



Costs Decision

Hearing Held on 27 March 2018 and 11 September 2018

Site visit made on 11 September 2018

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2018

Costs application in relation to Appeal Ref: APP/R0660/W/17/3181019 Mobberley Riding School, Newton Hall Lane, Mobberley WS16 7LQ

- 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 Stuart Nixon for a partial award of costs against Cheshire East Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for demolition of the existing buildings on site and the erection of church meeting hall (Use Class D1) with associated access, parking, landscaping and infrastructure.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

The submissions for Stuart Nixon

2. The costs application was made in writing. At the hearing the applicant reiterated his case.

The response by Cheshire East Council

3. The Council's response was made in writing and nothing further was added at the hearing.

Reasons

4. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
5. It goes onto state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to procedural matters such as failing to notify the public of a hearing where this leads to the need for an adjournment, or a lack of co-operation with other parties.
6. The day before the hearing opened the Council informed me that five bodies who had commented on the application had not been formally notified of the appeal or the hearing. Consequently, when I opening the hearing on the 27 March 2018 I informed all those present that the correct notification had not been carried out and that it would be prejudicial to those five bodies for the

hearing to continue without them being given the opportunity to comment on the appeal proposal and attend the hearing. The hearing was reconvened on 11 September 2018 with the proper notification having been done.

7. Though I accept the Council's failure to correctly notify those bodies was not intentional, it nonetheless amounted to unreasonable behaviour and lead directly to the adjournment of the hearing. As such, the costs incurred by the applicant in attending the hearing on 27 March 2018 was wasted expense. The costs incurred in attending the hearing on the 11 September 2018 was not wasted nor was any costs incurred in refreshing their case for the reconvened hearing.
8. I understand that a number of documents, including the Statement of Common Ground, the appellant's Supplementary Statement of Case, and representations from local residents were not available on the Council's website. Indeed the Council advise that in the interests of the General Data Protection Regulations, the representations from third parties were removed from their website.
9. The Council's website is the most convenient way to make documents available for public inspection, but there is no obligation on the Council to use only this media. Though I note the applicant's difficulty in contacting the Council and viewing all the appeal documentation, I have no evidence to suggest that all these documents would not have been available by other means such as visiting the Council's offices. The Town and Country Planning (Hearing Procedure) (England) Rules 2000 only require the Council to provide persons with a reasonable opportunity to inspect such documents, and it has not been demonstrated that the Council failed to comply with this.
10. I also do not consider the Council acted unreasonably by failing to meet local objectors particularly as, following their determination of the application, the Council's stance on the proposal aligned with those objectors.
11. To conclude, I do not consider the Council acted unreasonably with regard to the publication of documents, or by failing to meet objectors. However, their failure to notify the correct bodies was unreasonable behaviour and lead to wasted expense of behalf of the applicant. Therefore a partial award of costs is justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cheshire East Council shall pay to Stuart Nixon the costs of the appeal proceedings, more particularly described in the heading of this decision, limited to those costs incurred by him in attending the hearing on the 27 March 2018.
13. The appellant is now invited to submit to Cheshire East Council, to whom a copy of this decision has been sent, details of these costs with a view to reaching an agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Andrew Owen

INSPECTOR