



Costs Decision

Site visit made on 19 November 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Costs application in relation to Appeal Ref: APP/Y3425/W/19/3226685 Broughall Grange, Woodside Road, Gnosall, Stafford, ST20 0JA

- 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 F and P A TOMKINSON for a full award of costs against Stafford Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on application Ref: 18/28053/REM for the approval of reserved matters under outline permission Ref: 16/25263/OUT for the construction of a permanent agricultural workers dwelling.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Paragraph 16-030-20140306 of the Planning Practice Guidance (the PPG) 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 or wasted expense in the appeal process.
3. Paragraph 16-049-20140306 of the PPG states that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications. Examples 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 considerations.
4. The application for reserved matters is understood to have been submitted to the Council on 15 February 2018, with the appeal being lodged on 12 April 2019. The appeal was confirmed as valid on 17 April 2019 which is the same date on the Council's decision notice. The appellant has provided me with extracts and written records of correspondence and conversations with the Council over the approximately 14 months that the reserved matters application was under consideration. Some of these extracts and written records appear undated, hence I am unaware of the precise sequence and timing of all the correspondence.
5. The evidence before me shows that correspondence in respect of the reserved matters between the two parties, primarily centres around the scale of the

- dwelling, whether it is to accommodate an agricultural worker or manager, and the affordability of the dwelling (should it need to be marketed at an affordable price to another agricultural worker in the future). These are recurring matters in correspondence between the parties.
6. In its delegated report and costs rebuttal the Council confirms that it acknowledges the policy requirements in paragraph 79 of the National Planning Policy Framework (2019) (the Framework), in reaching the conclusion the reserved matters are acceptable. In particular, paragraph 79 only requires a planning judgement as to the need for an agricultural worker dwelling, and not the scale of the dwelling or whether it is economically viable. The Council could have imposed a limit upon the level of floorspace at the outline stage, yet it chose not to.
 7. The appellant ultimately provided a report by David Collier Rural Planning dated 28 December 2018 to the Council. This set out matters including the intention of the farm manager to live on site, national and local planning policies on farm dwelling size, other appeal decisions, and other farm workers' dwellings approved by the Council. The evidence provided should have been sufficient for the Council to reach a decision on the concerns it had raised before the appeal was submitted, whether or not they were justified by planning policy or caselaw. I have been offered little substantive evidence by the Council to justify the length of time taken to issue its decision on the application, particularly since the submission of the report 28 December 2018 and the subsequent correspondence by the appellant's agent dated 20 February 2019, 18 March 2019 and 20 March 2019.
 8. The Council appears to have delayed the determination of a reserved matters application accompanied by adequate information, that should have been permitted, having regard to its accordance with the development plan and national planning policies.
 9. The Council could and should have determined the application prior to the appeal being lodged and has acted unreasonably by unnecessarily delaying the determination of the application. This appeal could have been avoided and the appellant has incurred unnecessary expense. Therefore, this demonstrates unreasonable behaviour on the part of the Council, and as a consequence, led to the appeal and to the appellant incurring unnecessary and wasted expense in the appeal process.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stafford Borough Council shall pay to F and P A TOMKINSON, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Stafford Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Dan Szymanski, INSPECTOR