



Costs Decisions

Site visit made on 17 September 2020

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th November 2020

Costs application A in relation to Appeal Ref: APP/H1840/W/20/3253097 Acton Manor, Acton Lane, Ombersley DY13 9TF

- 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 Marcus Rea for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for alterations and extensions.
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Costs application B in relation to Appeal Ref: APP/H1840/Y/20/3253210 Acton Manor, Acton Lane, Ombersley DY13 9TF

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Marcus Rea for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of listed building consent for alterations and extensions.
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Decisions

1. Both applications for an award of costs are refused.

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) 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. Paragraphs 046 to 049 set out the circumstances when the behaviour of a local planning authority might lead to an award of costs. These can either be procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. Examples of unreasonable behaviour by a local planning authority includes preventing or delaying development which should clearly be permitted; failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis
4. The appellant's case is essentially that the Council has provided inconsistent pre-application advice, that it has failed to properly assess the submitted documents or to properly evaluate by site visit or otherwise the proposals or to

- take into account a lack of objection to it and strenuous support from the Parish Council. Further, it is stated that the Council has delayed development which should clearly be permitted; has failed to substantiate the reasons for refusal and has refused the applications on vague, generalised or inaccurate assertions about the impact of the proposals.
5. It seems that two applications for pre-application advice were made by the appellant, both of which were responded to by the Council (Refs 18/00378/PD and 19/00312/PA). It appears from the evidence that the schemes put forward varied in the level of detail provided and that both differed from the proposal before me. The Council states that concerns were expressed in relation to both schemes and whilst the appellant states that conflicting advice was given, I have not seen any evidence to support this claim.
 6. The Council acknowledges that when determining the applications, no internal inspections of the building were carried out. However, the Council states that it was satisfied that it nevertheless had enough information to reach decisions based on the submitted information, historical records and on an external inspection carried out at the application site visit. As noted within my decisions, there is no requirement for an internal inspection to be carried out if other, sufficient evidence is available which enables a robust decision to be made. This appears to be the case here and I find no unreasonable behaviour by the Council.
 7. The Council appears to have had sufficient regard to the submitted supporting information which includes a floor plan showing the estimated chronology of the building indicating that some of the internal walling to be removed dates from the 18th Century.
 8. As can be seen from my decisions, I find that the proposals would result in harm to the Listed Building and that they are contrary to policies within the development plan. Consequently, I do not consider that the Council has delayed development which should clearly be permitted. Moreover, I am satisfied that the Council's reasons for refusal were sufficiently clear and precise and that the decisions to refuse consent for the proposals were based on an adequate analysis of the significance of the Listed Building and the effect of the proposals on that significance.
 9. The fact that there was a lack of objection to the applications, including from the Parish Council, does not weigh in favour of the proposals but rather is a neutral factor in the overall planning balance. Therefore, the fact that the Council's decisions do not accord with these views is not unreasonable behaviour on the part of the Council.
 10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, awards of costs are not justified.

Beverley Wilders

INSPECTOR