
Costs Decision

Site visit made on 6 October 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Costs application in relation to Appeal Ref: APP/D3505/W/20/3248107 Brickpath Cottage, Boxford Road, Milden, IP7 7AN

- 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 Richard Histed for a full award of costs against Babergh District Council.
 - The appeal was against the refusal of the Council grant planning permission for the erection of a single dwelling and garage.
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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.
3. The applicant states that the appeal could have been avoided if the Local Planning Authority (LPA) had i) engaged more effectively, ii) taken account of the 'Homes and Housing Strategy 2019-2024' and iii) presented the application to the planning committee.
4. In respect of the first matter, it is clear from the evidence before me that there was a lack of communication by LPA during the application process, which was extended for a pro-longed period of time without agreement. Whilst this would have inevitably caused the applicant frustration and concern, there is no requirement for an extension of time to be agreed beyond the 8 week target date and under such circumstances, applicants have the right to appeal against the non-determination of the application.
5. I note that the applicant did have the opportunity to address concerns raised by the highway authority and was advised that planning permission would be refused and on what grounds, within the 8 week target period. However, the ultimate reason for refusing planning permission was not a matter that could be resolved through the submission of amended plans or having a meeting.
6. I have found that the LPA's decision was made in accordance with the relevant development plan policies and national guidance. Despite the lack of communication by the LPA and the delay in issuing a formal decision notice, neither of which are condoned, there is no evidence to suggest that the

applicant incurred any additional expense in the appeal process as a direct result of this behaviour.

7. In relation to the second matter, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Homes and Housing Strategy referred to is a housing document. It does not form part of the adopted development plan. Whilst it could potentially be taken into account as a material consideration, it would not carry sufficient weight to override adopted planning policies or the National Planning Policy Framework. The LPA has not therefore behaved unreasonably by attributing little or no weight to the council's housing strategy document and this has not caused the applicant any wasted or unnecessary expense in the appeal process.
8. On the final matter, referrals to planning committees by local councillors are generally made in the wider public interest, on matters that affect the wider public and as such are easily identifiable from the outset. Applications should not generally be referred to planning committees simply because an applicant receives a recommendation they do not agree with. This would clearly have significant implications on the system and further delay the issuing of decisions.
9. The applicant did have the option to re-submit a further application, either before or alongside the appeal, enabling a committee referral to be made within the relevant timescales. However, I note that document 16 of the applicant's costs submission, an email from Councillor Hurren dated 9th September 2019, states that a referral would be almost impossible to justify given the need to demonstrate wider public benefits and the village decision to reject the proposal.
10. As the planning committee may well have agreed with the recommendation of their Officers and the Parish Council, it is not possible to conclude that presenting the application to the committee would have resulted in a different outcome or that the appeal would have been avoided.
11. The PPG is clear that parties in planning appeals will normally meet their own expenses. The costs regime relates primarily to behaviour in relation to the appeal process rather than the application process. The LPA has justified its decision in accordance with the appeal timetable. Based upon the evidence before me, it is not possible to conclude that the appeal would have been avoided altogether by better communication, consideration of the Homes and Housing Strategy or a committee referral.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Rachael Bartlett

INSPECTOR