



Costs Decision

by Elaine Gray MA, MSc, IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Costs application in relation to Appeal Ref: APP/N2739/X/22/3304569
Land Off Heck Lane, Great Heck, Goole, North Yorkshire DN14 0BL

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the 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. Paragraph 49 of the PPG makes it clear that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, and also with respect to the substance of the matter under appeal.
3. The appellant voices concerns relating to the Council's handling of the LDC application that is the subject of the appeal, the time taken to reach a decision, and the nature of the advice they gave him. However, whilst I recognise the appellant's frustration, these matters do not relate directly to the appeal procedure. It is open to the appellant to raise these matters with the Council through the proper procedures if they so wish.
4. The appellant goes on to say that the Council refused the LDC application based on evidence from their enforcement file comprising a letter from MM Planning, dated 21 November 2018. In email correspondence, the Council say that this letter provides contradictory information over the use of the appeal site. The appellant states that he was not allowed the opportunity to see and respond to this letter.
5. In response to the appellant's request for the letter, the Council stated that the letter had to be kept confidential at that time, although they did anticipate that it would need to be made available at appeal. If an authority deems a document to be confidential, as is frequent in enforcement cases, then it is not unreasonable to decline to divulge such a document.
6. As the letter was written on the appellant's behalf by his own planning consultant at the time, it might be assumed that the appellant was aware of its contents. In any event, from my own reading of the letter, it does not appear that the Council's decision turned solely on the information within this document.
7. The appellant says that the Council have disregarded definitions set out in legislation and well-established case law. However, as he does not set out the

specific examples he is concerned about, it is difficult to comment on these in the context of this decision. He argues that the Council have disregarded examples of similar appeals. Whilst similar appeals are material considerations, but they are not determinative, as every case is to be determined on its own merits.

8. Finally, the appellant states that the Council did not produce any evidence to substantiate the reasons for the refusal of the LDC application. The Council have declined to submit a statement of case for the appeal, and they are not required to do so. However, they have provided a copy of the planning officer's report which sets out their analysis of the application.
9. As may be seen from the appeal decision, I have reached a different conclusion to the Council on a number of issues. These are matters of professional opinion in light of the available evidence, and professional opinion is often found to differ. The Council have explained their position and presented the analysis they undertook in the officer's report. The fact that they have reached a different conclusion to the appellant does not in itself amount to unreasonable behaviour.
10. Ultimately, however, the purpose of the appeal is to review the Council's decision to establish whether the refusal to grant an LDC was well-founded. The decision itself is subject to review, and not necessarily the reasons for it. The appeal was therefore necessary in order to examine the matters at hand.
11. As noted above, parties in planning appeals normally meet their own expenses. The appellant states that he has had to incur additional expenses in relation to the appointment of a planning consultant to provide guidance and handle the appeal process. The appointment of a consultant may be desirable, but it is not an obligatory part of the appeal process.

Conclusion

12. Therefore, drawing these threads together, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elaine Gray

INSPECTOR