



Costs Decision

Site visit made on 4 July 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 27 July 2017

**Costs application in relation to Appeal Ref: APP/C2741/W/16/3158773
Country Park Caravan Site, Land to the rear of Park House Farm, Pottery
Lane, Strensall, York, North Yorkshire YO32 5TJ**

- 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 City of York Council for a full award of costs against Miss R Nelson.
 - 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 described on the planning application form as retention of 'as built' manager's lodge and laundry building.
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Decision

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

Reasons

2. 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.
3. The Council assert that the appellant has acted unreasonably by pursuing an appeal for a proposal in the Green Belt that was clearly inappropriate development and without addressing in their Statement of Case, the impact the laundry building would have on the Green Belt or providing a case which may amount to very special circumstances. Furthermore, the Council contend that they have sought to negotiate with the appellant to seek solutions, whilst the appellant has opted to have the matter determined by appeal and initially by way of a Hearing. If the appellant had continued discussions with the Council there would have been no need for the appeal and the costs associated with it.
4. Paragraph 53¹ of the PPG advises that an appellant may be at risk of a substantive award of costs if the appeal has no reasonable prospect of succeeding because, for example, the development is clearly not in accordance with the development plan, or national policy and no other material considerations are advanced.
5. It is further advised in paragraph 52² of the PPG that an appellant may be at risk of a procedural award of costs if there is a lack of co-operation with the other party in discussing the application or appeal.

¹ Planning Practice Guidance, Paragraph:53 Reference ID: 16-053-20140306

² Planning Practice Guidance, Paragraph:5 Reference ID: 16-052-20140306

6. The appeal submission was made because the Council had failed to give notice of its decision on the planning application within the appropriate eight week period. The Council's Statement of Case³ indicates that the target date for a decision was the 29 June 2016. The appeal was received by the Planning Inspectorate on the 22 August 2016 and I have not been provided with any evidence that during the appropriate eight week period of time within which the Council should have made their decision, they entered into any discussion with the appellant to either request additional information or amendments. Section 78 (2) (a) of the Town and Country Planning Act grants a right of appeal to the Secretary of State to a person who has made an application to the local planning authority and where the Council has failed to give notice to the applicant of their decision on the application. Accordingly it was not unreasonable for the appellant to pursue an appeal.
7. The appeal documents provide a clear background to the original application which was for a manager's lodge and a laundry building. The manager's lodge is an amended scheme for an extant permission. When the Council initially granted consent for that lodge they had considered that 'very special circumstances' existed which outweighed the harm by way of the proposal being inappropriate development in the Green Belt. The appeal submission advocated no additional harm to the purposes of the Green Belt. The appellant's Statement of Case also argued that the laundry building was ancillary to the manager's lodge and did not materially impact on the openness of the Green Belt. It was further submitted that these matters were other considerations that should be taken into account in the determination of the appeal. Consequently, although the laundry building has been subsequently withdrawn from the appeal scheme, I am satisfied that the appellant was justified in executing their right of appeal and the adequately substantiated their case.
8. It is clear that from November 2016, once the appeal had been lodged, that there was a dialogue with the Council regarding the merits of the proposals and possible amendments suggested that would secure the professional officer's support for the scheme. The Council contend that to continue with the appeal process was unnecessary once the laundry building had been removed, as they raised no objections to the revised manager's lodge. They consider that the appeal should have been withdrawn to allow the Council to determine the application. However, I agree with the appellant that even with the support of professional officers, there would be no guarantee that the Council would approve the application. Consequently, it was not unreasonable for the appellant to continue to pursue the appeal. Furthermore, the appellant agreed to alter the appeal procedure to written representations to reduce any costs to the Council through allocation of officer time and the need to provide a venue.
9. I conclude for the reasons given above, that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and an award of costs is therefore not justified.

Elizabeth Pleasant

INSPECTOR

³ Officer Report, 16/01113/FUL