

Costs Decision

Site visit made on 18 June 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Costs application in relation to Appeal Ref: APP/P3420/W/19/3221341 Land off Watermills Road, Chesterton

- 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 Carden Developments Ltd for a full award of costs against Newcastle-Under-Lyme Borough Council.
 - The appeal was against the refusal of planning permission for approval of reserved matters for appearance, landscaping, layout and scale for residential development of up to 65 dwellings.
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Decision

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

Procedural Matter

2. The applicant's application for an award of costs was submitted outside the deadline for making an application for costs in response to the Council's costs claim against the applicant. I am satisfied that the Council has had sufficient opportunity to comment on the costs application.

Reasons

3. Irrespective of the outcome of the appeal, 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. The applicant states that the Council has refused to extend negotiations on key technical points which were capable of being resolved.
4. The PPG sets out that the aim of the costs regime is to: discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections. It goes on to advise that a local planning authority's handling of the planning application prior to the appeal may lead to an award of costs if, for example, the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether. Such a decision would take into account any unreasonable behaviour on the part of the applicant in causing or adding to the delay.
5. The evidence indicates that a process of negotiation commenced following submission of the application, and that the applicant agreed to extend the statutory period for determination a number of times. The Council gave the applicant advanced warning that it intended to determine the application given

- the length of time that it had been in for, and set out a timetable for final submission of revised plans. Prior to consideration of the application by Planning Committee, but after the deadline for submission of revised plans, the applicant requested that the Council delay or defer its determination so that concerns could be resolved, however, the Council declined to do so.
6. The applicant did not seek advice from the Council prior to the submission of the reserved matters and that the application was submitted shortly before the period within which it was required to do so by condition. This has necessitated negotiation during the period for determination. The National Planning Policy Framework highlights the value of pre-application and front-loading and whilst Councils cannot require that a developer engages with them before submitting an application, it can assist local planning authorities in making timely decisions.
 7. The PPG sets out that once a planning application has been validated, the local planning authority should make a decision on the proposal as quickly as possible, and in any event within the statutory time limit unless a longer period is agreed in writing with the applicant. The government's planning guarantee is the government's policy that no application should spend more than a year with decision makers, including any appeal. In practice this means that planning applications should be decided in no more than 26 weeks. Although this is not an upper limit and a longer period of time can be agreed, it is not unreasonable for the Council to set out deadlines to ensure that the application is dealt with in a timely manner. The applicant did not adhere to those deadlines and so the Council determined the application on the basis of the plans and representations submitted prior to its deadline of 8 August 2018.
 8. Given the above, the council was not unreasonable in determining the application and, on the basis of that scheme, the Council was not unreasonable in coming to its decision. Indeed, following consideration of the appeal on its merits I have concurred with the Council. The applicant's costs associated with the appeal were therefore a necessary part of the appeal.

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.

M Savage

INSPECTOR