
Costs Decision

Site visit made on 16 August 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 6 October 2016

Costs application in relation to Appeal Ref: APP/J1860/W/16/3150378 37 The Forge, A443 Eardiston, Eardiston, Worcestershire WR15 8JJ

- 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 Moss Davies for a full award of costs against Malvern Hills 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 demolition of light industrial/storage outbuilding and construction of a new 2 bedroomed dwelling and creation of new access to The Forge.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 application essentially relies on the behaviour of the Council alleging that it failed to determine the planning application within a reasonable time and questioning the validity of the reasons it gave indicating that it would have refused planning permission.
4. The applicant contends that the unreasonable behaviour has caused unnecessary and wasted expense on the appeal process.
5. The Council states that part of the reason for the delay was that the initial plans submitted contained unacceptable highway access proposals resulting in the highway authority, Worcestershire County Council, having to be re-consulted. As the applicant states, the highway authority did not confirm that the access arrangements were acceptable until 29 February 2016. The Council also states that the applicant's agent was kept informed and agreed to an extension of time until 17 February 2016 and that the applicant was able to appeal against non-determination at any time from that point.
6. The adoption of the South Worcestershire Development Plan (Development Plan) on 25 February 2016 significantly altered the planning framework under which the application had to be considered, and contributed to the delay.

7. Notwithstanding that I came to a different conclusion to the Council in allowing the appeal, the reasons given by the Council indicating why they would have refused permission, were not in themselves inherently invalid. They were specific, relevant to the application and explained in the Council's statement of case. The decision was ultimately a matter of planning judgement.
8. Whilst I understand the applicant's frustration at perceived delays, the timing of the adoption of the new Development Plan and the changes in policies relevant to the original planning application, I am not persuaded on the basis of the evidence before me that the Council has acted unreasonably. As such, I do not agree that the applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathan Tudor

INSPECTOR