



Costs Decision

Site visit made on 6 July 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th July 2021

Costs application in relation to Appeal Ref: APP/C2708/W/21/3269257 Raven Flatt Barn, Field Rock Quarry (Disused) To Red Bridge, Bell Busk BD23 4DT

- 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 and Mrs Bedford for a full award of costs against Craven 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 a proposed garage extension & orangery over therapy pool.
-

Decision

1. The application for an 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 therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The basis for the application appears to be that the planning application should have been determined under delegated authority as it was a straightforward proposal but was only presented to the Council's planning committee for decision due to what the applicants describe as 'incompetence'. Furthermore, they allege that the planning committee's consideration of the application was delayed due to the Council's failure to comply with its procedures.
4. The PPG gives examples of unreasonable behaviour by local planning authorities. One of the examples is failing to determine planning applications and delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The PPG states that, in any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period. In such cases, if an appeal is allowed, the local planning authority may be at risk of an award of costs if there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.
5. I have no evidence before me that identifies why the application was presented to the planning committee for decision rather than being determined under

- delegated authority, whether from the applicants or the Council. I am not able therefore to determine whether this was done in accordance with the scheme of delegation operated by the Council. However, in itself, the presentation of a proposal to committee is not evidence of unreasonable behaviour.
6. The application is dated 21 July 2020 and was registered by the Council on 20 August 2020, with an expiry date of 15 October 2020. Two sets of revised plans were submitted during the consideration of the application. Revision A is dated September 2020 and Revision B, the plan on which the Council made its decision, is dated October 2020 and appears to have been received by the Council on 12 October 2020. I have no substantive information on the origins of these revisions.
 7. However, given their nature and the assessment set out in the Officer Report, it would be reasonable to conclude that they were made to provide more information on the proposal and to improve the appearance of the proposed development. Such amendments are not uncommon during the consideration of a planning application and can improve the likelihood of securing planning permission but can also delay the final decision. Given that the Council received the second amendment on 12 October, presenting the application to its planning committee on 23 November is not an unreasonable time period.
 8. I have noted the recommendation of the Council's Officers which was for approval. The decision in this case is one which is a matter of judgement. The planning committee is not duty bound to follow the advice of its Officers as long as its contrary decision is made on planning grounds. The reason for refusal arrived at by the planning committee explains why it considered the proposed development to be unacceptable and this is framed within the context of the development plan.
 9. The application was withdrawn from the planning committee agenda on 23 November 2020 to allow for consultation with the Parish Council and this did cause a delay to the decision being made by the Council. Furthermore, although the planning committee made its decision at its meeting on 22 December 2020, the decision notice was not issued until 22 February 2021.
 10. The Council states that this was due to delays experienced in the signing off of the decision following committee. I can understand the applicants' frustration at the delay in receiving the decision notice and the uncertainty this may have caused for progressing the proposal further. However, the applicants would have been aware of the planning committee's decision given the attendance at the committee meeting. The appeal against non-determination was lodged following the committee meeting. Whilst the delay in issuing the decision notice is unfortunate, I do not consider that it amounts to unreasonable behaviour on the part of the Council.
 11. Furthermore, the incurred costs identified by the applicants are normal costs involved in preparing and submitting a planning application and would not be classed as unnecessary or wasted expense in the appeal process. The applicants have also made reference to the costs for a new planning application. Whilst the applicants were within their rights to submit a new or revised planning application, that would have been their choice to do so.

Conclusion

12. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

F Wilkinson

INSPECTOR