

Costs Decision

Hearing held on 18 October 2016

Site visit made on 18 October 2016

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 06 December 2016

Costs application in relation to Appeal Ref: APP/V2255/W/16/3153537 Land at Church Farm, Sheppey Way, Bobbing, Kent, ME9 8RJ

- 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 Crabtree & Bobbing Ltd for a full award of costs against Swale Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for residential development for 98 houses.
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Decision

1. The application for costs is refused.

The submissions for Crabtree & Bobbing Ltd

2. The application was made verbally at the hearing. The applicants submitted the scheme to the Council on 7 July 2015. There was every indication that it would be recommended for approval. Therefore an appeal was not made against non-determination. Once the twelve weeks had passed the applicants hands were tied. The decision was issued on 10 June 2016 after 11 months. The applicants claim is for a return of fee dues to the proposal not being determined in a reasonable time.

The response by Swale Borough Council

3. The Council submitted its rebuttal verbally and provided extracts from the Planning Practice Guidance (PPG) and an email exchange regarding and extension of time. Its submission is that the costs section of the PPG relates to the appeal process. Nevertheless, even if a claim was allowed regarding the application process, the applicants agreed to an extension of time in any event. Therefore there are no grounds for costs.

Reasons

4. 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.
 5. Paragraph 033 of the PPG is clear that costs cannot be claimed for the period during the determination of the planning application. Behaviour and action at the time of the application can be taken into account when considering whether costs should be awarded.
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6. I understand that the applicants are frustrated at the length of time taken to make a decision and what they consider to be conflicting advice from the officers. However, there is nothing to suggest that the appeal could be avoided altogether. Further, the applicants did agree to the extension to the application deadline to the 10 June 2016. Therefore, this delay in the application process would not in itself amount to unreasonable behaviour as set out in the PPG in this case.
7. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, for the reasons given above, I refuse the application for an award of costs.

D J Board

INSPECTOR