
Costs Decision

Site visit made on 28 February 2023

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Costs application in relation to Appeal Ref: APP/K1128/W/22/3299402 Welbeck Manor, Sparkwell PL7 5DF

- 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 Paul Yarnley of Victoria House Development Ltd for an award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission described on the application form as '4No Detached Dwelling With Garages'.
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Decision

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

Preliminary Matters

2. The application for costs does not expressly state whether the applicant is seeking a full or partial award of costs against the Council. On the basis of the information before me, it appears that the applicant is seeking costs in relation to the manner in which the Council determined the planning application and all five reasons for refusal given by the Council on its Decision Notice dated 23 November 2021. As such, I consider that the application seeks a full award of costs and I have determined this application accordingly.

Reasons

3. The Planning Practice Guidance advises that costs may be awarded where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. Costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
5. I accept that the change in case officer during the determination of the planning application has resulted in frustration for the applicant, not least because there was a change in the way the proposal was assessed against the development plan. This was unhelpful but given that the original case officer left the Council, and the acceptability of the proposal turned on matters of planning judgement, this does not amount to unreasonable behaviour. The new case officers' reference to a pre-application response appears to have been an error which the applicant corrected in their email response of 8th June 2021, well before the submission of the appeal.

6. It seems that the applicant may also have encountered delay in the determination of the application. However, I have no substantive evidence before me that the applicant incurred any additional expense as a result of this delay.
7. There is no written evidence to suggest the Council's Landscape Officer considered the revised plans submitted by the applicant, but the Council have indicated that discussions took place between the Landscape Officer and the case officer. A file note of any discussion would have been advantageous, but I do not have substantive evidence before me that demonstrates the Landscape Officer did not consider the additional evidence provided.
8. The reasons for refusal are substantiated by the Council in its Officers Report together with the additional letter dated 16 January 2023. I do not know whether this was done with or without the benefit of a site visit but in dismissing the appeal, I have found that the Council had reasonable concerns about the impact of the proposal which justified its decision and that the Council's case for refusal was well-founded. Whilst I do not share the view of the Council in respect of their reason for refusal 3, they have nonetheless reasonably articulated their concerns in the appeal submissions.
9. With regards to reasons for refusal 4 and 5, the applicant submitted additional information at appeal stage to address the Council's concerns. Whether the Council were right to refuse the application without a formal consultation response from the Council's own drainage engineer or whether these matters could have been adequately addressed by a condition could have been a matter for the appeal. However, the applicant chose instead to submit additional information in order to overcome those reasons for refusal. Having considered that additional information, the Council set out in their Statement of Case that, subject to the imposition of conditions to secure compliance in the event that the appeal was allowed, it addressed their concerns. This was done in a timely manner.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Alison Fish

INSPECTOR