



Costs Decision

Site visit made on 18 May 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 5 July 2021

Costs application in relation to Appeal Ref: APP/C1760/X/20/3255897 The Manor House, Downs Lane, Over Wallop SO20 8JZ

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Melvin Booth for a full award of costs against Test Valley Borough Council.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development for the use of Manor House (garage block) as independent dwelling house use Class C3.
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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 local planning authority where it has behaved unreasonably and this has caused another party to incur unnecessary or wasted expense in the appeals process. Examples of behaviour that may give rise to a procedural award against a local planning authority are lack of co-operation with other parties, or not agreeing a statement of common ground in a timely manner. Examples of the types of behaviour that may give rise to a substantive award are refusing to enter into pre-application discussions or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered to be narrowed.
3. The appellant argues that an inquiry could have been avoided if the Council had acknowledged the evidence regarding the nature of the residential occupation of the Manor House since 2002, as there would have been no need for cross examination. The Council was inconsistent in its concerns about the application, prior to deciding to refuse it. The Council could have assisted in overcoming some of the issues by co-operating with the appellant and participating in discussions, as well as agreeing a statement of common ground.
4. The choice of procedure for determining the appeal is ultimately a matter for the Inspector, having regard to the relevant guidance. The Council agreed to the written representations procedure and therefore it is not the case that they have behaved in a way that has made it necessary for the appeal to be heard through an inquiry.

5. Although there was some inconsistency during the consideration of the application regarding the lawfulness of the existing use, the Council made its reasons for refusing to grant a certificate clear in its planning officer's report, and they acknowledged the evidence with regard to the residential occupation of the Manor House.
6. The Council has engaged with the appellant to agree a statement of common ground, and a signed copy has been provided. I have seen no evidence that the Council refused to co-operate with the appellant to agree this. Copies of correspondence provided with the appeal indicate that there has been communication between the parties with regard to the substance of the appeal. In this instance it is not unreasonable for the Council to resist further discussions regarding the matters that are subject to the appeal, as it had made its position clear by refusing the application. It is not the case that further negotiations could have resulted in the appeal being avoided or that the matters in dispute could have been narrowed down further.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

N Thomas

INSPECTOR