



Costs Decisions

Site visit made on 2 November 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Costs application A in relation to Appeal Ref: APP/L3245/W/20/3263642 Land off Lowe Hill Road, Wem SY4 5UR

- 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 Metacre Limited for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of Outline planning application for the erection of up to 100 dwellings (Use Class C3) and associated access, public open space, drainage, infrastructure, earthworks and ancillary enabling works. All matters except for access reserved.
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Costs application B in relation to Appeal Ref: APP/L3245/W/20/3263642 Land off Lowe Hill Road, Wem SY4 5UR

- 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 Shropshire Council for a partial award of costs against Metacre Limited.
 - The appeal was against the refusal of Outline planning application for the erection of up to 100 dwellings (Use Class C3) and associated access, public open space, drainage, infrastructure, earthworks and ancillary enabling works. All matters except for access reserved.
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Decisions

1. Both applications for an award of costs are refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. In relation to Application A, the appellant is of the view that there are three principal areas in which the Council's behaviour has been unreasonable. Firstly, refusing the application when appropriate information was before the Council to enable it to be approved. Secondly, refusing requests to extend the deadline for the determination of the application to enable further discussions. Finally, refusing a subsequent planning application, contrary to an officer recommendation for approval.

4. Much of the appellant's claim regarding the first matter relates to landscape and ecological considerations. However, as identified within the main decision, these matters have now been deemed to be acceptable by the Council following the receipt of additional information. Based on the evidence before me, the Council was completely entitled to require the additional information. It supplemented the evidence previously provided and gave the Council greater confidence to accept the impacts of the proposal. It is unfortunate that the evidence was not provided through the application, however, I am satisfied that in holding out for the information, the Council did not exhibit unreasonable behaviour.
5. Regarding the last reason for refusal, although I have found against the Council on this matter, the refusal was based on a well-articulated interpretation of local policy. I am satisfied that the Council substantiated their concerns on this matter and consequently, again, I find that their behaviour on this point was not unreasonable.
6. I note the comments from the appellant regarding the desire for an extension of time. However, the Council is not obliged to allow this and because the proposal was refused for an 'in principle' reason, it seems unlikely that an extension of time would have changed the outcome for the application. The Council have reviewed additional evidence through the appeal and I find that their approach on this basis has been entirely reasonable.
7. I also note that a separate planning application has also been refused, and had it been approved, the appeal would likely have been withdrawn. However, I have no reason to consider that such a refusal was unreasonable. It was consistent with the decision on this proposal and due to the reasons given, this is not an unreasonable stance to be taken by the Council, despite my findings on the proposal.
8. Consequently, whilst I have found against the conclusion of the Council, I am satisfied that their behaviour has been appropriate, and evidence presented in support of their decision has been provided in a timely and proportionate manner. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified for Application A.
9. The Council consider that an appeal was unnecessary and that the matter should have been resolved through the submission of a new planning application. Moreover, they consider that the costs application provided by the appellant presents a wholly untenable case. Despite this, a revised application has been refused by the Council, and despite my findings regarding the appellant's costs application, I do not consider that making such an application was an inappropriate thing to do. The application was presented in a rational and reasonable manner and consequently, as with Application A, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified for Application B.

Martin Chandler

INSPECTOR