



Costs Decision

Hearing Held on 19 October 2021

Site visit made on 20 October 2021

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Costs application in relation to Appeal Ref: APP/U2805/X/21/3266883 Land South of A427, Corby Road, East Carlton, Market Harborough

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Stonegate Limited for a full or partial award of costs against Corby Borough Council.
 - The hearing was in connection with an appeal against the refusal of the Council to issue a certificate of lawful use or development for free-range egg production/poultry building, associated yard and access road.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for the applicant

2. The costs application was made in writing for a full or partial award of costs. The substantive claim for the full award of costs is on the basis that there had been a complete failure by the Council to advance a credible or legally sound reason for refusing the LDC application. In the alternative, the applicant made a procedural claim for a partial award of costs based on the failure of the Council to engage with the appeal process which led to the postponement for the original hearing date which caused additional work and expense for the applicant.
3. The following additional points were made orally following the response by the Council. The applicant accepted that there had been an organisational restructure at the Council. However, the Council had not particularised how the restructure had caused problems in this specific case and their arguments never went beyond the general. In addition, it was unreasonable of the Council to try to give implied meaning to condition 4 by arguing to fill in the gaps and the effects of the ongoing pandemic had been felt by all, not just the Council.

The response by the Council

4. The response was made orally at the hearing. The Council's case was the administrative reorganisation and effects of Covid should not be underestimated in terms of transactional costs and the problems caused. The Council's position regarding whether the works had been undertaken in accordance with condition 4 had not been Wednesbury unreasonable as was evidenced by the discussion during the hearing about the correct legal

interpretation. It was for the applicant to prove their case in an LDC appeal not the Council. In addition, whilst there had been some delay, this had not caused any real or tangible prejudice to the applicant and there had been no evidence of material costs as a result.

Reasons

5. The Planning Practice Guidance 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.
6. I do not find that there has been a substantive error by the Council which should lead to the full award of costs. The conditions relevant to this appeal are fairly historic and not clearly worded in a way that would be expected in more recent conditions, and the differences in interpretation were therefore not unsurprising or unreasonable.
7. However, whilst I do have sympathy for the problems and disruption that can be caused by an organisational restructure, particularly during the pandemic when many people are not in the office full time, the Council did not explain how these factors had particularly impacted on this appeal to cause the delays. I also note that the same officer has been involved throughout the application and appeal processes and so this was not affected by the reorganisation.
8. In the absence of any specific reasons provided by the Council, the lack of engagement in the appeal process (despite many prompts from the Planning Inspectorate) was not reasonable behaviour in all of the circumstances. The applicant made submissions that the postponement of the hearing date had caused additional expense as their team had prepared for the initial hearing date and then had to do additional work to take account of the Council's subsequent statement of case.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Northamptonshire Council shall pay to Stonegate Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred by the postponement of the first hearing date; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Zoë Franks

INSPECTOR