The Planning Inspectorate

Costs Decision

Site visit made on 1 October 2019

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2019

Costs application in relation to Appeal Ref: APP/M3455/W/19/3232155
Land at Shelton New Road, Hartshill, Stoke-on-Trent

- 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 Stoke-on-Trent Council for a full award of costs against Lesko Developments (Stags Head) Ltd / Dyson Industries Ltd.
- The appeal was against the refusal of planning permission for the erection of 27 no. new residential dwellings.

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's concern in this case is that the appellant only supplied relevant information at appeal when it was requested at the application stage. This is identified as a specific example of potentially unreasonable behaviour in the PPG. The Council has specifically highlighted the submission of new evidence relating to impact on trees, biodiversity, flood risk and viability.

4. It is clear the Council asked for additional information during the consideration of the application and the appellant ostensibly agreed to provide it. There is also evidence that the Council agreed an extension to allow submission of the evidence. However, at what appears to be relatively short notice, the Council decided to refuse the application under delegated authority. It is not clear why this information was not requested during any pre-application discussions, or if it was, why it was not produced when the application was submitted. The importance of the pre-application stage and the need for the right information is highlighted in paragraphs 39-43 of the National Planning Policy Framework.

5. Whatever the reasons for the evidence not being provided with the application, or the length of time the appellant had to resolve the issue, they appear to have been under the impression that more time was available to them. Even if the Council suspected the evidence would not be provided or concluded it would make little difference to their decision, it could not have been unexpected that the appeal would be supported by what they were told was forthcoming. The reasons for refusal also relate predominantly to a lack of evidence. It would be reasonable to assume that some evidence on these

matters would have to be produced to refute the Council's position. In the circumstances of this case, I am not persuaded that the appellant has acted unreasonably in submitting the evidence they have.

6. Were I to conclude otherwise, I do not consider the Council has been put to any unnecessary or wasted expense. Even with the additional information in place the Council has maintained its objection to the proposal, particularly in relation to affordable housing, impacts on trees and noise. It is likely therefore that even if this evidence had been submitted in a timelier manner, it would still have resulted in a refusal of the application, an appeal and the need to produce evidence to rebut the appellant's case.

7. The work completed for the appeal is largely only that which would have been required anyway. It is not unusual to have to review and consider new evidence at the appeal stage and considering the Council's continued objections, the arguments put forward in the appeal statement would have been the same whenever the information was provided. Arguably, the Council has had to produce additional evidence in relation to flooding and drainage that would not have been needed had the issue been resolved at the application stage. However, this represents only a very small part of the Council's evidence and would not have resulted in a significant amount of additional work.

Conclusion

8. Taking all relevant matters into account, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S J Lee

INSPECTOR