
Costs Decision

Site visit made on 25 January 2021

by E Symmons BSc (Hons) MSc MArborA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2021

Costs application in relation to Appeal Ref: APP/G2713/W/20/3261318 151 High Street, Great Broughton TS9 7HB

- 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 Colin Donaldson for a full award of costs against Hambleton District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for a change of use of land for holiday accommodation and the siting of 4 holiday lodges with associated drive area at land to the rear.
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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.
3. This application for costs follows the failure of the Council to issue a notice of their decision within the prescribed period. In the applicant's view:
 - the Council failed to clarify what the harm of the proposal would be;
 - the Council moved its position part-way through the application process; and
 - the appeal should not have been necessary.
4. Initial pre-application advice was given without prejudice and was of a general nature as no plans had been submitted. Advice specifically detailed the need to demonstrate that the character and appearance of the open countryside would not be harmed. Potential highway issues were also raised.
5. Following an initial linear layout proposal and collaboration between the parties, an amended layout was submitted to the Council. The planning officer confirmed that this would represent a better option, but that he would have a meeting with the senior planner to discuss. Following this meeting, in an email dated 28 August 2020, the Council indicated that irrespective of resolving the highway concerns, the amended scheme would harm the character and appearance of the area and would be likely to be refused.

6. The email does not explicitly state which aspects of the proposal would harm the character and appearance of the area, but no suggestion was made that the principle of the proposal was inappropriate. As there were also highway issues to resolve, the Council suggested that the application be withdrawn. The applicant responded on 2 September 2020 requesting specific details of the concerns regarding harm to character and appearance. A meeting between the senior planner and agent then took place however, neither party took a note of the meeting and its conclusion is unclear to me.
7. The Council state that the application was not determined at this point as it was awaiting further information regarding highway issues; this is contended by the applicant. After this time, I have no evidence to suggest that the Council communicated with the applicant in writing to respond to their request for clarification and identify a future course of action. This was unreasonable.
8. With regard to the consistency of the Council's position through the process. The PPG indicates that if a local planning authority will fail to determine an application within the time limits, it should state why permission would not have been granted had the application been determined within the relevant time period. During determination of the application, concerns were raised by the Council regarding the effect of the proposal on the character and appearance of the open countryside and on highway safety.
9. Within its appeal statement of case the Council provided reasons why permission would not have been granted had it made a decision. Both issues had been raised within the pre-application advice. The Council's concerns regarding the effect of the proposal on the character and appearance of the area have therefore been consistent throughout the process from pre-application advice through to their appeal statement. Consequently, I find no unreasonable behaviour by the Council with respect to the consistency of their position.
10. I realise that the applicant is dissatisfied with the costs associated with pre-application advice and the Council's handling of the application. However, an application for costs can only pertain to those costs incurred within the appeal process. These matters are outwith the scope of this decision.
11. The Council was unreasonable in its failure to respond to the applicant's queries regarding details of the nature of the harm identified to the area's character and appearance. Notwithstanding this, and resolution of the highway concerns, had the application been determined at this time, it would have been refused. This is supported by my own assessment of the appeal. Had the applicant wished to challenge this decision, an appeal would have been necessary, and the expense associated with this incurred. Consequently, the Council's failure to determine the application within the prescribed time limit does not amount to unreasonable behaviour in this instance.
12. From the evidence provided to me, unreasonable behaviour leading to unnecessary or wasted expense, as described in the PPG has not been demonstrated. The application for costs is therefore refused.

E Symmons

INSPECTOR