The Planning Inspectorate

Costs Decision

Hearing Held on 22 September 2020

Site visit made on 25 September 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2021

Costs application in relation to Appeal Ref: APP/N4720/W/20/3252189
Land south of Pool Road, Pool in Wharfedale, Leeds

- 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 Leeds City Council for a full award of costs against Taylor Wimpey UK Limited.
- The hearing was in connection with an appeal against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission for the development described as "Reserved Matters application for 57 dwellings, relating to scale, layout, appearance and landscaping pursuant to Outline Application (17/02068/OT)".

Decision

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

The submissions for Leeds City Council

2. The costs application was submitted in writing before the hearing, the Council is seeking costs referring to what it believes is unreasonable behaviour causing them to incur unnecessary to wasted expense in the appeal process.

3. The Council's written submission refers to 8 separate grounds, suggesting that the appellant is pursuing a clear 'no hope case' in a number of respects, has submitted of false and misleading evidence and submitted additional evidence to the appeal to evolve the appeal scheme.

The response on behalf of Taylor Wimpey UK Limited

4. The response was made in writing. The respondent refutes the Council's comments stating that amongst other matters the additional evidence submitted to the appeal related to the matters raised by the council and, amongst other matters, satisfied the Council in respect of the reason for refusal relating to condition 5 of the outline planning permission.

Reasons

5. The Planning Practice Guidance (the PPG) advises in the section on appeal costs that these 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 explicitly states that costs cannot be claimed for the period during the determination of the planning application.

6. Both parties submitted substantial quantities of written evidence prior to the hearing, including in respect of this costs application. The 'Procedural Guide – Planning Appeals – England' advises that: If an appellant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application. This does not preclude an appellant or other party from submitting evidence to support their case or provide clarification of the issues.

7. If there had there been constructive discussions between the appellant and the Council following the determination of the application then an agreement might have been reached on some matters or there might at least have been a narrowing of the difference between the parties by the time of the appeal's submission. While the absence of such constructive discussions is regrettable, it does not amount to unnecessary or wasted expense in the appeal process on the part of either party.

8. With regards the appellants case in respect of the planning appeal, while I did not ultimately find in favour of the appellant's arguments overall, it is clear that the appeal was not, in all or in part, a 'no hope case'.

9. Turning to the suggestion that the appellant submitted false and misleading evidence, clearly there are significant disagreements between the parties in respect of this application and associated planning appeal but this is a serious matter to suggest and on the basis of the evidence before me it has not been substantiated.

10. While both parties to the appeal would have benefited from the preparation and submission of concise evidence, I nonetheless consider that it was reasonable to submit the evidence that was submitted and to pursue the appeal. As such no unreasonableness on the appellant's behalf has been demonstrated, when regard is paid to the guidance set out in the PPG.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Mark Brooker

INSPECTOR