
Costs Decision

Site visit made on 30 November 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Costs application in relation to Appeal Ref: APP/Y2736/W/22/3297888 Welburn Business Park, Greets House Road, Welburn, Malton YO60 7EP

- 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 Welburn Park Venture for a full award of costs against Ryedale District Council.
 - The appeal was against the refusal to grant prior approval for change of use of buildings from offices to 10no. dwellings comprising 4no. two bedroom dwellings and 6no. one bedroom dwellings with associated parking and amenity space.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal.
3. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Paragraph 48 of the PPG sets out that the handling of the planning application prior to the appeal might lead to an award of costs and states that if it is clear that the Council will fail to determine an application within the time limits, it should give the applicant a proper explanation.
4. It is common ground between the parties that there was an administrative error made by the Council resulting in it recording the wrong date of receipt for the prior approval application. This was used by the Council to calculate the date of the expiry of the 56-day period. The Council issued its 'decision' on day 56, but this was some time after the expiry of the time period calculated from the actual date of receipt. It is regrettable that this occurred, but it is clear from the evidence that this was not a deliberate action by the Council.
5. Indeed, the Council notified the appellant of its date of receipt of the application and the 56-day expiry date. I note that there was correspondence between the two parties during this period. This would have represented an opportunity for the applicant to query the relevant dates had they been minded to do so.

6. In any event I do not agree that an appeal could have been avoided because the Council was minded to refuse the prior approval application as is evidenced by its decision notice. I note that the Council notified the applicant of its concerns in respect of noise a week before taking its decision.

Conclusion

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

Paul Martinson

INSPECTOR