
Costs Decision

Site visit made on 11 January 2021

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Costs application in relation to Appeal Ref: APP/R3650/W/20/3258515 Land adjacent to Clover Cottage, Prestwick Lane, Chiddingfold, Godalming GU8 4XP

- 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 Day for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for erection of a detached dwelling together with associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicant alleges that the Council behaved unreasonably and inconsistently in refusing the application for planning permission, on the grounds that the pre-application response indicated support for the scheme.
4. It is acknowledged that the National Planning Policy Framework (the Framework) encourages pre-application engagement and that this has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.
5. However, while the Council's pre-application¹ response concludes that on the basis of the information provided, planning officers would be able to support these proposals, it also makes clear that the pre-application advice is informal. Moreover, the advice letter goes on to state that *"I trust the advice in this letter will be helpful guidance to you in processing your proposals. Nevertheless, I must confirm that the advice given in this letter forms my own personal professional opinion and will not prejudice the formal determination of any forthcoming planning application by the Council"*.
6. So, although the applicant did receive a favourable response from the local planning authority at pre-application advice stage, it is clear that the comments were made without prejudice and cannot therefore pre-determine the outcome

¹ Pre-application reference no. PA/2019/0128

of a subsequent planning application. It seems to me that the Council acted in good faith in providing the pre-application advice. This does not amount to unreasonable behaviour on the part of the Council.

7. The applicant refers to a costs decision² where the Inspector awarded costs against a Council because it had determined the application contrary to its pre-application advice in regard to highway safety. However, the circumstances of that case are not directly comparable with this appeal proposal. The Council did not market the land adjacent to Clover Cottage for development nor provide, in support of any such marketing exercise, technical information about a detailed matter, such as visibility splays, as it seems the Council did in the case referred to by the applicant. In regard to the appeal proposal, the applicant sought pre-application advice from the Council on subjective planning matters and informal advice was given without prejudice to a formal decision of any forthcoming planning application.
8. Whilst I appreciate that the outcome of the application will have been a disappointment to the applicant, the local planning authority were not unreasonable in coming to that decision. Indeed, following consideration of the application on its merits alone, I have concurred with the Council.
9. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

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

Andrew Bremford

INSPECTOR

² Appeal Ref: APP/P0240/W/18/3210480