
Costs Decision

Site visit made on 8 December 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Costs application in relation to Appeal Ref: APP/P1805/W/20/3255845 Barn House Farm, Foxlydiate Lane, Redditch B97 5PB

- 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 Redrow Homes Ltd for a full award of costs against Bromsgrove 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 the development of 63 dwellings with associated public open space and infrastructure.
-

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. The PPG provides a number of potential examples of unreasonable behaviour by local planning authorities including a lack of substantive reasons to justify delaying the determination of a planning application, among other things. The applicant claims that despite trying to work with the Council during the planning application, whilst also addressing comments of consultees in order to provide evidence for the Council to use in making a decision. In the applicant's view, this culminated with correspondence from the Council on 2 April 2020 and which related to highways comments, among other things, and in essence provided the trigger point for their associated appeal against non-determination.
3. The last correspondence from the case officer on 2 April 2020 clearly states it was anticipated that relocation of the footpath could create an issue. It seems perfectly reasonable therefore that the applicant should have taken this to be an unresolved and substantive matter likely requiring further engagement to secure a resolution. Accordingly, it seems reasonable that further correspondence from the highway authority should have been expected in order to enable the Council to make a determination. Notwithstanding the applicant's direct communication with the case officer, or lack thereof as the case may be, the Council has provided email exchanges between the applicant's consultant and the highways authority which clearly demonstrates detailed engagement on substantive matters was being undertaken beyond 2 April 2020.

4. Altogether, I am satisfied that substantive matters relating to the proposal existed and that these were actively being negotiated in good faith and ultimately comprise substantive reasons for the Council's delayed determination of the planning application. Clearly, the lodging of the appeal was the applicant's prerogative but what is not clear is how the lodging of the appeal diminishes the substance of the matters at hand or the correspondence that was occurring in the background. Overall, the applicant has failed to demonstrate that the Council acted unreasonably under the appeal.
5. In these circumstances it is not necessary to consider the question of any expense incurred. Since unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, the application cannot succeed.

Conclusion

6. For the reasons given, the application for an award of costs is therefore refused.

Liam Page

INSPECTOR