



Costs Decision

Site visit made on 11 November 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

**Costs application in relation to Appeal Ref: APP/M2270/W/24/3343074
Land South of Nevill Court, Tunbridge Wells, Kent, TN4 8NL
Easting 556873 : Northing 138808**

- 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 Robert Legon (Legon Projects Ltd) for a full award of costs against Tunbridge Wells Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of building to dwelling and change of use to create new residential curtilage with access.
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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.
3. The applicant is seeking a full award of costs based on the difference between the pre-application advice that was received and the Council's formal decision. In particular, whilst the pre-application advice focused on various detailed aspects of the proposal, the eventual decision was that the scheme itself was inappropriate development in the Green Belt and so unacceptable in principle.
4. In essence, the Council's case is that pre-application advice is given informally and is non-binding. In any event, it is suggested there were differences between the pre-application scheme and the scheme that was submitted. Whilst the Council also alludes to the nature of the consultation responses and objections that were received, these are not relevant to this issue of costs.
5. Whilst in my main decision I have disagreed with the applicant's substantive case, it was not an unreasonable one to make. Parallels were also drawn with the nearby development at Cottage Farm, a scheme which was said to have encouraged the applicant in his endeavours and to use the same consultants.
6. I have no doubt that the pre-application advice therefore helped shape the eventual submission and gave the applicant hope of a positive outcome. However, from this background it is not clear that, had the pre-application advice been entirely negative, a planning application would not have been forthcoming.

7. Indeed, there is nothing before me to indicate that a different pre-application response from the Council would have necessarily altered the overall course of events and negated the need for the appeal. The outcome of my main decision demonstrates that the Council's advice, whilst perhaps ultimately of limited value to the applicant, did not prevent or delay development which should clearly have been permitted.
8. It seems to me that much of the applicant's criticisms relate to the quality of service received at the pre-application stage. The pre-application response could perhaps be described as the Officers hedging their bets. The advice did not necessarily rule out the proposal but instead highlighted some matters that would be looked at, were an application to be submitted, yet at the same time was not explicitly supportive of the proposal as a whole.
9. Whilst pre-application guidance does not bind a Council to any eventual decision, where there is an absence of clear and robust advice, trust and confidence in the service is likely to quickly erode. Any concerns over the Council's pre-application advice service would need to be addressed directly to the Council rather than through this decision.
10. Therefore, for the reasons given, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

Stewart Glassar

INSPECTOR