
Costs Decision

Site visit made on 17 November 2021

by David Smith BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Costs application in relation to Appeal Ref: APP/C1760/W/20/3263132/ Land adjacent to the recreation ground, Newton Lane, Barton Stacey, SO21 3RR

- 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 Maurice Stokes for a full award of costs against Test Valley Borough 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 the change of use of land with associated ancillary development to one gypsy and traveller pitch.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. One example of unreasonable behaviour given in the PPG is when development is delayed which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. However, I have concluded that the proposal would not accord with the development plan and would be unacceptable. The Council were therefore justified in objecting to the proposed development.
4. There is advice about when a local planning authority's handling of an application might lead to an award of costs in paragraph 048 of the PPG with specific reference to non-determination cases. The application was submitted on 24 February 2020. During its consideration there was a regular exchange of information between the Council and the applicant's agent. This included extending the time for determination on more than one occasion with a final agreed deadline of 30 October. Whilst this was good practice it is evident that the matter became protracted.
5. To a large extent this was in order that concerns about highway issues, wastewater disposal and nutrient neutrality could be addressed by external consultees. Furthermore, the applicant sought specialist advice. Details in relation to the nitrogen nutrient assessment and mitigating proposals were provided on 14 October. Whilst the Council's email of 6 November expressed a keenness to bring the application to a conclusion there were still thought to be

outstanding matters. However, it is unclear why, at that stage, further comments were required from others about the principle of development, highways, landscape and pollution. Consequently it appears that the Council should reasonably have progressed the application to decision after 14 October.

6. Although the Council has not expressly explained their reasons for not reaching a decision, its statement comprehensively addresses all the relevant issues. This sets out why permission would not have been granted had the application been determined within the relevant period. This is in line with the PPG. Furthermore, even if the application had been decided before the appeal was made, the outcome would have been the same. There was communication with the applicant and had responses been made more quickly this would not have enabled the appeal to be avoided altogether.
7. From the information provided, it was unreasonable of the Council not to move to a decision after 14 October with a view to meeting the extended period for determination of 30 October. However, if the application had been decided at that stage, it would have been refused and there would still have been an appeal. Therefore, there has been no unnecessary or wasted expense and a costs award is not warranted.

David Smith

INSPECTOR