
Costs Decision

Site visit made on 30 July 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Costs application in relation to Appeal Ref: APP/M1005/W/3229071 Land at Park Lane, South Wingfield, Alfreton, Derbyshire DE55 7LR

- 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 David Wilson for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of to issue a notice of planning permission for change of use of land from former nursery and garden centre and the erection of 23 timber chalets.
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Decision

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

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 appeals process.
3. The Applicant's claim is based on the length of time which the Council's heritage adviser took to respond to the proposal, rather than its actions during the appeal. The planning application was submitted towards the end of August 2018 yet the heritage adviser did not respond to the case officer until the end of January 2019. The application was subsequently refused in March 2019.
4. During the period August 2018 to January 2019 the Applicant undertook further studies to support his proposal, including a landscape and visual assessment, ecological assessment and other technical reports. Had the response of the heritage adviser been received within the normal 21 day period it would have been apparent to the applicant that the Council was unlikely to grant planning permission, and he may not have commissioned these studies.
5. The PPG sets out the requirements for consultation where a proposal may affect the setting of a Grade I or Grade II* Listed Building. Given the Grade I status of Wingfield Manor it was mandatory for the Council to consult Historic England (HE) who responded towards the end of September 2018. HE did not offer any comments on the proposal but suggested that the Council obtained the views of its own specialist conservation adviser.
6. I have no information before me as to the specific arrangements which the Council has in place for obtaining advice on conservation matters. Under the

relevant planning regulations¹ statutory consultees are expected to provide a substantive response to the Council within 21 days, unless a longer period is agreed. However, in this case the Council was obtaining its own specialist advice on the matter, not that of a statutory consultee.

7. It is understandable that the Applicant is aggrieved at the time taken by the Council to obtain advice in relation to the effect the proposal would have on the designated heritage assets in the vicinity of the site.
8. The PPG is clear that the behaviour of a planning authority at the application stage may be taken into account in considering whether or not costs should be awarded. The PPG provides examples provided of behaviour which may lead to a claim for costs. The list is not intended to be exhaustive, however for the reasons given I do not consider the substance of the applicants claim to constitute such unreasonable behaviour. The Council's ultimate decision was reasonably based on policies in the development plan and other material considerations.
9. On that basis, it has not been demonstrated that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense in the appeal process.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tim Wheeler

INSPECTOR

¹ The Town and Country Planning (Development Management Procedure) (England) Order 2015