



Costs Decision

Site visit made on 29 October 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Costs application in relation to Appeal Ref: APP/Y9507/W/24/3339743 Plot 5, Land at Westbury Park, West Meon, Petersfield GU32 1NB

- 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 Paulette Tuson for a full award of costs against South Downs National Park Authority.
- The appeal was against the failure of the National Park Authority to issue a notice of their decision within the prescribed period on an application for: "Erection of storage building to provide secure facilities on site to give provision for storing tools/equipment. Enclosure of an existing compost unit. With permission for over night stays on site throughout the year and the right to erect, alter and maintain boundary treatments reinstated."

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. Unreasonable behaviour on the part of a local planning authority may include lack of co-operation with the other party, and delay in providing information or other failure to adhere to deadlines.
4. The applicant bought the appeal site in 2021 when, I understand, the land had no Article 4 Direction in place and permitted development rights were fully intact. The applicant is aggrieved that they could have utilised permitted development rights up until June 2023 when the South Downs National Park Authority (NPA) put a temporary Article 4 notice in place. It is alleged that this has de-valued the land. Compensation is therefore sought for the land value lost as well as the time, stress and unnecessary expense that has been incurred following legal and planning matters.
5. Further, the applicant perceives that the NPA was not willing to work with them to achieve a positive outcome via the planning process. Moreover, it is contended that the appeal process was avoidable had additional information been sought at application stage.
6. As set out in my appeal decision, the appeal procedure to which this costs application relates cannot consider the legal effect, validity, or reasonableness of the Article 4 Direction, or any related legal action. The PPG also sets out that

whilst costs applications may relate to events before the appeal was brought, costs that are unrelated to the appeal are ineligible.

7. Awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. Even so, behaviour and actions at the time of the planning application can be taken into account when considering whether or not costs should be awarded.
8. Extensive extracts of email correspondence with the NPA have been provided by the applicant, from June 2023 to January 2024. The applicant has interpreted the feedback received from the NPA as limited and/or contradictory.
9. The NPA has not responded directly to this costs application, but the abovementioned extracts suggest that there were long periods without response from the NPA. The NPA also failed to determine the application long after the prescribed period. This must have undoubtedly been a frustrating process for the applicant. Indeed, the Council could have better assisted the process by responding to requests/correspondence in a consistently timely and constructive fashion.
10. However, based on the submitted evidence, I have found in my appeal decision that the element of the proposal related to overnight stays is contrary to Policies SD2, SD7, SD8, SD9, SD25 and SD39 of the SDLP, and contrary to the development plan taken as a whole. In this context, whilst it is possible that matters in dispute could have been narrowed to some degree had proactive engagement consistently occurred, there is no clear reason to suspect that the Council's concerns could have been sufficiently resolved to enable the avoidance of an appeal. Moreover, whilst the applicant appears to have offered some potential compromises regarding other aspects of the scheme, overnight stays remained part of the proposal throughout.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Cahalane

INSPECTOR