
Costs Decision

Site visit made on 3 July 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 18th August 2020

Costs application in relation to Appeal Ref: APP/J0405/W/20/3246996 New Farm Barns, East Claydon, Winslow MK18 3ND

- 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 E Bullman of Lyntonross Ltd for a full award of costs against Aylesbury Vale 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 demolition of existing buildings and residential redevelopment and all ancillary works.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance states that irrespective of the outcome of the appeal, 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 046 of the PPG states that awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
4. The PPG also states that examples of unreasonable behaviour which may result in an award of costs include lack of co-operation with the other party or parties and delay in providing information or other failure to adhere to deadlines.
5. I note that the applicant has entered into pre-application discussions with the Council, the communication between the main parties and acknowledge that the application had not been determined several months after the statutory determination period of the application.
6. While the Council appears not to have formally requested an extension of time, the evidence indicates that the main parties were in discussion after the statutory determination period. Moreover, the applicant appears to have been in discussion regarding the proposal with the Parish Council during September 2019, after the statutory determination period. I also note that there appears to have been a delay in communication between the end of September 2019 and November 2019. However, in December 2019, on receipt of amended plans, the Council advised the applicant that the concerns have not been overcome. While further amended plans were submitted in January 2020, these seem to address part of the concerns only.

7. The evidence also indicates that there was a change in Council officer early in February 2020. Staffing difficulties within Councils are not uncommon, and this itself does not constitute unreasonable behaviour. While I note the applicant's comments regarding communication from the new case officer, the evidence indicates that the appeal was submitted shortly after the new case officer was appointed. I therefore do not consider that the Council behaved unreasonably in this regard.
8. Furthermore, the appeal documents provided by the Council clearly set out the concerns with regard to the proposal and the policies of the development plan that the scheme would conflict with, in the view of the Council. As such, while I note that the applicant had informed the Council a number of times of their intention to submit an appeal against non-determination it is likely that, even if the Council had determined the application, the applicant would have submitted an appeal and incurred the associated costs. Therefore, while I acknowledge the applicant's frustrations at the length of time taken by the Council, which was unreasonable to a degree, I do not consider that the Council's actions have resulted in unnecessary or wasted expense during the appeal process.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR