



Costs Decision

Site visit made on 29 September 2020

by D H Brier BA MA MRTPI

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

Decision date: 15 October 2020

Costs application in relation to Appeal Ref: APP/M1005/X/20/3253066 10 Main Road, Whatstandwell, Matlock, Derbyshire DE4 5HE

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D Unsworth and Ms J M Gadie for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development for use of land for private purposes incidental to the residential occupancy of 10 Main Road.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The nub of the claim is that the Council had been procedurally unreasonable in that there had been a failure to afford appropriate weight to the appellants' evidence. I accept that the Officer's report does not analyse this evidence in as much depth as perhaps might have been expected, but as I see it, the apportionment of weight was a matter for the Council's judgement and discretion. While little weight appears to have been given to the appellants' evidence, this is not something that I equate with unreasonableness on the part of the Council.
4. The Council acknowledge that no site inspection was carried out in connection with the LDC application. This could be perceived as somewhat unusual, but as I see it, the nature of this case is rather different from dealing with, say, a proposal which is likely to impact on its surroundings – visually or otherwise – where viewing the matter in its local context on a first-hand basis can often be a key element in the decision making process.
5. To my mind, the appellants' evidence, including the set of photographs chronicling the state of the land and the manner in which it had been used over a period of several years, was sufficient in its own right to enable the merits of the application to be assessed fully. And, although my site inspection was helpful in that it gave me a clear picture of the land and its surrounds, I am not satisfied that had the Council done the same thing, a different conclusion would

have been arrived at. At the end of the day, deciding whether a site inspection was needed was a matter of judgement for the Council. Having regard to the particular factors involved in this case, I do not consider the Council acted unreasonably in this respect.

6. Turning to the absence of a statement of case, this was another matter essentially for the discretion of the Council. Mindful that the onus of proving the case lay with the appellants, the Council were reasonably entitled to rely on the Officer's report, albeit a good deal of the latter is directed at the site's planning history.
7. I appreciate that in the absence of a Council's statement there was nothing upon which the appellants could base a final reply, but despite this, they were able to present a full and comprehensive case in response to the contents of the Officer's report and the reasons given for the refusal of the LDC application. Whether or not the matter should have been reviewed at appeal stage was another matter for the Council's discretion. In this instance, my view is that neither the apparent disinclination to do this, or to produce a statement, amounted to unreasonable behaviour.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

D H Brier

Inspector