

Costs Decision

Site visit made on 24 August 2016

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 October 2016

Costs application in relation to Appeal Ref: APP/J1860/W/16/3150147 Broadwas Hall, A44 Broadwas, Worcestershire WR6 5NE

- 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 Dr Robert Shepherd for a full award of costs against Malvern Hills District Council.
 - The appeal was made against the failure to determine an application within the prescribed period for the creation of new vehicular access from the A44 to serve Broadwas Hall.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) Paragraph 030 advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The appellant's case relates to the Council's failure to engage with them in a timely manner and respond to their repeated attempts to discuss the scheme. It is further stated that despite the production of a comprehensive heritage evidence base, the Council raised an objection without providing an explanation of how their conclusions had been reached. Following this, the Council's continued lack of a response to the appellant's communications, and with reference to Paragraph 187 of the National Planning Policy Framework, their failure to work proactively with the applicant, is said to have led to the appeal against the non-determination of the planning application.
 4. I have been provided with various email correspondence sent from the appellant to the Council seeking feedback and updates. No substantive response has been received from the Council on the lack of communication and I do have some sympathy for the appellant's frustration at the lack of dialogue. However, the Council did contact the appellant prior to the target determination date and I note that an extension of time was also agreed. When the Council's response was received, despite it being brief, it would have been clear to the appellant that the Council would not be supporting the appeal application. The Council have produced a Statement of Case on this appeal and I have also been
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provided with the Conservation Consultation Response. The information within these demonstrates how they reached their view that the development would be unacceptable. Although I have reached different conclusions on the main issues, and I acknowledge the evidence produced by the appellant in support of the appeal application, the effect of a development on character and appearance and on heritage assets often involve matters of judgement and I do not consider that the Council have acted unreasonably in this regard.

5. As such, whilst I recognise the appellant's concerns relating to the handling of the application and the time delay, it must be shown that the unreasonable behaviour has led to unnecessary or wasted costs in the appeal process. Given that the Council would have refused permission, as they had indicated, this would not have avoided the need to pursue an appeal. As the costs for an appeal against non-determination would be similar to that against a refused planning application, I do not consider that the appellant has been put to unnecessary expense.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense has not been demonstrated.

F Rafiq

INSPECTOR