
Costs Decision

Site visit made on 24 September 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 14 November 2019

Costs application in relation to Appeal Ref: APP/M1710/W/19/3232659 Hill View, 27A Southdown Road, Horndean, Waterlooville PO8 0ET

- 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 A Denton for a full award of costs against East Hampshire 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 described as '*erection of wall adjacent to a highway*'.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application for a full award of costs is made based on two reasons. Firstly, the unreasonable length of time the Council took in not reaching a decision on the planning application and secondly to the Council's probable reason for refusal of the planning application.
4. The Planning Practice Guidance indicates that a local planning authority's handling of a planning application prior to the appeal could give rise to an award of costs where such handling amounts to unreasonable behaviour. In regard to the first reason, namely the unreasonable length of time the Council took in not reaching a decision on the planning application, the guidance states that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation.
5. The applicant asserts that a major part of the delay related to the unnecessary significance the Council gave to the comments of Hampshire County Council's Countryside section and the need to submit an amended plan showing the alignment of the public footpath at the front of the site.
6. The evidence before me indicates the application was validated on 5 April 2019 with the 8-week determination period ending on 31 May 2019. On 24 May 2019 the agent emailed the Council to inform them that the applicant was elected on 2 May 2019 as a District Councillor and having been

sworn in on 7 May 2019 anticipate that the application will have to be heard at a meeting of the Planning Committee. The Council responded by email to the agent and applicant on 28 May 2019 explaining that the application had been placed on the list of applications for consideration at the next available meeting of the Planning Committee on 11 July 2019. Furthermore, the Council explained that when an application is submitted by a Councillor the application must go before a Planning Committee regardless of what the recommendation is. The Council also advised the applicant that in this instance the recommendation for the application was for refusal.

7. The Council emailed the agent and the applicant on 12 June 2019 to seek an agreement for an extension of time to determine the application until 12 July 2019, this being one day after the Planning Committee meeting and hence the earliest the Council could issue the planning decision. The Council followed up this request for an agreement of an extension of time in an email to the agent and applicant on 3 July 2019. There is no evidence before me to indicate that the applicant agreed to the Council's request for an extension of time.
8. Nevertheless, it seems clear to me that the Council informed the applicant within the 8-week determination period that the earliest the application could be determined was at the meeting of the Planning Committee due to take place on 11 July 2019. Furthermore, the Council made it clear the reason why it could not determine the application within the standard 8-week period: this being due to the applicant being elected as a District Councillor and not in regard to the need to submit an amended plan showing the alignment of the public footpath at the front of the site.
9. In respect of the second reason for the application of a full award of costs the applicant states that he considers the reason for refusal of a previous planning application¹ was taken as the probable reason the Council might refuse the appeal application. In this regard he considers that the Council incorrectly described the locality as rural, failed to take account of the character of boundary treatments in the area and was pre-disposed to refuse planning permission without considering all the material planning considerations.
10. Based on the evidence before me, including the Council's Planning Committee report and minutes of the Planning Committee meeting held on the 11 July 2019, I am satisfied that the Council did consider the appeal application afresh and did not pre-determine it. Thus, I consider that the Council did take account of the character of the boundary treatments in the area and all other material planning considerations.
11. In regard to the Council describing the character and appearance of the area as rural, I do not consider that there is any reasonable evidence to suggest that members of the Planning Committee were somehow misinformed in terms of the assessment of the planning application. In any event, in terms of my appeal decision, I do not consider this a determinative issue.
12. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

¹ Reference 22321/014

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Bremford

INSPECTOR