



Costs Decisions

Site visit made on 15 September 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2020

Costs application in relation to Appeal Ref: APP/P1615/W/20/3254588 Severn Bridge Park Homes, Former Buttington Works, Beachley NP16 7HQ

- 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 Forest of Dean District Council for a partial award of costs against Mr Jason Smith of Tremlo Limited.
 - The appeal was against the refusal of planning permission for change of use of disused industrial site to extend adjacent existing park homes site with 29 residential park homes. Demolition of existing buildings. (Resubmission), with extended flood wall defence.
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Decision

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

Reasons

2. 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 appeal process. The PPG provides a number of potential examples of unreasonable behaviour by appellants including only supplying relevant information at appeal when it was requested, but not provided, at application stage, among other things.
3. The Council argue that the appellant's submission of the sequential test should have reasonably been contained within the flood risk assessment submitted under the application. Where applicable, the sequential test is an essential component in the wider assessment of flood risk in accordance with Section 14 of the National Planning Policy Framework and the PPG.
4. It was applicable in this case and the rationale is not clear as to why it was not submitted as part of the application, especially in considering the Council tried to provide the appellant with an opportunity to submit this information by deferring their original decision. Clearly, this was unreasonable behaviour, irrespective of whether I ultimately accepted the evidence under the appeal in accordance with the principles of the Wheatcroft judgement.
5. However, it is not clear how the Council has incurred unnecessary expense under the appeal as it would have needed to engage the evidence at one point or another in any event. In essence, the time taken for the Council to comprehend the evidence and set out a reasoned assessment of its content has been deferred from the application stage to the appeal stage. There is no evidence demonstrating that the expense at appeal is different to the expense at application and therefore no evidence to conclude that it was unnecessary.

6. Overall, the Council has failed to demonstrate that the unreasonable behaviour of Mr Jason Smith of Tremlo Limited led to unnecessary expense under the appeal.

Conclusion

7. For the reasons given, the application for an award of costs is therefore refused.

Liam Page

INSPECTOR