
Costs Decision

Site visit made on 9 September 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Costs application in relation to Appeal Ref: APP/U2370/W/21/3275045 Camberley Farm, Union Lane, Out Rawcliffe PR3 6SS

- 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 Mrs Harrison for a full award of costs against Wyre Borough Council.
 - The appeal was against the refusal of planning permission for change of use of land to form extension to existing caravan storage yard (B8).
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises through paragraph 028 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. Costs may be awarded to any party regardless of the outcome of the appeal.
3. Paragraph 049 of the PPG provides a non-exhaustive list of examples of unreasonable behaviour by local planning authorities. This includes substantive matters, such as 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, or relying on vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant contends that the Council erred in their assessment of the proposal, which was not supported by an industry standard assessment and is contrary to the conclusions reached in the Landscape and Visual Impact Assessment (LVIA) which was commissioned by the appellant. Firstly, there is no evidence before me that the Council have 'disregarded' the LVIA as the appellant contends; it is expressly addressed in paragraph 3.7 of the Council's appeal statement.
5. Moreover, there is no provision that I am aware of which requires a local planning authority to produce countervailing evidence, such as an LVIA, in response to a proposal. The onus is on those proposing development to substantiate their case.¹ Character and appearance or landscape effects is

¹ Section 62(3) of the Town and Country Planning Act 1990 as amended.

invariably a matter of planning judgement, and the decision ultimately reached by a Council in respect of a planning application may legitimately differ from the views of consultants.

6. The Council's concerns surrounding the proposal related to harm to the character and appearance of the countryside. Relevant development plan policies are referenced in the reason given for refusing permission. In my determination of the planning appeal that is the subject of this application, the appeal was dismissed due to identified harm to the character and appearance of the rural area. Accordingly, I do not find that the Council prevented or delayed development that should clearly have been permitted.
7. The decision-making process of planning applications necessarily involve matters of planning judgement. In this case, the reasons for refusal are detailed and the relevant policies of the development plan are cited. In reaching its decision the Council has had regard to the provisions of the development plan, the Framework and relevant material planning considerations including the views of consultees. In the appeal decision, I have concluded that the proposal is unacceptable for the same reasons as the Council.
8. To conclude, I have carefully considered the points raised by the applicant. However, it ultimately amounts to a difference of opinion as to the planning merits of the proposal which are addressed in the associated appeal. Consequently, I find that unreasonable behaviour as described in the PPG has not been demonstrated. I therefore determine that the costs application should fail, and no award is made.

C McDonagh

INSPECTOR