



Costs Decision

Site visit made on 11 October 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Costs application in relation to APP/M0933/W/22/3299726 The Langdales, Levens, Kendal LA8 8PJ

- 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 Dawn Osliff for a full award of costs against South Lakeland District Council.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

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

Reasons

2. Planning Practice Guidance (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 expense in the appeal process. This application for costs is made on the basis that the Council was unreasonable in failing to determine the application, such that the applicant was put to the cost of lodging an appeal against non-determination.
3. Paragraph Reference ID: 16-047-20140306 of the Planning Practice Guidance (PPG) sets out examples of unreasonable behaviour which may give rise to a procedural award of costs, including a failure to adhere to deadlines. Paragraph Reference ID: 16-048-20140306 states that, 'If it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period'
4. In this case a valid application was submitted on 3 March 2022. A request was made by a District Councillor on 23 March to call in the application. In accordance with the Council's constitution the application would therefore have to be determined by committee, which was relayed to the applicant following the end of the consultation period. The Council explained that, due to local elections, the next committee meeting was on 16 June and therefore requested an extension until 24 June to determine the application. At the request of the applicant the Council also liaised with the District Councillor but was unable to remove the call in request. The

applicant formally refused the Council's extension request and submitted the appeal on 25 May 2022.

5. The evidence does not indicate that the Council acted unreasonably in this case. It provided a valid reason to the applicant for its inability to determine the application within the initial timeframe, and stated that the application would be the subject of the next committee meeting. Although this was sometime in the future, this was due to the valid reason of upcoming local elections, which was relayed to the applicant. While it is unfortunate that there had previously been a pattern of cancelled committee meetings, there was no substantive evidence to suggest that the committee meeting on 16 June would also have been cancelled.
6. The applicant expresses concerns that the District Councillor who made the call in request was also a member of the Parish Council, which has previously objected to development at the site. Nevertheless, it remains that the Council was required to call in the application following this request and acted in accordance with its constitution in doing so.
7. However, even if this was to amount to unreasonable behaviour I do not consider that it led to wasted expense on the part of the applicant. The Council had relayed to the applicant that while it intended to recommend that conditions 1 and 4 be amended to reflect the approved details, it would recommend that condition 2 should be retained. As such, even if the application had been determined by the Council, it is reasonably likely that an appeal would have been an inevitable outcome. The applicant, in choosing to submit the appeal citing non-determination, did not therefore incur any additional expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For the reasons given above, I refuse the application for an award of costs.

C Rafferty

INSPECTOR