The Planning Inspectorate

Costs Decision

Site visit made on 4 December 2019

by Anne Jordan BA (Hons) MRTPI

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

Decision date:09 January 2020

Costs application in relation to Appeal Ref: APP/W0530/W/19/3227137
The Barn, Church Lane, Comberton, Cambridge, CB23 7ED

- 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 Mike and Sarah Tebbit for a full award of costs against South Cambridgeshire District Council.
- The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Development Order 2015 (the GPDO).

Decision

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

Reasons

2. 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.

3. The appellant's case rests in part on the fact that the Council concluded that the proposal would result in substantial harm to heritage assets. I concur with the appellant, that "substantial harm" should normally be interpreted to relate to an impact of such magnitude that it would very much reduce or entirely remove the significance of the heritage asset. In this case the Church of St Mary derives only part of its significance from its rural setting, and although this is an important aspect of the asset, the harm that would arise from the proposal would amount to "less than substantial harm".

4. The appellant considers that the Council's view, that the harm to the heritage asset amounted to substantial harm, did not stand up to scrutiny and was unreasonable, as it amounted to providing information that was inaccurate. Furthermore, the appellant contends that the Council did not appropriately consider the benefits of the scheme and did not appropriately weigh them against the impacts of the proposal on heritage assets.

5. I have concluded that the proposal would amount to "less than substantial harm" and so I do not concur with the Council's assessment of the effects of the scheme. This is a matter of judgement, and I do not in this case consider that the Council's assessment of harm was entirely unreasonable or that its case in relation to the effect of the proposal on heritage assets was unsubstantiated.

6. However, the Council provided no assessment of the potential benefits of the scheme. The decision notice refers to "insufficient justification to demonstrate that the public benefit would outweigh the substantial harm", but the officer report, and the submitted appeal statement provide no evidence that they have considered the public benefits of the scheme, which were contained within the design and access statement supporting the application. I consequently cannot be assured that the Council balanced the identified harm against the benefits of the proposal. It follows that the Council failed to provide appropriate evidence to support their case and so behaved unreasonably.

7. Without an appropriate assessment of benefits, the appellant could not have been assured that the Council's decision was properly arrived at and so would have been obliged to pursue the scheme through the appeal process. Therefore, although for the reasons outlined in my decision I have concluded that the appeal be dismissed, the appellant will nonetheless have incurred unnecessary or wasted expense in the appeal process.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 Cambridgeshire District Council shall pay to Mike and Sarah Tebbit, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. The applicant is now invited to submit to Cambridgeshire 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.

Anne Jordan

INSPECTOR