
Costs Decision

Site visit made on 15 March 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2021

Costs application in relation to Appeal Ref: APP/ C3240/W/20/3260920 Park Inn Ironbridge Road, Madeley, Telford, TF7 5JU

- 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 John Kuschnir for a full award of costs against Telford and Wrekin Council.
 - The appeal was against the refusal of grant consent, agreement or approval to details required by a condition of a planning permission.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.
3. The applicant contends that the Council has behaved unreasonably by refusing the application to discharge condition no. 5 on planning permission Ref: TWC/2013/0190 on submissions and proposals that did not form part of the applicant's submission. As a result of the Council's behaviour the applicant considers that unnecessary wasted expense of time and effort has been incurred. Moreover, in their view, the Council has further delayed and obstructed the development without reason.
4. I am clear that the applicant's submission relied on the planning application form and a Drainage Strategy, dated 24.07.2015. I am also of the view that the Council understood what had been submitted by the applicant. However, in assessing whether this strategy could be discharged, it would not have been logical for the Council to ignore the comments it made, and the decision it took some years earlier based on the very same drainage strategy. To do so would be inconsistent. So, while the hydraulic model was not submitted by the applicant as part of their latest discharge application, equally the Council's concerns that were highlighted to the applicant as part of the latest request were a relevant consideration as the drainage strategy had not changed.
5. I have regard to the considerable correspondence between the parties along

with the views expressed about each other's points. It is clear to see the disagreement that exists and the effect this has and is having on any form of progress being made towards the development approved on the site coming forward. Understandably this appears to be frustrating for all concerned. While, each party is entitled to have their own opinion, and the appellant has engaged with the Council, the outcome has not yielded an outcome that satisfies either party. This is in no one's interests, but the Council has engaged in the process of considering the applicant's drainage proposals, has tried to explain their concerns and has suggested ways to overcome those concerns.

6. I note the applicant's points about consistency in decision-making and their reference to a number of other sites in the locality which are said to have requirements for flow control and/or set a reduction in surface water discharge. While there may be differences in the conditions imposed on these sites and that relating to the Park Inn, the merits of whether the condition as imposed met the relevant tests is an entirely separate matter as the Council's task in this case was to consider whether the submitted scheme enabled condition no. 5 to be discharged. I consider that they have acted consistently insofar as their consideration of this particular condition and acted reasonably.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR