Costs Decision

Site visit made on 20 October 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2020

Costs application in relation to Appeal Ref: APP/B2355/W/20/3257011
Land to South of 667 Burnley Road East, Lumb, BB4 9PG

- 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 and Mrs Heather and Victor Jordan for a full award of costs against Rossendale Borough 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 a proposal described as *"phase 2 application (Permission in Principle) for 1 dwelling consequent on phase 1 approval No 2019/0351"*.

Decision

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

Reasons

2. 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 appellant submits that the Council has acted unreasonably in that it failed to determine the application for over 5 months and did not provide an adequate explanation for this.

4. PPG advises[1] that if it is clear that the Local Planning Authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, where there were no substantive reasons to justify delaying the determination and better communication would have enabled the appeal to be avoided altogether.

5. In this case, however, the appeal was dismissed for the reasons set out in my Decision. Moreover, the Council clearly had significant concerns regarding the development, which it outlined in an email dated 14 May 2020. It is unclear why the application was not determined following receipt of the appellant's reply of 21 May 2020, and I appreciate the appellant's frustration in this regard. However, an appeal would not have been avoided had the application been determined within the usual timescales, and so no wasted or unnecessary expense has been incurred during the appeal process.

[1] Paragraph ID: 16-048-20140306

6. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR