



Costs Decision

Site visit made on 19 November 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2019

Costs application in relation to Appeal Ref: APP/X2220/W/19/3233848 Land to the rear of Station Road, Walmer, CT14 7RH

- 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 Bray for a full award of costs against Dover District Council.
 - The appeal was against the refusal of planning permission for residential development (involving up to 5 single storey dwellings) and visitors car park and turning head.
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Decision

1. The application for an award of costs is allowed in part.

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.
3. There are two strands of the applicant's case. Firstly, the process adopted by the Council having initially considered the original application in November 2018 but deferring its decision until relevant organisations could be consulted. Secondly, whether it was reasonable for the Council to defer making a decision as the views from relevant organisations were not taken into account when the Council made its decision in April 2019.
4. It is clear from the evidence submitted that when the Council considered the original application in November 2018, it legitimately had concerns regarding the suitability of the access proposals for service and emergency vehicles. In order to resolve those concerns it was felt that further consultation was required with the relevant organisations, before a decision could be made which inevitably resulted in delay.
5. Further, due to an alleged change in the position by the appellant with regards the re-surfacing of the access from Station Road, it was necessary to re-consult with interested parties so that members of the public were not prejudiced. The process of re-consultation inevitably contributed to delay but was justified and would not constitute unreasonable behaviour by the Council.
6. On the matter of whether the Council took into account the expert evidence and the results of the consultations with the relevant organisations, it is clear that the members of the Committee, based their original decision on local

- knowledge. The decision is a matter of judgement and the Council members were entitled not to accept the evidence submitted to it at that time.
7. However, based on the minutes of the Council meeting in April 2019 submitted as evidence, the Council did not take into account the evidence subsequently submitted to it in the Planning Officer's report. Whilst there was discussion with regards ownership of the access roads, which is matter outside of the planning process, there is no minute indicating that the advice of the Planning Officer's report was taken into account in relation to the consultation with the relevant organisations or the expert evidence subsequently submitted by the appellant.
 8. The report clearly states the outcome of the consultation the Highways Authority, Kent Fire and Rescue Service and the Council's waste services which raised no objections to the proposed access arrangements. Also, the Planning Officer's report referred to the technical evidence submitted by the appellant, which demonstrated the suitability of the proposed access. Given the scope of this evidence the Council would have been able to balance its judgement on technical advice and local knowledge. However, the outcome of the consultation with the relevant organisations and the expert evidence submitted by the appellant does not appear to have been taken into account when the Council made its decision and there is no minute of the meeting to indicate that it was considered.
 9. Therefore, whilst the deferment of the decision by the Council was valid and justified, it subsequently failed to take into account the response to the consultations undertaken and the additional technical evidence submitted by the appellant. The Council's Committee minutes provide no evidence that the outcome of the deferment and the expert advice received was considered or used to substantiate the decision taken. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described by the PPG has been demonstrated and that a partial award of costs is justified.

Costs Order

10. 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 Dover District Council shall pay to Mr R Bray, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the appeal process and limited to the costs of producing the technical report on the suitability of the proposed access arrangements and the application for an award of costs; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Dover District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul Wookey

INSPECTOR