The Planning Inspectorate

Costs Decision

Site visit made on 23 November 2020

by Nick Palmer BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2021

Costs application in relation to Appeal Ref: APP/P1560/W/20/3257969
Crockleford Stud, Bromley Road, Ardleigh, Colchester CO7 7SF

- 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 Grant for a full award of costs against Tendring 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 three dwellings.

Decision

1. The application is refused.

Reasons

2. The application is made on the basis that the Council failed to determine the planning application within a reasonable period of time and that it pursued unsubstantiated arguments in relation to the appeal. The applicant states that the Council did not give an explanation as to its reasons for not determining the planning application within the time limit.

3. The Planning Practice Guidance (PPG) states 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. The PPG also states that, if it is clear that a local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation.

4. An acknowledgement letter was sent by the Council to the applicant on receipt of the planning application. That letter states that a contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) would be likely to be required and that this payment would be secured by a Unilateral Undertaking. The letter explained the necessary next steps in terms of providing evidence of title. It is not clear whether this was provided to the Council but in any event no planning obligation to secure the RAMS contribution was submitted to the Council.

5. A previous application[1] was refused and the Council has described the appeal proposal as being "near identical" to that proposal. The Council has explained in its appeal statement that had it determined the application within the time limit, it would have refused permission and has provided its putative reasons for this. These are similar to those which were given for the previous refusal.

[1] Ref 19/01271/OUT

6. The Council states that it has experienced operational and staffing difficulties during the pandemic. The previous case officer left the Council and the application was allocated to another officer. That officer e-mailed the agent on 18 August 2020 explaining the reasons for the delay.

7. The Government's coronavirus planning update of 13 May 2020 acknowledges that timescales may not be met in all cases. While a decision on the application had been delayed by some 7 weeks beyond the statutory period at the date of submission of the appeal, the Council provided an explanation for this. Given the extraordinary circumstances of the pandemic, this delay, and the explanation given, were not unreasonable.

8. While the Council's second putative reason for refusal has been overcome by the submission of a unilateral undertaking (UU), I have found similarly to the Council in my decision on the appeal. The putative reasons were similar to those given for the previous refusal, which was not subject to appeal. Those reasons have been substantiated and are consistent with the previous decision.

9. With regard to the second putative reason, there was an IT systems error in that the Council did not send a formal UU request to the applicant. However, the applicant should have been aware of the need for a UU, firstly because of the decision on the previous application and secondly given that this was set out in the acknowledgement letter. I also note that the applicant has not disputed the need for the RAMS contribution.

10. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Nick Palmer

INSPECTOR