
Costs Decision

Site visit made on 3 May 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 18 July 2017

Costs application in relation to Appeal Ref: APP/Y9507/W/17/3167066 Hollow Farm, The Street, Bury RH20 1PA

- 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 Joe Godfrey for a full award of costs against South Downs National Park Authority.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the construction of outdoor swimming pool and associated changing room building.
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Decision

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

Reasons

2. 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. The application for costs seeks a full award on procedural¹ and substantive grounds².
3. The appellant states that the Council was unreasonable and the refusal was unnecessary as they failed to make a decision within the prescribed time period, there was a lack of communication from the Council during the application process, the appeal proposals followed the Council's pre-application advice process and a decision notice was issued contrary to proper procedures.
4. I appreciate the appellant's concerns regarding the Council's delays in processing the application and the responsiveness during the application process. However, the Council's submission and supporting evidence clearly shows that the Council was actively engaged with the appellant during the pre-application and application process and carried out their duty to assess the development proposal as submitted.
5. The email correspondence between the Council and the appellant's agent clearly shows the Council expressed concerns during the pre-application process about the proposal and showed the continued dialogue between the main parties and the Council's willingness to delay the determination to allow continued discussion on the proposal. In light of the evidence before me, I do

¹ Planning Practice Guidance: Paragraph: 047 Reference ID: 16-047-20140306

² Planning Practice Guidance: Paragraph 049 Reference ID 16-049-20140306

- not consider that the Council has acted unreasonably in this regard. The Council, in any event, are not bound by the officer's pre-application advice in making their final decision and are not legally bound to make a decision within the prescribed time period, if further consideration is necessary.
6. The Council acknowledge that it did not follow the correct procedures by issuing a decision notice to the appellant. Whilst the Council could be judged to have failed in this respect, I consider that the reasons for refusal outlined in the decision notice provide sufficient clarity to substantiate the details of the development that were considered unacceptable in this case.
 7. In addition, the appellant states that the Council was unreasonable as the concerns expressed about the proposal's impacts were based on generic policies and guidance relating to national parks and areas of landscape value and that was not specific to the appeal site. The appellant argues that the impact of the proposal on the setting of the listed building was not supported by any meaningful evidence and that the Council mistakenly made reference to the appeal site being located within a conservation area.
 8. However, the officer's report and Council's appeal statement demonstrate the Council's view as to how the proposal would be unacceptable using the evidence submitted by the appellant, third party representations and the Council's observations, including advice from the Council's Historic Building Advisor. The LPA submission clearly sets out the relevant policies from the Chichester District Local Plan First Review 1999 and the relevant sections and paragraphs in the National Planning Policy Framework that the proposal would be in conflict with. The Council's appeal submission acknowledged that the appeal site was outside the Bury Conservation Area.
 9. The appellant also argued that the Council failed to fully take into account similar developments for swimming pools in the area. The other developments in the area were acknowledged in the Council's appeal submission and as such I am satisfied that they had been taken into consideration. However, it is important that each proposal should be determined on its own merits including its particular location.
 10. It will be seen for the reasons set out in my appeal decision, I concur with the Council on this case that there were sufficient grounds for dismissal, relating to the harm caused by the proposed development to the character and appearance of the area including the setting of the adjacent Grade II listed building and the impact of the proposed spoil heap on the landscape character of the South Downs National Park. I came to that decision based on my consideration of the details and merits of the development, having regard to all the evidence and other matters raised. Accordingly, I consider that the Council has shown that it followed the appropriate procedures and was able to substantiate its decision on the above matters and cannot agree that the Council has acted unreasonably in this case.
 11. I therefore find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense which would lead to an award of costs, as described in the PPG, has not been demonstrated.

David Troy

INSPECTOR