



Costs Decision

Site visit made on 18 October 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2023

Costs application in relation to Appeal Ref: APP/W1850/W/22/3299941 Land at Dukes Walk, Leominster HR6 8AE

- 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 Herefordshire Council for a full award of costs against Mr M Rohde.
 - The appeal was against the refusal of planning permission for "proposed property."
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. 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 costs should be awarded.
3. The Council considers that the appellant acted unreasonably in the submission of the appeal, on the grounds that the appellant only provided relevant information at appeal, lacked co-operation, and introduced fresh and substantial evidence at a late stage.
4. Alongside the application documents submitted to the Council, the appellant also submitted amended drawings, Heritage Statement, information on the River Wye Special Area Conservation (SAC) and Surface Water Drainage Design produced by H+H Drainage. Whilst these were submitted in response to the Council's reasons for refusal these issues were also raised in previous decisions¹ and an enforcement notice at the site, and as such were known to the appellant as early as November 2019.
5. Within my main decision I have outlined the reasons why I have not taken into account the amended drawings. Nevertheless, based on the evidence before me, the appeal scheme is largely similar to the previous appeal decision, enforcement notice and planning application refusal at the site.
6. The evidence before me indicates that the appellant was fully aware of the concerns of the Council in respect of the appeal scheme and only sought to

¹ P192798 refused on 22 November 2019, EN/2019/003061/ENN issued on 12 December 2019, APP/W1850/C/20/3245115 dismissed on 2 June 2020 and P210661.

address these during the appeal leading to the Council needing to review several documents and consult with technical specialists during the appeals process. The appellant only supplied relevant information at appeal stage and introduced fresh evidence necessitating additional work. As a result, the Council has been put to the expense of defending their position and providing responses on additional plans and evidence.

Conclusion

7. I therefore find that unreasonable behaviour by the appellant, resulting in unnecessary or wasted expense as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr M Rohde shall pay to Herefordshire Council, the costs of the appeal proceedings described in the heading of this decision.
9. The Council is now invited to submit to Mr M Rhode, to whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Tamsin Law

INSPECTOR