



Costs Decisions

Site visit made on 18 August 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2020

Costs application in relation to Appeal Ref: APP/W1850/W/20/3246248 Plot 1a, Land adjacent to the Village Hall, Aymestrey, Leominster, Herefordshire HR6 9SX

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Miss Isabel Probert for a partial award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for a 2 bedroom self-bungalow & garage.
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Costs application in relation to Appeal Ref: APP/W1850/W/20/3246643 Plot 6, Land adjacent to the Village Hall, Aymestrey, Leominster, Herefordshire HR6 9SX

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The appeal is made by Mrs Price for a partial award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for a self build retirement dormer bungalow with garage.
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Costs application in relation to Appeal Ref: APP/W1850/W/20/3246261 Plot 7, Land adjacent to the Village Hall, Aymestrey, Leominster, Herefordshire HR6 9SX

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The appeal is made by Mr Adam Probert for a partial award of costs against Herefordshire Council.
 - The appeal was against the refusal of planning permission for self-build bungalow with 2no. bedrooms & garage.
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Decision

1. The applications for awards of costs are refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applications centre on the applicants' claims that the Council: (a) failed to produce evidence to substantiate the first reason for refusal and (b) refused

- planning permission on a planning ground that was capable of being dealt with by a condition.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal or refuse planning permission on a planning ground capable of being dealt with by conditions.
 5. Regarding matter (a), the Planning Officer's Report in each of the three cases sets out the Council's rationale on the matter of effect on the River Wye Special Area of Conservation (SAC). The reports include reference to case law and the advice of Natural England and the Council's ecologist. The reports also contain the ecologist's assessment of additional information from the applicants' hydrological consultant, and why the ecologist considered there was insufficient data to undertake an Appropriate Assessment.
 6. The applicants express the view that the Council's ecologist appears to be unaware of the 78 page report from Hydrologic Services. Nevertheless, the Council responds in its Appeal Statements of Case that the ecologist was aware of the report of Hydrologic Services. The Council's Appeal Statements of Case also cross reference the delegated Planning Officer's Reports.
 7. I conclude on matter (a) that, in all of the three cases, through the combination of its Planning Officer's Report, Decision Notice and Appeal Statement of Case, the Council provided sufficient evidence to substantiate its first reason for refusal.
 8. In respect of matter (b) it will be clear from my appeal decisions that I find it is not certain that sufficient sustainable construction and energy measures could be secured by planning condition.
 9. To conclude, I find that in relation to matters (a) and (b) unreasonable behaviour is not decisively demonstrated.
 10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the applications for costs fail.

William Cooper

INSPECTOR