



Costs Decision

Hearing Held on 9 July & 10 July 2019

Site visit made on 11 June, 9 July and 11 July 2019

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Costs application in relation to Appeal Ref: APP/Y0435/W/18/3214564 Malt Mill Farm, Castlethorpe Road, Hanslope MK19 7HQ

- 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 McCann Homes Limited for a partial award of costs against Milton Keynes Council.
 - The Hearing was in connection with an appeal against the refusal of planning permission for the demolition of the equestrian centre and the erection of 51 dwellings with associated works.
-

Decision

1. The application for a partial award of costs is allowed in the terms set out below.

The submissions for the applicant, McCann Homes Limited

2. This application for a partial award concerns the way the Council presented its evidence in connection with housing land supply. Although the Inspector had set a deadline of 18 June the Council did not submit its information concerning amended housing land supply figures until 24 June. Within that documentation it said pro forma, sent out for each site in its housing trajectory, would be available if required. The applicant immediately asked for the pro forma but was told on 26 June they could not be provided by the deadline set. However, the pro forma were then given by the Council to the applicant after the close of the first day of the Hearing at 1827h.
3. The Council therefore failed to adhere to the Inspector's deadline without justification. Moreover, by providing the pro forma at the end of the first day of the Hearing, it gave the applicant 14½ hours to consider them until the Hearing reopened. This was a late submission that required additional preparatory work during the Hearing.
4. A partial award of costs in this regard is therefore sought.

The response by Milton Keynes Council

5. On 24 June the Council told the applicant it was unable to provide the pro forma by the deadline given, but the information was summarised in a spread sheet. No response to this was received and so the Council did not pursue the matter further. By subsequently submitting the information the Council was seeking to be helpful.

6. An award of costs is therefore not justified.

Reasons

7. The Planning Practice Guidance 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.
8. This application for costs highlights no unnecessary expense arising from the receipt of the Council's housing information 6 days after my deadline. Rather, it revolves around the submission of numerous pro forma by the Council at the end of the Hearing's first day. Given the reliance the Council placed on these, to my mind they were submitted for reasons beyond being helpful, and were actually forthcoming to support its case. Presenting them to the Hearing at such a late stage was unreasonable as it comprised a significant amount of complex information that needed to be analysed. Moreover, producing them at the end of the first day inevitably involved the applicant's team working during anti-social hours into the evening to process the information. Therefore, I consider these actions involved unnecessary expense.
9. In reaching this view I accept I did not request the pro forma on 24 June, but it is not for me to tease out information on which a party may wish to rely. It is also not relevant whether or not the applicant pursued its request for the pro forma after 24 June, as it was nonetheless the Council's choice not to submit them at that time but to present them on 9 July in support of its case.

Conclusions

10. I therefore conclude that unreasonable behaviour resulting in unnecessary expense has been demonstrated, and so a partial award of costs should be awarded.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Milton Keynes Council shall pay to McCann Homes Limited, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in and arising from the late submission of the pro forma on 9 July 2019; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Milton Keynes Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J P Sargent

INSPECTOR