



Costs Decision

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 16/10/2023

Costs application in relation to CAS-02502-Z9G7N6

Site address: Dol Aur, Beulah Road, Beulah, SA38 9QB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Mr & Mrs Paul Cowton for a full award of costs against Ceredigion County Council.
 - The appeal is against the refusal of planning permission for 'retrospective application for the change of use of first floor store to one holiday letting unit & surfacing of accessway'.
 - A site visit was made on 29 August 2023.
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Decision

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

The submissions

2. The costs application was made in writing by Mr & Mrs Paul Cowton (the applicants) and relates to a full award. The Council (the respondent) has provided its response in writing and the applicants have also provided their final comments. These submissions which have been tendered in writing have been considered in the substance of this decision.

Reasons

3. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process. It also explains that applications for costs must clearly demonstrate how any unreasonable behaviour has resulted in unnecessary or wasted expense.
4. The applicants' submissions relate to the conduct of the local planning authority, the processing and determination of the application, time failures in validating the application, the public disclosure of information and representations which should have been vetted and redacted, inconsistent approaches for information, extending the timeframe to consider the required information, a failure to engage with the applicants and to adequately deal with statutory consultees advice on the application. There is a criticism of the officers ignoring requests for clarification, issues with case management of the application, a failure to visit the site, a failure to provide the officer's report with the decision of the Council, concern in relation to the manner of handling complaints and the

resulting harm to the applicants from this process through worry and financial loss, and that the applicants have to resort to pursuing an unnecessary appeal.

5. The applicants have stated that they have reported the charge of mishandling information and representations on the planning application consultation to the Information Commissioner's Office. The applicants contend that the handling of their case contravenes the Code of Conduct for Local Government Employees in Wales. They have also referred their concerns to the Public Services Ombudsman.
6. The list of examples of unreasonable behaviour on behalf of a local planning authority in the Annex is not exhaustive and may not cover each example of such behaviour. However, it provides examples where unreasonable behaviour would lead to an award of costs. One such example which may be regarded as relevant to the applicants' case is the failure to determine an application within the statutory time limits where there was no substantive reason to justify delaying the determination of the application. However, conversely, the applicants contend that the planning application should have been held in abeyance to investigate the phosphates issue and to consider the applicants application with due regard to the solutions they have put forward to overcome this phosphates concern.
7. I decided the appeal on one main determining issue and as set out in my decision the policy objection to seek an alternative means of foul water disposal to a non-sewer connection in a sewerred area is not overcome, and the Council was not unreasonable in deciding the application this way. My conclusions on the appeal concur with the Council's approach and that was consistent with national planning policy guidance. The Annex notes that there should be no grounds for an award in those circumstances where a local planning authority has refused an application that is not in accordance with national planning policy guidance, as set out in paragraph 3.8.
8. In all there is no evidence that the local planning authority has demonstrated a lack of co-operation by refusing to provide requested information or has deliberately concealed relevant evidence. None of the circumstances listed in the Annex for unreasonable behaviour has been demonstrated, and there is no substantive case being made that this has resulted in unnecessary or wasted expense incurred in the appeal process. In my view the appeal was unavoidable.
9. Whilst the applicants have complained to the local planning authority, the Ombudsman, and to the Information Commissioner's Office, these processes are outside the remit of my jurisdiction.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex, has not been demonstrated. The application for an award of costs is refused. A partial or full award of costs is therefore not justified in this case.

Iwan Lloyd

INSPECTOR