



Costs Decision

Site visit made on 4 May 2021

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2021

Costs application in relation to Appeal Ref: APP/A4520/W/20/3265859 61 Ocean Road, South Shields NE33 2JJ

- 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 Whittaker Mills Investments Limited for a full award of costs against South Tyneside Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a development described as: Change of use of former guest house (use class C1) to 9 bedroom house in multiple occupation (HMO) (sui generis).
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 appellants application for an award of costs is predicated on the procedural grounds that the Council failed to reach a decision within the 8 week timescale, did not communicate effectively with the appellant, and did not give the appellant sufficient time to prepare representations to the Council's planning committee. No substantive grounds relating to the issues arising from the merits of the appeal have been raised.
4. Failing to make decision within the prescribed period does not, of itself, constitute unreasonable behaviour on behalf of the Council. From the evidence, communication during the earlier stages of the application process could have been better. However, as the Council point out, the restrictions imposed as a result of the Coronavirus pandemic had a disruptive effect on regular ways of working and, within this context, some delays and difficulties in communication would be expected.
5. From what I have seen, a comprehensive summary of the objections to the proposal in addition to the comments of the Highway Authority and Northumbria Police were sent to the appellant on 17 December 2020. Whilst the Council's planning officer may have had limited availability, the appellant was made aware of the principal concerns in relation to the proposal and would have been able to prepare a response to these without necessarily requiring to speak directly to the planning officer beforehand.

6. Although the appellant had not been appraised of the likely recommendation to the Council's Planning Committee by the time that the appeal was lodged, the evidence sets out that the agenda for the Committee meeting on 25 January 2021 would have been published on 13 January 2021. There is no persuasive evidence before me which would indicate that there would have been insufficient time between the publication of the committee agenda on and the meeting date for the appellant to prepare a response to the contents of the published report.
7. I have also noted that the Council state that it would have been amenable to presenting the application to a later meeting of its Planning Committee, however, the appeal was lodged before the deadline for reports to its January 2021 meeting without a request for a deferral to a later committee being made.
8. Within this context, although communication between the parties could have been better, I do not find that the Council acted unreasonably in these respects.
9. The PPG sets out that costs applications may relate to events before the appeal or other proceeding was brought, but costs that are unrelated to the appeal or other proceeding are ineligible. Whilst the appellant states that the length of time that the Council took to consider the application resulted in a funding offer being withdrawn and the requirement to seek alternative funding through a mortgage broker, this is not directly related to the planning application or appeal process. Awards of costs cannot extend to compensation for indirect losses, including those which may result from an alleged delay in obtaining planning permission.

Conclusion

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

John Dowsett

INSPECTOR