



Costs Decision

Site visit made on 7 August 2019

by M Chalk BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Costs application in relation to Appeal Ref: APP/J0405/W/19/3229404 Swindon House, Lower Road, Stoke Mandeville HP22 5XA

- 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 Michael Donnachie for a full award of costs against Aylesbury Vale 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 planning permission for demolition of existing outbuildings and erection of two detached dwellings and associated parking and landscaping.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include unreasonably refusing or failing to determine planning applications, resulting in the preventing or delaying of development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant contends that the appeal was unnecessary and submitted due to the Council's failure to determine the application in a timely manner. The Council allocated the application to 3 separate case officers and failed to provide any substantive comment on the principle of their proposals for 7 months after submission. The Council unreasonably disregarded the extant permission for one house on the site. No decision was taken by the Council despite the submission of amended plans.
5. The Council has responded to the application for costs to acknowledge that the delay in processing the application was unfortunate. However, correspondence took place between the Council and applicant from January 2019 onwards. The applicant was made aware of the Council's expected decision from January onwards, and that the amended plans did not overcome the Council's objections.

6. From the evidence before me in the appeal case, it is clear that there have been several different Council officers involved with the processing of the planning application. In this case, staffing difficulties at the Council would appear to have contributed to the delays in processing the application. It is not unusual for Councils to experience staffing difficulties, and this in itself does not amount to unreasonable behaviour.
7. Although the Council initially took some considerable time in processing the application that is the subject of this appeal, they did eventually engage with the applicant and confirm that the proposed development would not be granted planning permission. On receipt of amended plans the information before me shows that the Council communicated with the applicant and advised them that the amendments did not overcome the objections.
8. The Council has clearly set out in its appeal submissions their justification for not supporting the appeal development. The extant permission for a single dwelling on the site was given some weight as a material consideration. The weight for such matters is for the decision maker. However, the Council concluded that the differences were of such significance that planning permission should not be granted for the proposal, had it made a decision. Regardless of the outcome of the appeal, from the Council's appeal submission I am satisfied that they have used their judgement in relation to both policy and relevant material considerations.
9. I note the applicant's frustrations at the time taken by the Council given that there is a legitimate expectation that a decision would be made. Whilst this does amount to a degree of unreasonable behaviour, I see that the Council did make clear that the proposal was unacceptable. As such, the resultant appeal would have arisen even if the Council had determined the application. Consequently, I do not consider that the Council's actions have caused the applicant to incur any unnecessary or wasted costs.
10. Having carefully considered the points raised, although I have found that some unreasonable behaviour has occurred, this has not directly resulted in unnecessary or wasted expense as described in the PPG. Consequently the requirements for awarding costs have not been demonstrated. Accordingly, I determine that the costs application should fail and no award is made.

M Chalk

INSPECTOR