The Planning Inspectorate

Costs Decision

Inquiry Held on 25 January 2021 and 8-9 June 2021

Site visit made on 1 June 2021 and 17 June 2021

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Costs application in relation to Appeal Ref: APP/W1145/C/19/3229627
Land at Coope, Ashwater, Beaworthy EX21 5HE

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Jon Middleton for a partial award of costs against Torridge District Council.
- The inquiry was in connection with an appeal against an enforcement notice alleging: the use of a building for residential purposes; the unauthorised construction of a wooden structure; and the siting of a caravan for human habitation.

Decision

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

The submissions for Mr Jon Middleton

2. The application for a partial award of costs was made at the Inquiry. The application related solely to the costs incurred in respect of the adjournment of the Inquiry when it first sat on 25 June 2021. I found that this adjournment was necessary due to the failure of the Council to properly advertise the Inquiry. To have continued the Inquiry at that stage would have been likely to have been prejudicial to third parties. Both main parties agreed with this course of action.

3. This, it was argued, was unreasonable behaviour that led to unnecessary expense.

The response by Torridge District Council

4. In response, the Council stated that the effects of the Covid-19 pandemic made it very difficult to ascertain who lived nearby and should have been made aware of the appeal. This exceptional circumstance led to the mistake being made. The Council agreed that, in normal circumstances, this would have amounted to unreasonable behaviour; however, the circumstances were not normal.

Reasons

5. In his response to the Council's defence of the application, Mr Tilney, on behalf of Mr Middleton acknowledged that the period in which the mistake was made was exceptional. Although "minded to leave it", he left the decision to me.

6. 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.

7. By way of background, at the 'Test Event' for the Inquiry on the 20 January I reminded the Council of the need to provide copies of the letters of notification of the appeal and the Inquiry. Copies of the former were submitted by the Council on the same day. However, the latter were not submitted.

8. I opened the Inquiry on 25 January, where I was informed that letters of notification for the Inquiry had not been issued. Furthermore, it transpired that the Council were unsure whether the owners/occupants of the house at Coope had been notified of the appeal.

9. The effects of the pandemic had an adverse effect on many aspects of daily life. However, I find that this is not sufficient reason to justify the mistakes that were made. Having sent out the initial letters of notification during the pandemic, I was not given substantive reasoning as to why the same could not have been achieved with regards to the notification of the Inquiry. Furthermore, Officers of the Council had visited the land at Coope and, having referred to them in their written submissions, were obviously aware of the dwellings there. Again, adequate reasoning as to why the consequent adjournment arising from this omission did not amount to unreasonable behaviour was not provided.

10. 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

11. 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 Torridge District Council shall pay to Mr Jon Middleton, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the adjournment referred to, above ; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to Torridge District 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.

Roy Curnow

Inspector