The Planning Inspectorate

Costs Decision

Site visit made on 20 January 2021

by Sarah Housden BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2021

Costs application in relation to Appeal Ref: APP/N2535/W/20/3256638
Red Hog Pastures, Main Street, Apley, Market Rasen LN8 5JQ

- 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 Andy Judge for a full award of costs against West Lindsey 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 '2 no. general purpose agricultural buildings and 2 no. silos'.

Decision

1. The application for a full 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 substantive appeal in this case is against the non-determination of the planning application for the proposed development. It is argued that the Council failed to give a proper explanation of why it failed to reach a decision within the statutory time limits. The Council's statement of case confirmed that it did not object to the principle or details of the proposal subject to the imposition of conditions. It is also claimed, therefore, that the application could have been determined in the appellant's favour and the resultant appeal was unnecessary.

4. It is clear from the various email exchanges between the Council and the appellant in the evidence before me that the Council sought clarification on a number of matters throughout the planning application process. The Design and Access Statement Revision A (8.6.20) states that the 'eventual number of pigs to be kept will be 350 once site accommodation consisting of sheds or containers has been established'. Based on this information, along with the description of the proposed development, the Council's approach to seek further clarification of the proposed use of the buildings was entirely justified. If the buildings were to be used to accommodate livestock, an assessment of air quality impacts would have been required to ensure that there would be no adverse effect on the Bardney Limewoods Site of Special Scientific Interest.

5. The appellant's Design and Access Statement Revision C (2.7.20) removed reference to pigs being accommodated within the buildings and confirmed that the items that would be located in them would be a teleporter, trailers, livestock movement containers, office/medication store and quarantine and welfare provisions. Based on this information, the Council's assessment that they would be used for the storage of those items was entirely reasonable. The Council's request for the appellant to change the description of the proposed development from 'planning application to erect 2 no. general purpose buildings and 2 no. silos' to '2 no. agricultural storage buildings and 2 no. silos' prior to re-consultation was also understandable, as the description of the proposed buildings as 'general purpose' could have created some ambiguity and implied their use for accommodating livestock. Although it lead to some delay in the planning application process, it was entirely reasonable for the Council to make sure that these details were clear before re-consulting interested parties and statutory consultees.

6. I note that the Council's email to the appellant's agent, dated 2 July 2020, confirmed that the application would need to be determined by the Planning Committee on 19 August 2020. The Council requested an agreed extension of time to complete the necessary re-consultation and determine the application by 21 August 2020. There is nothing in the evidence to suggest that the Council acted other than in accordance with its scheme of delegation and this does not amount to unreasonable behaviour by the Council.

7. The request to revise the description of the proposed development and extend the period for determination was rejected by the appellant by email dated 9 July 2020. I note that on 24 July 2020, the appellant sought clarification about whether the Council intended to determine the application on that day. The appeal form is dated 25 July 2020, the following day.

8. The Council's statement of case for the appeal makes clear that it considers that the proposal is essential to the effective operation of agriculture and that it no longer has any objections to the principle or details of the development, subject to the imposition of suitable conditions to ensure that matters including drainage and dealing with any unsuspected contamination are dealt with. Whilst I understand the appellant's frustration that this position was not arrived at during the course of the planning application, for the reasons set out above, I find that the Council did not act unreasonably in its handling of the planning application and nor was any unnecessary expense incurred by the appellant in the appeal process.

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated and that a full award of costs is not justified.

Sarah Housden

INSPECTOR