



Costs Decision

Site visit made on 13 June 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Costs application in relation to Appeal Ref: APP/P1045/D/22/3307072 Cobscroft, Trough Lane, Hulland Village, Derbyshire DE6 3EP

- 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 Peter Sewell for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for single storey rear and porch extensions, application of insulated render to exterior walls and new access and roadway to field.
-

Decision

1. The application for an award of costs is refused in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. In essence, the applicant is aggrieved following the deferral of the application by the Council's planning committee (the committee), in light of a recommendation to approve the application and the position of the local highway authority (LHA). Furthermore, following an email notifying the applicant of the decision to defer with reasons on 17 August 2022, the applicant claims that no further communications were received from the Council, to the extent that the applicant chose to lodge an appeal 15 September 2022.
4. From the evidence before me, the planning application was validated 19 May 2022. The LHA made pre-application comments 20 May 2002, in light of which the applicant made an amendment to the planning application, after it had been submitted and validated. Formal comments were made by the LHA 26 May 2022. The LHA made no objection in both its informal and formal comments. The time period for determination was extended twice with the applicant's agreement to 11 August 2022 and latterly 19 August 2022. The committee considered the planning application 16 August 2022.
5. The applicant advises that an email 17 August 2022 detailed the reason for the deferral in that the Council required additional information regarding the construction of the proposed access in the interests of highway safety and in accordance with policies S4 and HC19 of the Derbyshire Dales Local Plan. The

- applicant suggests that Policy HC19 is not referenced in the report to the planning committee (the report), and its relevance is not clear.
6. While I have not been provided with copies of all of the relevant communications before me, including the email of 17 August 2022, the facts above are not in dispute.
 7. While the minutes of the committee confirm a deferral in order to gather further details of the planned construction and to allow for further investigation of the planned access to be undertaken by the LHA, they do not elaborate as to the concerns which led to this deferral. However, it is clear that members of the committee took this decision after they had visited the site, listened to speakers (including the applicant), and debated the merits of the case.
 8. The report clearly sets out the formal comments of the LHA. Section 3.0 clearly references Policies S4 and HC19 in terms of the relevant policies for decision making. While Policy HC19 is not explicitly referenced in the officer appraisal section of the report, the matter of safe access is a common consideration in each of the policies, and this is clearly addressed in the report. Members of a planning committee and officers are generally familiar with the content of policy, and it is therefore not necessary to make detailed comments in relation to all relevant policies within reports.
 9. The fact that the LHA raised no objection does not suggest that there were no other concerns about the proposed access and roadway. In this regard, the report recommends a condition to control the design of the proposed access and roadway in the interests of wider matters pertaining to highway safety.
 10. Members of a committee are not bound by an officer recommendation, and they are entitled to take a different view from their officers. In this case, the appeal site is in proximity to a conservation area and listed buildings. In light of the statutory duty for decision makers to consider heritage assets and concerns about the proposed access and roadway, members of the committee were not unreasonable in their decision to defer and request further information. It would also have been open to the committee to refuse the planning application, but they did not do so.
 11. Consequently, I find that the Council's behaviour is not unreasonable insofar as it relates to substantive matters.
 12. My attention is drawn to the lack of communication from the council after 17 August 2022. The Council's response to the application for costs is silent on this particular matter.
 13. Paragraph 033 of the PPG states that *"all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded."*
 14. If the Council had requested a further period of time in which to determine the planning application, or indeed advised when the matter would be further considered by the committee, the applicant may have chosen not to lodge the appeal. If the planning application was subsequently approved, it is likely that the applicant would not have chosen to appeal. However, if the planning

application was subsequently refused, the applicant may have considered an appeal against the refusal of planning permission, in which case such an appeal would not have resulted in unnecessary or wasted expense.

15. However, there is no evidence before me that the applicant sought to contact the Council after 17 August 2022. Had the applicant done so, the appeal may not have been lodged.
16. I do not therefore consider in this instance that the Council's actions have resulted in unnecessary or wasted expense on the part of the applicant.
17. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Moore

INSPECTOR