



Costs Decision

Hearing held on 7 August 2024

Site visit made on 7 August 2024

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Costs application in relation to Appeal Ref: APP/C1435/W/24/3341984 Land at Erleigh, West Street, Mayfield, East Sussex, TN20 6DR

- 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 Wealden District Council for a partial award of costs against Mr and Mrs R Harvey.
 - The appeal was against the refusal of planning permission for erection of 4.No dwellings, upgrading of existing vehicular access, landscaping and other associated infrastructure.
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Decision

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

The Submissions for Wealden District Council

2. The costs application was submitted in writing after the hearing. The Council seeks costs for its time in rebutting the applicant's costs claim as it was unreasonable and due to the complex legal issues raised. The Council considers many of the claims made by the appellant are baseless and misleading and that the appellant has sought to introduce new heritage evidence through the costs process.

The Response by Mr and Mrs R Harvey

3. The response was submitted in writing after the hearing. Mr and Mrs Harvey consider their application for costs was made appropriately, on a reasonable basis and was not an abuse of the process.

Reasons

4. 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.
 5. Mr and Mrs Harvey's key line of argument is that the Council's case with respect to heritage altered completely without explanation. There is a considerable planning history to the site, and both parties have cited this to bolster their respective arguments. Interpretations of events may vary between the parties, and the senior heritage officer comments of 28 March 2023 did express a view on the extent of less than substantial harm. However, Mr and Mrs Harvey's costs claim is not baseless or misleading. Nor does it seek to introduce new evidence in relation to heritage matters.
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6. The circumstances of *Davison*¹ do not precisely match those in the appeal before me, in that decisions were reached in that case. However, the view of the senior conservation officer changed between the withdrawn application for four dwellings² and the appeal before me. That view was a public response to what at that time was a valid planning application. That is fundamentally different to pre-application or other informal advice. That application was withdrawn for reasons unrelated to its planning merits. It would be a reasonable expectation to assume that, in the absence of any other material changes of circumstance, that view would remain unchanged. Were it to change, it would also be reasonable for an explanation to be provided. The evidence before me does not include an explanation, although the parties refer to this issue being discussed.
7. It is a basic tenet of the development management process that there should be consistency. *Davison* illustrates this. This is not a complex legal issue nor are any other aspects of the appellants' costs claim.
8. Applications for costs are part of the appeal regime. It was not unreasonable of Mr and Mrs Harvey to make such an application. The Council has not been put to unnecessary or wasted expense in responding to it.

Conclusion

9. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Jennifer Wallace

INSPECTOR

¹ *Davison v Elmbridge DC* [2019] EWHC 1409

² WD/2021/2754/F