
Costs Decision

Site visit made on 17 June 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

**Costs application in relation to Appeal Ref: APP/A0665/W/20/3244347
Land to the Ne of Hatley Lane, Netherton. Easting:350979
Northing:377369**

- 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 H Houlbrook for a full award of costs against Cheshire West & Chester 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 from agriculture to the storing of caravans.
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Decision

1. The application for an 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. Costs may be awarded to any party regardless of the outcome of the appeal. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or with respect to procedural matters by 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.
3. The applicant submits that the Council has acted unreasonably as a result of the procedural delay in dealing with the application, which the applicant states amounts to unreasonable behaviour of the part of the local planning authority.
4. The application was dated 24 October 2018 and on 8 November 2018 the Council wrote to the applicant to indicate that the target date for the determination of the application was 21 December 2018. I have been provided with copies of correspondence including emails dated 11 and 13 June 2019 agreeing an extension of time to allow for further discussions. The applicant appealed on the grounds of the Council's failure to determine the application on 7 January 2019.
5. The Council gave an indication in the appeal statement that it would have refused the application for planning permission on matters relating to highway safety.

6. The reason for the Council's failure to determine the application within the relevant period is clearly set out in documents submitted by the appellant, primarily relating to staff shortages. The delay caused by the Council's failure to determine the application within the statutory framework was excessive and constitutes unreasonable behaviour. However, the indication is that had the decision been made in a timelier fashion it is likely that the applicant would have still had to appeal in any event. Furthermore, I note that at some time prior to the appeal being submitted the appeal scheme had been carried out without planning permission.
7. It will be seen from the decision in the appeal that I reached a similar conclusion to the Council with regard to the effect of the appeal scheme on highway safety. Having regard to this, while the Council acted unreasonably by delaying determination, it did not delay development that should have been permitted having regard to the policies in the development plan, national policy and other material considerations. While the Council's behaviour was unreasonable, it did not cause the applicant to incur wasted costs as the appeal was inevitable in any event.

Conclusion

8. On the basis of the evidence before me, I conclude that it has not been demonstrated that the Council's unreasonable behaviour caused unnecessary or wasted expense in so far as an award of costs could be justified. I therefore determine that the costs application should fail and no award is made.

Mark Brooker

INSPECTOR