
Costs Decision

Site visit made on 2 June 2020

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 9th June 2020

Costs application in relation to Appeal Ref: APP/C1625/W/20/3244394 Stamages Lane, Painswick, Gloucester

- 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 M Nicholls, Mr C Nicholls, Mr R Oldham for a full award of costs against Stroud District Council.
 - The appeal was against the refusal of planning permission for an outline application for the erection of 8 dwellings.
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Decision

1. The application for costs is refused.

Reasons

2. The application is for a full award of costs and was made in writing within the prescribed period.
3. Planning Practice Guidance (PPG) advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary expense in the appeal process.
4. The applicant contends that the Council has behaved unreasonably by preventing development which should clearly have been permitted. They explain that there was an ongoing dialogue with the Council regarding drainage when the application was refused with this being the sole reason for refusal. They assert that further discussions with the Council's engineer could have resolved the issues either to the satisfaction of the engineer or to discharge into Severn Trent's foul water system. The applicant commissioned an independent peer review of their drainage solution to support their position. The applicants assert that Severn Trent Water are obliged to accept surface water where there is no alternative and the appeal should have been unnecessary. However, there is no confirmation of this from the water authority that they agreed to this as a solution.
5. Conversely the Council set out that drainage plans submitted in February were found to be unacceptable due to the outfall route, existing surface water system and known ground conditions proving unacceptable. The applicant was made aware of the issue and an extension of time was agreed. Despite further work in the following three months no additional information was formally submitted and in its absence the Council proceeded to a decision on the basis that additional information required was not forthcoming. The Council say they

moved to a decision as they had no evidence or confidence that a suitable and acceptable solution was available, or if it was that it had not been demonstrated.

6. It is for the applicant to demonstrate what steps will be taken to address flooding issues and this includes addressing whether it will increase flood risk elsewhere. As this was not satisfactorily addressed it was not unreasonable for the Council to proceed to a decision in the absence of the requested information.
7. Taking the above into account I consider that these circumstances do not amount to unreasonable behaviour. The PPG makes it clear that any application for costs needs to clearly demonstrate the basis for alleged unreasonable behaviour and how this resulted in unnecessary or wasted expense in the appeal process. I have not found that unreasonable behaviour occurred, and it is not therefore necessary for me to consider the matter of unnecessary or wasted expense.

Conclusion

8. In the light of the above findings I have concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs has not been justified.

Janet Wilson

INSPECTOR