



Costs Decision

Site visit made on 6 February 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2024

Costs application in relation to Appeal Ref: APP/M1005/W/23/3329397 Golden Valley Caravan Park, Coach Road, Golden Valley, Alfreton DE55 4ES

- 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 D Fretwell for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of planning permission for 10 No holiday chalets and formation of new site entrance.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) confirms that an award of costs is an order which states that one party shall pay to another party the costs, which may be in full or in part, incurred by the receiving party during the process by which the Inspector's decision is reached. The costs which can be claimed relate only to those costs incurred during the appeal process.
3. The PPG goes on to advise that, irrespective of the outcome of the appeal, all parties are expected to behave reasonably to support the appeal process and costs may only be awarded against a party who has behaved unreasonably and, that the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
4. Costs cannot be claimed for the period prior to, or during, the determination of the planning application. However, behaviour and actions at the time of the planning application can be taken into account in consideration of whether costs should be awarded.
5. Paragraph 047 of the PPG¹ indicates that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and will be at risk of a procedural award being made against them for reasons including a lack of co-operation with the other party.
6. Paragraph 049 of the PPG² indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and

¹ Paragraph: 047 Reference ID: 16-047-20140306

² Paragraph: 049 Reference ID: 16-049-20140306

any other material considerations, refusing planning permission on a planning ground capable of being dealt with by conditions, and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues being narrowed, thus reducing the expense associated with the appeal.

7. The applicant's claim is based on the length of time the Council took to determine the application, the number of Planning Officers that were involved, officers changing from recommending approval to refusal, and a lack of co-operation and communication with the Council, and other consultees, which has resulted in significant delays.
8. From the evidence before me, although the applicant did not request formal pre-application advice, the Council did not communicate as well as they could have, and this resulted in some degree of unreasonable behaviour during the consideration of the application on the part of the Council.
9. Whilst I appreciate that the outcome of the application would have been a disappointment to the appellant, especially given the evidence of the Planning Officer's informal advice during the consideration of the application, the Local Planning Authority were not unreasonable in coming to the decision to refuse, and following consideration of the appeal on its merits, I have agreed with the Council.
10. I find nothing to suggest that a decision was not reached on the basis of the proposal, as submitted by the applicant, and assessed against the Development Plan. For this reason, I find that the Council has not prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan.
11. The Council had reasonable concerns about the proposed development, which justified its decision. The appellant had to address those concerns and, even though the Council did not communicate well during the planning application, the appeal could not have been avoided.
12. I therefore have no substantive evidence that the Council has acted unreasonably in regard to the appeal. As such, there can be no question that the applicant incurred unnecessary or wasted expense in the process of the appeal.

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR