



Costs Decision

Hearing Held on 27 November 2019

Site visit made on 27 November 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2020

Costs application in relation to Appeal Ref: APP/W1850/W/19/3232124 Land South of Church Road, Brampton Abbots, Ross on Wye, Herefordshire

- 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 Adam West for a partial award of costs against Herefordshire Council.
 - The appeal was against the refusal planning permission for construction of no.10 residential dwellings, no.10 car ports & no.2 garages and associated works.
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Decision

1. The application for costs is refused.

The submissions of the main parties

2. The appellant made a written application for a partial award of costs against Herefordshire Council ahead of the hearing in respect of the sustainability and highway safety issue. Nothing further was added orally at the hearing.
3. The Council's response was provided orally at the hearing. A summary of the response is set out at the end of this decision.

Reasons

4. 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.
5. The appellant claims that he incurred wasted expense through the preparation of highway evidence which was unnecessary following the Council's withdrawal of that particular reason two days prior to the hearing.
6. The Council's highway reason for refusal related to both issues of sustainability and safety. In respect of the sustainability of the site and opportunity to promote walking and cycling, the Council has conceded that there are few realistic measures that can be implemented to make the routes more user-friendly in this regard. In respect of safety, the appellant provided an initial speed survey of the village along Church Road, and then a matter of weeks before the hearing, provided another speed survey along Ross Road. The review of the final submission allowed for the Council to withdraw its reason for refusal, having the benefit of a holistic picture of speeds of traffic along both main roads into and through the village.

7. Much of the technical evidence produced to rebut the Council's stance has been prepared following the reason for refusal and in relation to a separate scheme for seven dwellings on the same site, now also subject of a separate appeal. I agree with the Council's chronology of events insofar as the submissions of the technical highways evidence is concerned. I do not consider that the appellant was put to wasted expense in having to provide this evidence and whilst the removal of the associated reason for refusal came at a late stage, it came as the appellant sought to reach an agreed position between the parties in relation to both of the appeal schemes.
8. The appellant did not send a representative to the hearing specifically to deal with highways matters and nor is it suggested that there were wasted expenses incurred for a late cancellation for planned attendance.
9. Consequently, based on the information before me, there is no evidence that demonstrates that the Council have behaved unreasonably, either substantively or procedurally, in relation to its determination of the appeal application or handling of the appeal, nor that there was wasted expense in the appeal process.
10. For these reasons, and having regard to all other matters raised, an award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR

Annexe: Submissions made orally at the Hearing

The response by the Council

1. The Council reiterated the extenuating circumstances that led to the original case officer not being able to present the case in person at the hearing. The Council highlighted that the highway safety reason was justified and that the decision to withdraw this reason was made at the earliest possible opportunity.