
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: 21 December 2022

Costs application in relation to Appeal Ref: APP/Y2736/W/22/3302613 The Lodge, Goose Track Lane, West Lilling YO60 6RR

- 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 and Mrs P Try for a full award of costs against Ryedale District Council.
 - The appeal was against the refusal of planning permission for demolition of existing 6 bedroom detached house and replacement with new 6 bedroom detached house.
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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 makes clear that local planning authorities are at risk of an award of costs if they prevent or delay development that should clearly be permitted, fail to produce evidence to support each reason for refusal on appeal, or make vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicants' case for a full award of costs is that the Council failed to work collaboratively through the application process through poor correspondence, excessive delay, lack of clarity or helpful advice, procedural error, pre-meetings for committee decisions and councillors voting 'reluctantly'. The applicants state that requests for meetings were repeatedly ignored and delayed whilst a lack of direction led to significant costs on re-designs. It is the applicants' opinion that an appeal would not have been necessary had the Council properly engaged on these matters.
5. The PPG sets out that if it is clear that a local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. This appears to have been done, with it being clear from the evidence that the Council requested amended plans and provided advice as to how to address its concerns. The Committee Report sets out that these concerns were initially outlined to the applicants some months before the determination at the May Planning Committee.

6. As such it is clear to me that there was communication between the Council and the applicants during this time. Whilst the delay in determining the application is regrettable, it is nonetheless apparent that there was reasonably regular contact during the application process and that some of the delay was due to the provision of advice and request of amended plans by the Council in order to achieve an acceptable scheme. Furthermore, the Council provided its evidence within the requisite appeal timescale.
7. Notwithstanding the above, there is no statutory duty on the Council to communicate with an applicant during the period that the application is under consideration, nor is there any requirement to meet with applicants. It is nonetheless good practice for a Council to clearly outline its concerns prior to issuing any decision, which appears to have been the case here. However, it is not unreasonable of them if they do not, particularly where there are fundamental issues that amendments could not overcome.
8. I accept that the applicants had submitted amended plans that they felt addressed concerns initially expressed by the Council. However, Council members were entitled to take an opposing view. Indeed, it is clear from the evidence before me that Members did not feel that the changes had addressed the concerns expressed earlier by officers. On the basis of what is before me, I am satisfied that the Members' judgement was exercised reasonably.
9. Reference is made to communication between the Council and a Member of Parliament. There is a dispute between the parties as to whether or not it was this contact that led to a meeting being held between the applicant and Council officers. However, regardless of how that meeting came to take place, I note that it did lead to discussion over design and receipt of a revised scheme that the Council saw as an improvement. However, the applicant chose not to pursue that scheme and instead sought the determination of the earlier drawings at the Planning Committee. I am therefore not convinced that the actions by the Council in this regard have directly caused the applicants to incur unnecessary expense at appeal.

Conclusion

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

Paul Martinson

INSPECTOR