

Costs Decision

Site visit made on 10 January 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2022

**Costs application in relation to Appeal Ref: APP/Q9495/W/21/3279281
Land to the rear of Fairfield, Randlehowe, Eskdale Green, Cumbria
CA19 1UA**

- 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 Taylor for a full award of costs against the Lake District National Park Authority.
 - The appeal was against the refusal of outline planning permission for development described as 'outline planning application for 3 No 1 bedroom dwellings or bungalows'.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, 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's case for a full award of costs is made on the basis that the Local Planning Authority's (LPA) refusal of planning permission was contrary to a positive pre-application response issued by the Authority. The pre-application advice was issued following an on-site meeting between the applicant and two officers from the LPA. The applicant alleges that for officers to take a contrary view once the planning application was submitted amounts to unreasonable behaviour on behalf of the LPA. They consider that this has led to wasted expense in the preparation of their case at appeal, as it is their view that planning permission ought to have been granted in accordance with the pre-application advice.
4. In assessing the appeal, it can be seen from my decision that I have found that the proposal would accord with the relevant policies of the development plan and that planning permission should be granted. However, that is a separate finding on the planning merits of the case, which, in itself, does not indicate that unreasonable behaviour has occurred.
5. I acknowledge that the pre-application advice was largely supportive of residential development on the appeal site. I also note that both the PPG and the Framework emphasise the value of pre-application discussions. It therefore appears that when officers were assessing the proposal at application stage, little, if any, regard was had to the positive pre-application advice that the Authority had issued.

6. I share the appellant's frustration in this regard as it is extremely unfortunate that the LPA's pre-application advice was contradictory to the decision it made when faced with an application. This is likely to erode trust and confidence in the LPA's pre-application service, ultimately damaging the reputation of the Authority's planning functions.
7. Nevertheless, informal pre-application advice issued before the submission of a planning application is given without prejudice and cannot pre-determine the outcome of any subsequent application, which must be subject to the full statutory process. Therefore, such advice is not binding on any future decision that the LPA may make¹. This disclaimer was made clear by the LPA in its pre-application response. Accordingly, whilst the LPA's pre-application service fell significantly short of the applicant's expectations, I cannot agree that the LPA has acted unreasonably in its handling of the application or subsequent appeal.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

J M Tweddle

INSPECTOR

¹ PPG Paragraph: 011 Reference ID: 20-011-20140306