
Costs Decision

Site visit made on 27 April 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Costs application in relation to Appeal Ref: APP/P1045/W/20/3264715 Land at The Old Barn, Rise End, Middleton by Wirksworth DE4 4LS

- 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 Ms Cheryl Harris for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the refusal of planning permission for erection of a detached dwelling and reconfiguration of access.
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Decision

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

Reasons

2. The 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. The applicant is of the view that, the Council has failed to provide a reasonable level of service during the 'pre-application phase' and throughout the 'formal planning application submission' process. In this case, it appears that pre-planning advice was first applied for after a previous planning application¹ at the site was refused by the Council. The applicant advises they gave up waiting and subsequently applied for a formal application² (second submission), the subject of this appeal.
4. There is no one-size fits all approach to providing efficient and effective pre-application services. Although, the PPG and the National Planning Policy Framework encourage pre-application engagement and that Local Planning Authorities are encouraged to take a flexible, tailored and timely approach to pre-application services they offer.
5. Informal advice given before an application is made, is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material considerations. It appears to me, that although there have been delays in the process of responding to pre-application advice, there was a genuine reason for this due to the pandemic. The Council have also responded back to the applicant on several occasions regarding the scheme, their pre-application advice service, refunded a fee and

¹ 19/01294/FUL

² 20/00348/FUL

advised on the requirement for planning fees for applications, under the regulations³.

6. It is also apparent that the Council have relayed their concerns regarding the proposal to the applicant, taking into account the Framework and development plan policies. Therefore, I do not consider, that any informal advice given was so misleading as to amount to unreasonable behaviour on the part of the Council.
7. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Council were not unreasonable in coming to that decision, and indeed following consideration of the application on its merits alone, I have concurred with the Council.
8. Finally, the applicant has stated that a fee should not have been required for a third application as they have used up their 'free go'. This is an administrative matter in relation to the application with the Council. Moreover, the third submission/application is not a proposal which is the subject of this appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

KA Taylor

INSPECTOR

³ The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, as amended.