
Costs Decision

Site visit made on 7 July 2020

by D.R McCreery MA BA (Hons) MRTPI

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

Decision date: 13 August 2020

Costs application in relation to Appeal Ref: APP/L3625/W/20/3244966 Three Horseshoes Inn Public House, Ironsbottom, Sidlow RH2 8PT

- 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 Mrs Pamela Ridge for an award of costs against Reigate & Banstead Borough Council.
 - The appeal was against the refusal of planning permission for change of use from A4 public house to C3 residential.
-

Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 047 of the Planning Practice Guidance sets out a non exhaustive list of examples of unreasonable behaviour by local planning authorities that may give rise to a procedural award of costs. This includes a lack of co-operation with the other party or a delay in providing information.
4. The Appellant states that the Council did not respond promptly to requests to clarify whether the planning application was considered by them to be minor commercial development or a full application. This delay led to confusion over the relevant deadline for making an appeal which amounted to unreasonable behaviour and caused the Appellant unnecessary and wasted expense in the appeal.
5. The initial decision around whether the planning application was regarded as minor commercial development or a full application fell to the Council. As this relates to the planning application process, rather than the appeal, the question of whether the correct judgements were made by the Council in making this initial decision fall beyond the remit of this costs decision. Any concerns in this regard are best addressed initially by the Council, through their complaints procedure.

6. The Appellant's evidence indicates that, post the issuing of their decision, the Council indicated that a 12 week deadline would apply for making an appeal on 5 August 2019. The Appellant wrote to dispute this on 19 September 2019 and, following chasing by the Appellant, the Council formally confirmed that they had reconsidered their initial position and agreed that a 6 month appeal deadline applied on 4 October 2020.
7. Whilst I can understand that the reversal of this decision would cause some uncertainty for the Appellant, its practical effect was to give them more time to prepare their appeal. Any work on the appeal undertaken up to that point was work that would have been carried out anyway. As such, no wasted expense was incurred in respect of this work.
8. Further, I do not consider the circa 2 weeks it took the Council to respond to the Appellant's correspondence of 19 September to amount to delay or a lack of co-operation. The Council were entitled to consider their position properly and the fact that they reversed their initial view does not in itself indicate unreasonable behaviour.
9. The Appellant refers to considerable unwarranted expense incurred trying to resolve an unnecessary dispute with the Council. The evidence supplied by the Appellant indicates that much of this amounted to chasing a reversal of the Council's initial decision. It is unclear from the evidence supplied how this amounted to considerable unwarranted expense.
10. Accordingly, I find that the Council did not act unreasonably in their response to the request to clarify whether the planning application was considered by them to be minor commercial development or a full application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

D.R. McCreery

INSPECTOR