
Costs Decision

Site visit made on 3 June 2019

by Tim Crouch DipUD MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 29 November 2019

Costs application in relation to Appeal Ref: APP/C1435/W/19/3223599 Land south of South Street, East Hoathly, East Sussex

- 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 Prime Crest Homes Limited for a full award of costs against Wealden 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 "Outline planning application (with all matters reserved except for means of access from South Street) for residential development of up to 74 residential dwellings".
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance 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 Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant states that the Council has failed to determine the planning application in line with the determination period and additional agreed extension of time. The application was supported by significant evidence in relation to Habitats Regulations, Protected Species and other environmental considerations. However, a response from the Council's Biodiversity Officer was not received under after the appeal for non-determination was submitted (appeal lodged 27th February 2019 and response received 10th April 2019). This included an objection which the appellant considers could have been resolved during the course of the application and avoid an appeal.
5. The Council's position is that an extension of time had been agreed and that the complexities of the application, especially in relation the in-combination effects on the Ashdown Forest Special Protection Area (SAC) and emerging Wealden Local Plan, were known to the applicant and required resolution. The Biodiversity Officer's comments would not have affected the fundamental issues of non-compliance with the development plan in relation to development in the countryside and the effects on Ashdown Forest SAC.

6. Whilst the application took some time, these are significant matters and developed during the course of the application, and an extension has originally been agreed. The Council was clear in its appeal submission that it would have refused the proposal for a number of reasons, in line with its balance of material considerations against the requirements of the development plan. I do not consider that an earlier response from the Biodiversity Officer on the detailed elements would have altered this and avoided the triggering of an appeal. The Council has then substantiated these reasons further. I therefore do not consider that the appellant has been put to unnecessary or wasted expense
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Tim Crouch

INSPECTOR