Costs Decision

Site visit made on 13 September 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2022

Costs application in relation to Appeal Ref: APP/W3520/W/21/3279560
The Bungalow, Church Road, Bacton IP14 4LJ

- 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 Ms Jane Ottaway for a full award of costs against Mid Suffolk District 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 new dwelling on plot 1 as consented at outline reference: DC/19/00851, with dedicated access and separate access for plot 2.

Decision

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

Reasons

2. 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.

3. The application for a full award of costs is on the basis that the Council acted unreasonably on procedural grounds, relating to the determination of the planning application at the Council's Development Control Committee. Moreover, the applicant suggests that the Council deferred the application due to the impact on a previous outline planning permission for the site, but should have been able to make a determination with legal and officer representation available. The applicant also claims that the delay should not have extended beyond three months for the application to be referred back to the Committee and the Council delayed development which should clearly be permitted.

4. During discussion at the Committee, concerns were raised regarding the implications for trees removed within the site on the validity of conditions regarding landscaping on the outline planning permission and any subsequent effect of the planning application before Members. This is reflected in the brief summary of the reasons for the deferment included in the minutes for the meeting, but Members appear to have taken Officer advice in deferring.

5. The Members of the Committee were entitled to raise such a point, it was for Officers to determine its relevance and advise Members accordingly. In doing so, Officers were also entitled to reach a conclusion that it would not be possible to advise during the meeting and it would be necessary to defer the application to resolve this matter. Neither course of action would therefore amount to unreasonable behaviour on the part of the Council.

6. The subsequent delay in referring the application back to the Committee would clearly not have been expected by the applicant, but there is no evidence before me which would lead me to doubt that this was anything other than unfortunate due to the Council's congested schedule for Committee. It was not therefore unreasonable for the application to be delayed in being heard again.

7. Due to the reasons for the deferment, there is also no evidence to suggest that had the Committee had the relevant answers to the points which led to the deferral, it would not have reached the same conclusion it did in determining whether to defend the planning appeal. Moreover, as evidenced in my main decision, having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should not have been permitted. This is what the Committee indicated it would have done had it retained authority to make a decision on the application.

8. Consequently, I cannot agree that the Council acted unreasonably relating to the delay in determining the planning application due to the deferment from its Committee or the timeframe for it to be referred back for reconsideration. Similarly, given my findings in my main decision, the Council did not delay development which clearly should have been permitted. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

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

Paul Thompson

INSPECTOR