
Costs Decision

Site visit made on 29 December 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Costs application in relation to Appeal Ref: APP/P1615/W/20/3260287 Spring Bank, Malswick, Newent GL18 1HF

- 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 Reg Daldrey for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for an office building with associated parking and works. Demolition of existing office building.
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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 local planning authorities including a lack of substantive reasons underpinning a refusal of planning permission, among other things.
3. As part of its case, the Council provide an assessment of the current development relative to the development refused under a previous application, in conjunction with negotiations under the current application, which identified residual matters relating to the scale of the development, its siting relative to other buildings and prominence when viewed from the highway. The level of assessment appears proportionate to the complexities of the case at hand, and there are clear linkages between the reasoning within the officer's report and the refusal reason on the decision notice and policy citations therein. Consequently, and altogether, I am satisfied that the Council's approach has been substantive.
4. In relation to pre-application advice given by the Council, PPG¹ is clear that such advice is not binding and does not pre-empt the democratic decision making process or a particular outcome. PPG² only identifies a Council's refusal to enter into pre-application discussions as an example of unreasonable behaviour. In this context, there is no evidence in front of me to demonstrate that the Council's decision counter to pre-application advice was fundamentally unreasonable behaviour.

¹ Paragraph: 011 Reference ID: 20-011-20140306 Revision date: 06 03 2014

² Paragraph: 049 Reference ID: 16-049-20140306 Revision date: 06 03 2014

5. As a result, the appellant's expenses were not borne out of unreasonable behaviour and were not therefore unnecessary or wasted.

Conclusion

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

Liam Page

INSPECTOR