



Costs Decision

Site visit made on 27 June 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2024

Costs application in relation to Appeal Ref: APP/L3245/W/23/3330410 Land at Hengoed Fields, Upper Hengoed, Oswestry, Shropshire SY10 7EY

- 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 Michael McDonagh for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of the Council on an application for planning permission for stables, tackroom and foodstore, ménage, yard and access.
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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. The applicant considers that the Council has acted unreasonably in that the refusal is not based on relevant policies in the development plan, it has not been objective in its assessment, no substantive evidence of harm has been demonstrated and it has been inconsistent in allowing other similar applications in recent years.
4. The Council has referred to development plan policies in its reasons for refusal. The relevance of Policy MD7b is questionable as it refers to the re-use of existing buildings, replacement buildings and agricultural development. None of which apply to this proposal. Such a broad application of development plan policies is at the very least unhelpful in assisting the applicant's understanding of the Council's decision and is unreasonable.
5. Assessing the impact of a development on an area is to some degree inevitably subjective and it is not surprising that the appellant is able to point to other examples of equestrian related development in the wider area. However, in this regard I have no evidence that the Council's approach is unreasonable.
6. The decision notice comprises three reasons for refusal which the Council has defended. Although the third reason cannot be substantiated in terms of the development plan, notwithstanding the application of an irrelevant policy, the other two can. In exercising his right to appeal therefore, I do not consider that the appellant has incurred unnecessary or wasted expense in the appeal process.

7. Accordingly, whilst I find that the Council has acted unreasonably with regard to a misquoted policy, its decision has not prevented development that otherwise should clearly have been permitted, having regard to the development plan as a whole, national policy and other material considerations. Consequently, the appellant has not incurred unnecessary or wasted expense in the appeal process.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J D Clark

INSPECTOR