
Costs Decision

Site visit made on 30 June 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th July 2020

Costs application in relation to Appeal Ref: APP/C1625/W/20/3247033 Land North-East of Draycott, Cam GL11 5NA

- 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 Bathurst Ltd for a full award of costs against Stroud 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 construction of principal means of access comprising new signalised junction from Draycott (A4135), bridge over the River Cam and spine road to serve the approved employment and housing phases E2, H3, H4 and H5 of the Millfields development.
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Decision

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

Reasons

2. The National Planning Practice Guidance (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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application for costs relates to the fact that the Council failed to determine the appeal application within the requisite timescale.
5. The application was not determined by the Council and had been registered with it for a considerable period of time before the appeal was lodged. The Highway Authority raised no objection to the proposed scheme, however as part of their response, required any permission to be subject to a number of conditions. On review by the Local Planning Authority, a number of these conditions were found to fail the tests with regards to planning conditions. In response, the Highway Authority sought to review their position in relation to the proposed appeal scheme. To resolve the position, discussions took place between the parties, however these failed to deliver a solution to the issue.
6. Following the submission of the appeal, the Highway Authority has now confirmed that only a single condition is required and as a result the local planning authority did not contest the appeal.

7. In the planning judgement, it appears to me that having regard to the provision of the development plan, national planning policy and other relevant considerations, including the outline planning permission, the reserved matters application should have reasonably been determined. There is no reasonable justification for the failure of the Council to determine the appeal application, and whilst I acknowledge that the local planning authority sought to maintain a dialogue with the parties, this provides no reason for the delay. The failure of the Council to determine the application constitutes unreasonable behaviour contrary to the guidance contained in the PPG as the appellant has been faced with the unnecessary expense of lodging an appeal
8. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 Stroud District Council shall pay to Bathurst Ltd, 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.
10. The appellant is now invited to submit to Stroud District 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.

Adrian Hunter

INSPECTOR