



Costs Decision

Hearing Held on 21 May 2019

Site visit made on 21 May 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2019

Costs application in relation to Appeal Ref: APP/V0728/W/18/3198734 2 Old Station Road, South Bank TS6 6AD

- 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 R Foster for a partial award of costs against Redcar & Cleveland Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for change of use of land to private gypsy site.
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Decision

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

Background

2. A Hearing was originally scheduled to take place on 26 February 2019. However, on the day before the scheduled date, the Hearing was adjourned at the request of the previous Inspector.
3. A written claim for costs on behalf of the appellant was handed in at the Hearing to which the Council responded verbally. Following the Hearing, the Council provided correspondence with regards to a previous adjournment. The appellant has commented on the further correspondence. The submissions with regards to the costs application are summarised below.

The Submissions for Mr R Foster

4. The appellant believes that the Council has behaved unreasonably with respect to the procedure of the appeal. The Planning Practice Guidance states that an example of unreasonable behaviour includes failing to notify the public of an inquiry or hearing, where this leads to the need for an adjournment. He therefore asks for costs to cover time spent preparing for the adjourned Hearing.

The Response by Redcar & Cleveland Borough Council

5. It is alleged that the adjournment arose due to the Council not following the correct notification procedure. However, the original Hearing date was set and then adjourned at the request of the Planning Inspectorate. The Planning Inspectorate confirmed that as there were no interested party comments then the request to notify interested parties could be ignored, although in the

circumstances it was subsequently decided that those people notified of the application/appeal should be notified of the Hearing.

6. The Council is also of the view that there would have been no additional substantive work to prepare for the adjourned Hearing because all of the appeal documentation and statements would have been completed by the initial date set for the Hearing.

The Response by Mr R Foster

7. The appellant denies the Council's accusation that no additional substantive work was required to prepare for the adjourned hearing. It was some time since he submitted the appeal documentation and received the Council's documentation. All of which had to be reviewed and the appellant briefed by his agent. Furthermore, the agent had to spend time with regards to the adjourned Hearing for which the appellant has been invoiced. The appellant maintains that the adjourned Hearing has led to him incurring unnecessary cost and wasted expense and these costs should be reimbursed by the party who is held responsible for the adjournment

Reasons

8. The Planning Practice Guidance 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.
9. The Hearing was adjourned at the request of the previous Inspector as the Council had not sent a letter out informing parties of the date and venue. However, the letter from the Planning Inspectorate to the Council confirming the Hearing states that the Council should write to "...any interested third parties who have made representation at appeal stage telling them about the hearing details...". As no representations were received in respect of the appeal then no notification letters were sent by the Council. It is clear that the Council followed the specific advice in the letter from the Inspectorate with regards to the notification of the Hearing.
10. After subsequent correspondence, the Council was requested to notify all those people notified of the application/appeal and that the details of the hearing should also be advertised. Whilst it may have been good practice to do this initially, the fact that the Council did not do so does not amount to unreasonable behaviour.
11. I therefore find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR