shropshire Council and ii) Shropshire Council against Mr Gilbert.
 - The hearing was in connection with an appeal against the refusal to grant approval of details required by a condition of a planning permission for the erection of an agricultural workers dwelling.
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Decision

1. Both applications for awards of costs are refused.

Reasons

2. Planning Practice Guidance (PPG) advises that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Both costs applications were submitted orally at the hearing.

Application i) - Mr Gilbert against Shropshire Council

4. The applicant asserts that the Council behaved unreasonably in three ways. Firstly, by misinterpreting policy and giving too much weight to the Type and Affordability of Housing Supplementary Planning Document (SPD), in particular the figure of 100m² gross internal floorspace contained in that document, with no other reasons provided for the alleged harm caused by a larger dwelling.
5. In its written submissions and during the hearing, the Council explained that the 100m² figure contained in the SPD is a starting point, and gave an indication as to the sort of scale they would have considered to be acceptable in the case of a primary rural worker's dwelling. The adopted SPD is a material consideration in this proposal and the Council was entitled to give it weight.
6. The parties disagree about the interpretation of policy, but the Council's concerns over the ability of the business to fund the cost of the dwelling meant that it had sufficient basis for coming to the decision it did, which was supported by SAMDev Policy MD7a. Whilst I came to a different decision from the Council, unreasonable behaviour in relation to its application of policy has not been demonstrated.

7. The applicant's second point is that the Council behaved unreasonably by repeatedly requesting financial information, despite the applicant having previously responded in full.
8. The Council set out legitimate concerns about the financial situation, which required further exploration at the hearing. The establishment of a separate holding and trading company for the farm business may be common practice in agricultural businesses, but for the Council it was an unusual position which it had not often come across. Rather than any unreasonable behaviour on the Council's part, requests for additional financial information, in particular those regarding the holding company, appear to be a reflection of the Council's efforts to understand the situation, to enable it to come to an informed decision.
9. Thirdly, the appellant contends that the Council's approach was based on prejudice against the proposal and the nature of the business carried out, and that this constitutes unreasonable behaviour.
10. I have found no compelling evidence of prejudice on the Council's part in its written or oral evidence. At the hearing, the Council may have used somewhat outmoded language to describe the farm operation, but I am not persuaded that the Council's decision was unduly influenced by preconceived ideas or negative views about the business, such as to result in unreasonable behaviour.

Application ii) – Shropshire Council against Mr Gilbert

11. The Council's application for costs relates firstly to alleged unreasonable behaviour resulting from the appellant's submission of two similar reserved matters applications for the same dwelling. The second application failed, in the Council's view, to address the earlier reasons for refusal, despite repeated requests for further information, in particular additional financial information, which could have been submitted confidentially as part of the application.
12. The applicant was entitled to submit a second application to try and overcome the Council's concerns. The application was supported by additional information, including updated financial information and an explanation of the relationship between the two companies. Whilst the Council still considered the financial information to be lacking, this represents a difference in judgement between the parties, rather than any unreasonable behaviour on the part of the appellant.
13. The Council's second assertion is that the submission of late evidence at the hearing represents unreasonable behaviour, with the suggestion that financial and land registry information could have been submitted earlier.
14. The late evidence was relevant to the case and so I accepted it at the hearing. Although the information had clearly been available to the appellant for some time, the timetable was such that it would not have been possible to have included either the updated financial statement or the land registry information as part of the appeal statement. As the appeals procedure rules do not provide for the submission of further information following the statement, the appellant has not attempted to 'bend the rules', and has not behaved unreasonably. Whilst it may have been helpful to have seen the additional information earlier, the Council was able to read and consider it during the hearing lunch break. It

was not necessary to have a longer adjournment, and so the consideration of the late evidence did not result in any undue delay or in unnecessary expense during the appeal.

Conclusion

15. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated by either party. Therefore, both claims for costs fail.

R Morgan

INSPECTOR