
Costs Decision

Site visit made on 15 August 2016

by **J Flack BA Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 August 2016

Costs application in relation to Appeal Ref: APP/W0530/W/16/3150794 Barn Farm, East Hatley, Sandy, Bedfordshire SG19 3JA

- 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 Christopher Hook for a full award of costs against South Cambridgeshire 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 for erection of dwelling.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (the Guidance) 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 appellant makes several criticisms of the conduct of the Council in relation to the application for planning permission. He refers to false statements, but no specific evidence is provided to support this. He also asserts that the Council has moved the goalposts, but the evidence before me is that the Council and its advisers have consistently assessed the proposal and the information supplied by the appellant against the requirements of the planning policies I have identified as relevant in my decision on the appeal. I appreciate that the Council has sought additional information, but it is appropriate for there to be an ongoing dialogue between an applicant and a local planning authority where there are identified deficiencies in the information supplied in support of an application. Moreover, in my view the Council behaved constructively in allowing the appellant the opportunity to respond to the first Acorus report rather than proceeding to refuse planning permission.
4. However, the Council's conduct has clearly been unsatisfactory in other respects. The appellant provided further accounts in response to the first Acorus report, but the Council has provided no explanation of why it did not respond to them for many months, despite being chased for a reply by the appellant. I have some sympathy for the appellant's frustration at the Council's failure to respond, and in my judgment that failure amounted to unreasonable behaviour.

5. However, in order for the application for costs to succeed, it must be shown that the unreasonable behaviour has led to unnecessary or wasted costs in the appeal process. Since the appeal was made, the second Acorus report has been received, the Council having belatedly commissioned it in response to the further submitted accounts. In my appeal decision, I have concurred with the concerns it identifies, in particular the lack of information provided by the appellant to justify and explain the stated profit increases in the submitted accounts.
6. At appeal, the appellant has not provided any substantive response to these concerns, despite that they are clearly expressed in the report and plainly form the basis of the Council's case at appeal. On the balance of probabilities, I consider that if the Council had responded earlier to the additional accounts provided by the appellant, the ultimate outcome would nevertheless have been the refusal of the application. The appellant would then have had to make an appeal if he wished to pursue the proposal.
7. For the above reasons, I conclude that although I have identified unreasonable behaviour on the part of the Council, the appellant would have had to make an appeal in any event. I am therefore not satisfied that the Council's unreasonable behaviour has led to the appellant incurring unnecessary or wasted costs in the appeal process. The application for an award of costs is therefore refused.

J Flack

INSPECTOR