



Costs Decisions

Site visit made on 13 April 2021

by Graham Chamberlain BA(Hons) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2021

Application A

Costs application in relation to Appeal A: Ref: APP/L2820/W/20/3247096 Bowd Field (Plot 1), Desborough Road, Stoke Albany, Northamptonshire

- 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 A Holland Jnr against Kettering Borough Council.
 - The application is in connection with an appeal against the refusal of planning permission for a development described as 'change of use of land for the siting of 3 static caravans for residential use, to include installation of septic tank, hard standing for vehicular parking and bin storage, erection of post and rail fencing and soft landscaping'.
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Application B

Costs application in relation to Appeal B: Ref: APP/L2820/W/20/3247099 Bowd Field (Plot 2), Desborough Road, Stoke Albany, Northamptonshire

- 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 T Holland against Kettering Borough Council.
 - The application is in connection with an appeal against the refusal of planning permission for a development described as 'change of use of land for the siting of 2 static caravans for residential use, to include installation of septic tank, hard standing for vehicular parking and bin storage, erection of post and rail fencing and soft landscaping'.
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Decisions

1. Application A – The application for an award of costs is refused.
2. Application B – The application for an award of costs is refused.

Reasons

3. Irrespective of the outcome of an appeal, the Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
4. The cases submitted by the applicants is that the Council failed to determine their planning applications within eight weeks or agree extensions of time. In addition, it is suggested that the Council did not communicate in a helpful or proactive manner. This has resulted in unnecessary work.
5. Neither of the planning applications were determined by the Council within the prescribed period or within an agreed extension of time. It also seems that the Council made piecemeal requests for additional information rather than

package these together in the interests of efficiency. That said, the fact that they did make requests is an indication the Council tried to engage. In so doing, it is clear from the confidential reports submitted to the planning committee that the Council were able to amass relevant details. It also made sense to determine the applications together and this would explain some of the delay in respect of Appeal A.

6. The apparently slow consideration of the planning applications could have been remedied through the submission of appeals against non-determination. The applicants prepared submissions in preparation for this. However, this ultimately proved unnecessary because the applicants waited and lodged appeals against the Council's decisions instead. It was the appellants' decision to prepare cases against non-determination but not pursue appeals. Thus, the Council have not acted unreasonably on this account.
7. In addition, in considering the time taken to assess the applications I make some allowance for the complexity of the cases. The proposals were submitted following intentional unauthorised development and raise complex matters including landscape impacts and personal circumstances. Such cases can take more time to consider, especially as the Council had to positively seek information to ensure they fully understood the applicants needs and circumstances. In this respect, the original submissions were not as detailed as they otherwise could have been and therefore did not assist the Council in making a timely assessment.
8. The appellants have referred to guidance in the PPG¹ but this relates to appeals against non-determination, which is not the case here and therefore it is not entirely relevant. That said, it seems that the Council could have improved its communication and failed to give a proper and robust explanation for delaying the decisions, save for a lack of resources, which is not the applicants doing or concern. Nevertheless, there is no indication that better communication would have resulted in a different outcome that could have seen the appeals avoided all together.
9. There is no evidence before me to demonstrate the Council deliberately slowed down its engagement with the applicants to pursue legal action through the Courts. Instead, it would seem that the assessment of the applications ran in parallel to the legal action. In general terms, it is not unreasonable of the Council to seek to uphold planning law.
10. Given the matters in dispute, the Council has not delayed development that should clearly have been approved. The matters required careful balancing and the application of planning judgment in the context of the evidence supplied.

Conclusion

11. For the reason given above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not occurred.

Graham Chamberlain
INSPECTOR

¹ Paragraph: 048 Reference ID: 16-048-20140306