



Costs Decision

Site visit made on 26 November 2019

by A McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Costs application in relation to Appeal Ref: APP/P2935/W/19/3237587 Land North of Fernleigh, Butchers Lonnen, Morpeth, Northumberland NE61 1BT

- 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 Garry Featherstone for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of outline planning permission for a single dormer bungalow to include parking and garden areas (all matters reserved).
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Decision

1. The application for a full 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. Paragraph 49 of the PPG sets out examples of unreasonable behaviour by local planning authorities. These include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration and failure by the planning authority to substantiate a stated reason for refusal of planning permission.
4. The applicant states that the Council has acted unreasonably because it requested additional information on several matters during the application process. This included written statements and the provision of plans outside of the scope of the proposed outline planning application. As such, the appellant claims that this information has been provided at additional time and cost and yet the local planning authority has still been unable to determine the planning application.
5. The Council acknowledges that it did not issue a decision within the agreed timescales and states that the delay in dealing with the application and reaching a decision was due to two of the three officers assigned to the application being signed off on long term sick leave.
6. There is limited evidence submitted by either party in relation to this costs application. Nonetheless, based on my knowledge and understanding of the case and its circumstances, the applicant's principle ground for this application relates to the alleged unreasonable behaviour of the Council in requesting further information about the proposal during the application process.

7. Whilst it is not an ideal situation to request such information at that stage, the local planning authority is entitled to ask for information that it requires in order to properly assess the proposal submitted. Moreover, it is the applicant's responsibility to ensure that sufficient and correct supporting information and evidence is provided with a planning application in order for it to be assessed fully.
8. The applicant has provided a schedule of the additional work undertaken and the associated costs of this in time and financial expense. This work relates to the production of plans and drawings, a Heritage Statement and addendum and support for a statement of case and work during the appeal process. In my view, none of this additional work would appear unreasonable for the Council to request in relation to an application with heritage matters central to its assessment.
9. It is not clear from the applicant's submission how the provision of the plans identified in the submitted schedule would be outside the scope of the outline planning application. Furthermore, in the event of an application being refused, I do not consider it unreasonable for additional work and expense to be incurred by the applicant in relation to an appeal.
10. The second element of this application for costs relates to the Council's inability to reach a decision on the outline application for a considerable period of time. The original application was submitted to the Council in April 2017. For around two years, this application has been undetermined. From what I have seen and read, there are several reasons for this. Not only did the Council request further information from the applicant, I note that two Council officers who were dealing with the application were signed off from work on long term sick leave.
11. I accept that this is unfortunate and frustrating for the applicant in terms of the timescale to determine the application and that these circumstances have contributed to a long delay in the Council issuing a decision. However, I do not consider such circumstances to warrant unreasonable behaviour by the local planning authority in this case. In my view, I find that in cases where staff are not available for work for health reasons, it is not reasonable to place the responsibility for it with the employer.
12. Having carefully considered the submissions and issues in this application, I find that there is no substantive evidence to support the case that unreasonable behaviour by the local planning authority has occurred. The additional information sought by the Council was, in my view, appropriate and reasonable to request during the application process. Moreover, I consider that the long-term sick leave of Council staff dealing with the application is not a matter which can be considered as unreasonable behaviour. As a result, in the absence of unreasonable behaviour, there cannot be any unnecessary or wasted expense resulting from it.
13. Consequently, I conclude that unreasonable behaviour by the local planning authority resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for costs is therefore refused.

A McCormack

INSPECTOR