
Costs Decision

Site visit made on 5 July 2017

by B Bowker Mplan MRTPI

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

Decision date: 25 July 2017

Costs application in relation to Appeal Ref: APP/M0933/W/16/3165777 The Copper Dog, Leece, Ulverston, Cumbria LA12 0QP

- 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 Alan Grove for a full award of costs against South Lakeland District Council.
 - The appeal was against the refusal of planning permission for the re-submission of previous planning application SL/2104/0794 for demolition of the former pub and the erection of 5 detached houses, including one garage.
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Decision

1. The application for an award of costs is refused for the reasons given below.

Reasons

2. The National Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only 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 PPG advises that examples of unreasonable behaviour by local planning authorities include not determining similar cases in a consistent manner and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration.
4. The appellant contends that the Council refused permission on the basis of issues not raised at pre-application stage relating to a marketing strategy and not having a valuation carried out by a chartered surveyor. It is also contended that the appeal could have been avoided had the appellant been given the opportunity to meet with the Council and respond to issues raised during the application process. Finally it is considered that the Council have been inconsistent in how they have determined the appeal proposal compared with a previous application at the site.
5. Whilst the appellant contests the applicability of Policy H13, it carried out a 9 month marketing exercise in accordance with its requirements. It is also clear from the policy that the marketing exercise and efforts undertaken to secure reuse of the facility require qualitative assessment. Consequently, whilst the policy does require a chartered surveyor to be involved in the marketing exercise, based on comments from its relevant expert, the Council had reasonable grounds for its concerns about the quality of the exercise

undertaken. Moreover, it is common practice that informal advice given regarding an application is done so without prejudice and cannot pre-determine the outcome of a subsequent application.

6. Based on the evidence before me it is clear that the marketing exercise was a fundamental concern for the Council that related to the principle of the proposal. I note that a meeting had been postponed in anticipation of comments from the external surveyor and that the issue of highway safety has subsequently been resolved. However, the Council had reasonable in principle concerns to not allow an opportunity for the submission of additional information or revised drawings which would not have changed the outcome of the application.
7. The Council were not timely in responding to the appellant's correspondence during the application process and this constitutes unreasonable behaviour. The appellant states that they would not have agreed to delay meeting the Council if they would have been aware of the delays involved. Whilst I acknowledge that the delays would have been frustrating for the appellant, I cannot conclude that this unreasonable behaviour has led to any wasted or unnecessary costs.
8. Nor can I agree that the Council have been inconsistent with how they dealt with the appeal proposal and previous application at the site as both proposals involve materially different designs. Moreover, both proposals were refused on grounds of local character and appearance thus matters of detailed design were not determinative.

Conclusion

9. Therefore, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. For this reason, and having regard to all matters raised, an award for costs is not justified.

B Bowker

INSPECTOR