
Costs Decision

Site visit made on 28 May 2019

by Eileen Griffin LLB Hons

An Inspector appointed by the Secretary of State

Decision date: 07 August 2019

Costs application in relation to Appeal Ref: APP/J1860/W/19/3224257 Laylocks Cottage, Broadheath Common, Lower Broadheath WR2 6RL

- 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 and Mrs Probert and Mr and Mrs Parkes for a partial award of costs against Malvern Hills District Council.
 - The appeal was against the refusal to grant planning permission for an outline application with all matters reserved for the erection of 4 self/custom-build dwellings and 1 affordable bungalow, revised access arrangements off Laylocks Lane and associated works and landscaping.
-

Decision

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

Reasons

2. Paragraph 30 of the Planning Practice Guidance (the Guidance) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicants made a claim for a partial award of costs in paragraph 3.6 of their Statement of Case.
4. The basis for the claim relates to the need for the applicants to instruct professional landscape consultants to address the reason for refusal that relates to the character of the landscape setting.
5. The applicants believe that the reason for refusal was “entirely without substance and contradicts the Council’s own professional landscape officer on a previous scheme”.
6. However, the issue before me is whether the Council was unreasonable in pursuing this specific reason in respect of this appeal. Matters such as whether or not the previous scheme was withdrawn or the qualifications of the officer involved in any scheme are not relevant.
7. The Council set out its case in this respect clearly in its evidence. The issues were not excessively complex and it was a matter of choice for the appellants as to whether to instruct a professional landscape architect.
8. The applicants also consider that the Council seeking to discredit comments of their own officers is another example of unreasonable behaviour. The Council

was seeking to explain the circumstances that arose with regard to comments made in September 2015 on a previous application and that in itself, does not constitute unreasonable behaviour.

Conclusion

9. I therefore find that unreasonable behaviour as described in the Planning Practice Guidance has not been demonstrated and as such there can be no question that the applicant was put to unnecessary or wasted expense.

E Griffin

INSPECTOR