



Costs Decision

Site visit made on 17 September 2018

by A Spencer-Peet BSc.(Hons) PGradDip.Law PGDip.LP

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2018

Costs application in relation to Appeal Ref: APP/K1128/W/18/3202068 Waves Edge, Road to Highfield, Chalfont St Giles, Bucks HP8 4JG

- 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 and Mrs Jon Long for a full award of costs against South Hams District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission to erect replacement dwelling – re-submission of amended scheme.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The basis of the application concerns the fact the Council Planning Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different view. Further the Applicant asserts that the Council Members did not adequately justify why planning permission was not granted despite the Council Planning Officer's recommendation that permission be given in relation to the amended scheme.
4. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to substantiate each reason for refusal.
5. As such I find that the effect of the proposed scheme on the character and appearance of the area, and the resulting impact on the landscape and scenic beauty of an Area of Outstanding Natural Beauty, was of great concern to a number of interested parties including the Parish Council. Specifically the concerns raised focused on the height of the proposed replacement dwelling, and it is clear from the Committee Minutes and evidence before me, that these concerns were thoroughly and robustly assessed by Council Members before reaching their decision.

6. Accordingly matters concerning the effect of such appeal schemes on the character and appearance of the surrounding area, is a subjective judgement. As such The Council Members in this case were entitled not to accept the professional advice of Council Planning Officers, so long as a case could be made for the contrary view.
7. In this regard I note that the Council Members gave clear and substantive reasons as to why they disagreed with the Council's Planning Officer, and that permission for the scheme would not be provided until concerns regarding the impact on character and appearance of the surrounding area had been addressed. The Council Members were mindful of the previous application and subsequent appeal, and were clear in their discussions that significant emphasis should be placed on the protection and conservation of the AONB.
8. Further it will be seen from my decision that whilst I agree that the height of dwellings around and at the appeal site are important in helping define the character of the surrounding area, in this instance I disagree with the Council Members' view that the proposal would result in harm to the character of the area, and that the proposed scheme would adversely affect the quality of the landscape within the AONB.
9. Accordingly, and as stated above, I find that the Council Members did make a case for not accepting the Council Planning Officer's recommendation, and where justified in reaching their decision. Whilst I do not agree with the Council Members' decision regarding the level of any harm that would arise by virtue of the proposal, I find that the Council was justified in reaching their decision and therefore cannot agree that they have acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. Consequently no award of costs is made.

Andrew Spencer-Peet

INSPECTOR