



Costs Decision

Site visit made on 20 June 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 13 July 2017

Costs application in relation to Appeal Ref: APP/Y2810/W/17/3171987 Land adjacent to 23 Sywell Road, Overstone, Northamptonshire NN6 0AQ

- 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 John Harmon for a full award of costs against Daventry District Council.
 - The appeal was against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

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

Reasons

2. The appendices to the costs application include email correspondence dating back to early April 2016. That correspondence is clearly unrelated to the appellant's Section 73 application since that was not lodged until 13 December 2016. The application was validated and registered on that same day and the target date set for issuing a decision was 4 January 2017. By agreement with the appellant that period was extended to 23 February 2017. In requesting that extension the officer advised that the Council needed to take legal advice following receipt of an objection that had questioned the validity of the application.
3. On 16 February 2017 the Council wrote to the appellant to advise that, having taken legal advice, it considered that the application was invalid and could not be determined. That correspondence set out the reasons for taking that view and was issued before the revised target date for the application to be determined. Any accusation of untimeliness on the Council's part in its handling of the Section 73 application is therefore, unfounded.
4. Given the unusual circumstances relating to the application and the fact that an objection from a planning solicitor had questioned its validity, there was nothing unreasonable in the officers' decision to seek their own legal advice. Indeed, this action demonstrated an appropriate level of caution rather than the incompetence alleged by the appellant.
5. I have not seen the advice given by the Council's solicitor and am unable to comment on the detail of that advice. However, I consider that the Council would not have been able to approve the application and that the only decision

open to it would have been a refusal for the same or similar reasons for which I have dismissed the appeal. I am, therefore, unable to conclude that the appeal would have been rendered unnecessary even if the Council had determined the application within the extended timescale agreed between the parties.

Conclusion

6. For the reasons set out above I find that no unreasonable behaviour by the Council has been demonstrated and that the appellant has not incurred any wasted or unnecessary expenditure in relation to the making of the appeal.
7. The application for an award of costs is, therefore, refused.

Paul Singleton

INSPECTOR