



Costs Decision

Site visit made on 26 May 2016

by M Seaton DipTP MRTPI

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

Decision date: 24 October 2019

Costs application in relation to Appeal Ref: APP/N2739/W/16/3145651 Land North of Brickyard Farm, Camblesforth Road, Selby, North Yorkshire, YO8 8ND

- 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 & Mrs Summerton (Interested Parties) for a partial award of costs against Selby 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 the change of use of land to create a holiday park consisting of the siting of 10 log cabins and use of an existing cabin as manager's accommodation.
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Decision

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

Reasons

2. 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. Whilst the Guidance sets out a series of examples of behaviour whereby either a procedural or substantive award of costs may be justified, neither list is stated to be exhaustive.
3. The Planning Practice Guidance also sets out that awards of costs will not be made in favour of interested parties, other than in exceptional circumstances, and will not be made where a finding of unreasonable behaviour by one of the principal parties relates to the merits of the appeal. However, an award may be made in favour of an interested party on procedural grounds, for example where an appeal has been withdrawn without good reason or where an unnecessary adjournment of a hearing or inquiry is caused by unreasonable conduct.
4. The applicants for the Costs (hereinafter called the applicants) contend that the Council, and by extension technical consultees, have acted unreasonably in failing to cooperate with the applicants, through the missing of deadlines, and by providing information that was incorrect or after deadlines. The crux of the applicants' complaint is that these actions have led the applicants as a consequence to incur wasted expense in respect of seeking further professional advice from Highways Consultant Engineers in preparing their objections to the proposed development.

5. It is contended that the Council failed to co-operate with the applicants, as is cited in the failure to respond to in excess of 20 phone calls from the interested parties as well as their representatives and other individuals. However, there is no definitive evidence before me that these telephone calls were made during the course of the appeal itself, and whilst I sympathise that a failure to engage on this basis during the course of the planning application would have been frustrating, this in itself does not support a conclusion of unreasonable behaviour in respect of the planning appeal.
6. The applicants have also highlighted the failure of the Council and Highway Authority to provide full details of the traffic survey information relied upon to reach their conclusions when requested, both during the application and the appeal. Whilst I have not received any substantive response from the Council with regards this point during the course of this application for costs, it is beholden on the various parties to co-operate during the course of a planning appeal, and a failure to do so could be concluded to amount to unreasonable behaviour.
7. I have had careful regard to the extensive submissions prepared by the applicants, including the technical submissions made during the course of the planning application by the applicants' technical Highways Consultant. However, I am not persuaded that even had the information been provided to the applicants by the Council or Highway Authority that it would have prevented the applicants from going to the expense of seeking to disprove the technical highway conclusions. I am satisfied that in not accepting the 'headline summary' provided by the Highway Authority during the planning application, the applicants would have sought to rebut the contrary conclusions of the Highway Authority even had they received the full detailed survey information. Whilst the Council may potentially have behaved unreasonably, there is no evidence that unnecessary expense in this regard has resulted.
8. Turning to the missing of deadlines, I note the applicants' concerns over the length of time taken on the application, and that extraordinary circumstances were in place to allow an appeal to occur many months beyond the deadline for such an event. However, it would have been determined in accepting the appeal that the appellant was legitimately entitled to make an appeal in these circumstances, which are not exceptional where a failure to make a decision on a planning application within the prescribed time period has arisen. Whilst reference to further delays by the Council during the appeal itself have been briefly mentioned, specific occurrences have not been referred to and it is not therefore possible to draw any conclusions of unreasonable behaviour during the appeal in this respect.
9. I have carefully considered the applicants' overall submissions with regards to the provision of inaccurate or incorrect information, and the continued dissatisfaction with the Highway Authority and Council in this regard. However, whilst I have addressed the procedural matters above, it is clear that the crux of the applicants' case is premised upon a disagreement with the technical conclusions as reached by the various consultees, and subsequently in certain respects by the Council.
10. I have noted the suggestion that the Highway Authority and other consultees did not in places properly follow their own guidance, but even if this were proven to be the case there is no conclusive evidence before me that this led to

an improper conclusion on technical matters by the Council. In any event I note that the Council ultimately resolved that they would have refused planning permission for highway safety reasons, which would have been based on all evidence received from the appellant, technical consultees, and interested parties including from the applicants. The Council would have been entitled to do reach their conclusion in this way having regard to all material considerations and could not be said to have acted unreasonably in so doing.

11. I accept that inaccuracies can happen and note the applicants' concerns as expressed to the Council which it is contended were not acted upon during the course of the planning application and also the continued concerns since the publication of the Decision Letter for the corresponding appeal to this application for costs. However, neither in respect of any contended inaccuracies during the planning application or subsequently, is there a specific demonstration that the Council behaved unreasonably during the course of the planning appeal itself, and I do not consider this point to have been successfully made.
12. Therefore, on the basis of the above conclusions, and having regard to all other submissions, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Seaton

INSPECTOR