



Costs Decision

Site visit made on 6 February 2025

by **A Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Costs application in relation to Appeal A Ref: APP/C1435/W/24/3347816 and Appeal B Ref: APP/C1435/Y/24/3347817

Brick Kiln Farm, Hadlow Down, East Sussex TN22 4EJ

- 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 Mrs A Orgill for an award of costs against Wealden District Council.
 - The appeal was against the refusal of planning permission and listed building consent for the construction of private swimming pool and repair and conversion of privy into pump house.
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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 general principle embodied within the PPG is that the parties involved should normally meet their own expenses. The PPG gives examples of unreasonable behaviour. For local authorities these include a failure to produce evidence to substantiate a reason for refusal on appeal; refusing planning permission on a planning ground capable of being dealt with by conditions; and not determining similar cases in a consistent manner. For applicants these include delay in providing information or other failure to adhere to deadlines; if the appeal is withdrawn without good reason; and resistance to, or lack of co-operation with the other party or parties in providing information.
4. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
5. In summary, the applicant argues that the Council acted unreasonably in that it did not acknowledge that the current appeal scheme was materially different to a previously dismissed scheme. It is also alleged that the Council failed to make a proper assessment of the current appeal scheme.
6. The Council's reasons for refusal are set out in the decision notice for the application. These are sufficiently complete, precise, specific, and relevant to the application. In my view, the reasons for refusal were adequately substantiated by the Council in its officer report, including reference to the previously dismissed

scheme. It is clear that the Council was aware that changes had been made since the previous scheme, even if this was not crudely set out.. There is nothing before me to demonstrate that the Council made a decision based on anything other than the current proposal.

7. Although I entirely acknowledge the applicant's frustration in respect of communications with the Council, I am satisfied that the Council's overall determination of the application, and its reasoning, were credible and that it was entitled to reach the decision it did. Even had reasons for refusal 1 and 2, relating to insufficient details, not have been included, I am not persuaded that it would have changed the outcome of the main issues or the decision overall.
8. As the applicant sets out themselves, pre-application advice is not binding on any future decision that may be made. The Council had sufficiently set out in email evidence provided to me that the informal advice given was not absolute.
9. Overall, although I have come to a different conclusion to the Council, it is my view that the application for costs essentially relates to a disagreement about legitimate matters of planning judgement.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Price

INSPECTOR