



Costs Decision

Site visit made on 26 April 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2022

Costs application in relation to Appeal Ref: APP/L3245/W/21/3283341 Development land west of Springfield Park, Clee Hill, Shropshire SY8 3QY

- 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 KH Developments for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for the variation of condition no.7 pursuant to SS/1/07/19934/F to allow for a redesign of all 13 approved properties; re-design of site layout and erection of one detached garage block (amended description) without complying with conditions attached to planning permission Ref 19/03888/VAR.
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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, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. Costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded. The applicant's claim is that the Council acted unreasonably through creating delays as a result of failing to adhere to the appeal deadlines for submitting information.
3. I note that the Council requested an extension of time for the submission of its statement of case. This request was a considerable length of time after the appeal was first submitted and on the date on which the statement was due, as set out in the appeal timetable. The reason for requesting this extension of time was that the Council was not in receipt of the appendices to the applicant's statement of case due to the email being sent to an individual officer's email address rather than a dedicated appeals email address.
4. The evidence before me indicates that when the applicant originally sent the appeal to the Council an officer confirmed receipt of the submitted documents. Whilst the Council may prefer for appeal documents to be sent to a dedicated appeals email address, the applicant was not advised to redirect their email and attachments or any further correspondence to a different address within the acknowledgement email from the officer. Although the officer subsequently

ceased employment at the Council, the Council as a whole is responsible for the processing of appeals.

5. I do however note that the applicant only provided a list of appendices within its email to the officer rather than the documents themselves. These appendices related to documents which were submitted with the planning application and documents which the Council produced themselves. As such, the Council would already have had copies and therefore sight of the documents. However, the onus is on the applicant to provide copies of all relevant documentation to the Council when making their appeal.
6. Nevertheless, the appendices were subsequently sent to the Council and a brief extension of time was granted to allow the Council to submit its evidence. This extension was not adhered to, with the Council again citing email issues whereby the grant of the extension of time was not received by officers due to the email being deposited into a junk email folder. Nevertheless, a further amendment was made to the planning appeal timetable to allow proper advertising of the appeal, to ensure no interested parties were disadvantaged.
7. Overall, it is clear that the Council suffered some technical issues with regards to the receiving and management of emails, whether to an individual officer's email address or its dedicated appeals email address. These technical issues should have been addressed early on by the Council however they persisted for a considerable length of time and the issues only came to light very late in the appeal process, resulting in delays overall to the timetable. It is the responsibility of the Council to adhere to deadlines so as the appeal can process efficiently. The lack of addressing of the email issues constitutes unreasonable behaviour by the Council.
8. Turning now to whether or not this unreasonable behaviour has directly caused the applicant to incur unnecessary or wasted expense in the appeal process, the applicant has not specified the effect which these delays may have had. They have nevertheless raised additional concerns that the Council's case was unsubstantiated as the planning committee failed to conduct a site visit and determined the application against the recommendation of officers following a debate principally relating to matters of drainage.
9. The evidence before me indicates that members were equipped with sufficient detail so as to come to a fully reasoned decision based on the assessment of the proposal in relation to its surroundings, having regard to relevant development plan policies. They subsequently resolved to refuse the application on the grounds of residential amenity. Members of the planning committee are not duty bound to follow the advice of its professional officers.
10. Accordingly, notwithstanding the Council's unreasonable behaviour during the appeal process which led to delays, there were fundamental disagreements between the parties in relation to the effect of the proposal on the living conditions of neighbouring occupiers, thus the appeal process was unavoidable in this regard.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

H Ellison
INSPECTOR