



Costs Decision

Site visit made on 19 October 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Costs application in relation to Appeal Ref: APP/N4720/W/20/3255396 Highfield Stables, Carlton Lane, Guiseley, Leeds LS20 9PE

- 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 & Mrs Jonathan & Heather Thornton for a full award of costs against Leeds City 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 demolition of existing barn and redevelopment to provide new dwelling including removal of hardstanding and provision of landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 appellants claim that the Council has failed to make a timely decision on the application and has not given any indication on when a decision on the application will be made. They contend that the Council has therefore failed in its statutory responsibilities to determine the application within the statutory or agreed timeframe and has not provided any reasons for this.
4. The planning application was validated on 25 October 2019, with a target date of 20th December 2019. Whilst Council Officer's considered the proposal was acceptable, a Ward Councillor requested that the matter be heard at the Plans Panel. Notwithstanding the stance of Officers, it is common practice that Members can request that an application is heard at a committee or equivalent meeting, particularly for proposals in sensitive locations such as the Green Belt as is the case with the appeal proposal. For the same reasons, it is not unreasonable for the Ward Councillor to refuse to withdraw their request when this was offered as an alternative. The Council has therefore not behaved unreasonably on these matters.
5. The application was scheduled for a Panel meeting in February 2020. Although there was a Panel scheduled for January, due to the lead-in time for such meetings I do not consider that the Council behaved unreasonably in identifying the February Panel following the Ward Member's request. However, due to capacity issues at the February Panel it was decided to defer

- consideration of the proposal until the following Panel in March. Whilst this deferral was unfortunate, capacity issues at a Panel or similar meeting where a number of applications need to be considered are not unprecedented, and in my view the Council's deferral of the application to a following meeting does not represent unreasonable behaviour.
6. However, further consideration of the proposal was disrupted due to the COVID-19 pandemic which the Council could not have foreseen. It is clear that the Council took steps to address this disruption, including setting up virtual meetings. The appellant has provided evidence that a Council elsewhere undertook a part virtual committee meeting some time prior to the application being considered by Leeds City Council. Notwithstanding that, due to the legislative and organisational challenges presented by the COVID-19 pandemic, I do not consider that the Council has been unreasonably dilatory in establishing a procedure to enable the appeal proposal to be considered.
 7. Furthermore, prior to the submission of the appeal, the Council did give the appellants an indication that the application may be heard at a Panel on 23 July 2020. In due course the application was presented to the Panel on that date. However, the Council was prevented from determining the application as the appeal had already been submitted. Rather than using the COVID-19 pandemic as a convenient excuse as contended by the appellants, I consider that the indicated Panel date in July shows that the Council has taken reasonable steps to determine the application despite the degree of disruption.
 8. The Council's reference in correspondence to the option for the appellants to appeal was simply setting out the options available to them. The correspondence in relation to potentially withdrawing the appeal thereby allowing the Council to determine the application proved to be unsuccessful; however to my mind this shows that the Council took a proactive approach to progressing its consideration of the proposal. These matters do not therefore represent unreasonable behaviour.
 9. With regards to whether the Council has provided reasons for the delay, it is clear that the COVID-19 pandemic was a significant factor and all parties would have been aware of this. I have some sympathy with the appellants' comments that the issue of capacity at the February 2020 Panel has only been set out as part of the appeal process. However, despite this, the Council has explained the reason for this delay and has therefore not behaved unreasonably in that regard. Moreover, even if there had been better communication with the appellant during the application process, I do not consider that the appeal could have been avoided altogether due to the circumstances relating to consideration by the Panel and the exceptional circumstances arising from the COVID-19 pandemic. I am also mindful that the appeal was submitted following an indication from the Council as to a likely date for determination, which was subsequently borne out by events.
 10. 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 not justified.

David Cross INSPECTOR