



Costs Decision

Hearing Held on 28 June 2022

Site visit made on 29 June 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2022

Costs application in relation to Appeal Ref: APP/Z0835/W/21/3287898 Land at Lawrence's Brow, St Martins TR25 0QL

- 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 Toby Tobin-Dougan for a full award of costs against Council of The Isles of Scilly.
 - The appeal was against the refusal of planning permission for retrospective application for the change of use of barn to seasonal agricultural worker's accommodation including the erection of a WC/solar shower block and connected decking for use by occupants.
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Decision

1. The application for costs is refused.

Reasons

2. 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 PPG goes on to state that unreasonable behaviour in the context of an application for an award of costs may be either:
 - procedural – relating to the process; or
 - substantive – relating to the issues arising from the merits of the appeal.
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. However, awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.
5. The applicant seeks an award of costs for both substantive and procedural reasons on the basis that he has spent considerable effort mounting the appeal against the Council's decision, involving the preparation of at least 41 e-mails with 49 attachments, collectively comprising more than 18,000 words. The applicant regards that the decision is poor and that the process of having to appeal it has delayed progress with the business diversification plans and the associated grant applications.
6. The applicant's costs claim also reiterates points of disagreement with the Council's planning judgements and highlights a lack of familiarity with the processes involved in the agreement of a statement of common ground (SOCG) as part of the preparation for the hearing which I prompted in order to

- minimise the hearing time as far as possible. Additionally, the costs claim contains many criticisms of the Council's handling of the appeal application and the appeal.
7. The Council's response essentially rebuts the criticisms from the applicant and provides elaboration on the various stages of processing of the appeal application and the judgements reached on the merits of the case where criticisms have been levied by the applicant.
 8. In my view, the decision of the Council was not unreasonable and was not vague, generalised or inaccurate. The Council's case was suitably defended with analyses of the merits of the case against the respective policies. Whilst I have ultimately reached a different view to the Council, this was a balanced view reached based on information available to me, not all of which had been made available to the Council before its decision, and in respect of the second main issue, involving judgements of a more subjective nature.
 9. I do not seek to further analyse the differences in opinion between the applicant and Council on the merits of the case as that is the role of the separate appeal decision. In terms of the procedural aspects, I do not consider that the Council has failed to co-operate, introduced evidence at a late stage or after relevant deadlines. Any effects on the application for grant funding are indirectly associated with a delay in obtaining planning permission and are not capable of being claimed through the costs application process.
 10. On the other hand, the evidence leads me to conclude that during the processing of the appeal application, the Council has encouraged the applicant, where possible, to collate the necessary evidence to address relevant policy requirements. Without professional assistance, this information has been submitted in a rather unstructured manner. Following the submission of the appeal by the applicant, without the costs associated with employing professional assistance, the voluminous appeal evidence of a similar nature was submitted up until the hearing itself. In short, the application and appeal process has been as accommodating as possible to enable the applicant to represent himself, but the amount of time spent has been at his own discretion and unnecessary costs have not resulted from any procedural or substantive wrongdoing on the part of the Council.
 11. I have given consideration to whether a partial award of costs would be justified but, for the reasons given above, find that it would not.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and neither a full, nor partial award of costs is justified.

Hollie Nicholls

INSPECTOR