



Costs Decision

Site visit made on 15 November 2022

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2023

Costs application in relation to Appeal Ref: APP/J0405/W/22/3296062 Tats Wood, Chivery, Aston Clinton HP23 6LD

- 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 John Caulfield for a full award of costs against Aylesbury Vale 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 a replacement dwelling following demolition of existing dwelling, garage and outbuildings.
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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 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 applicant considers that the Council has behaved unreasonably by failing to adhere to deadlines during the application process, and by not communicating with them over a lengthy period. This delay resulted in the need for the applicant to submit an updated Ecological Survey, to replace the one which had expired due to the delay, as well as a Visual Appraisal.
4. In disregarding the applicant's detailed evidence regarding the volume of the proposal, and not properly considering the planning decision at the neighbouring Langlands site¹ (including in its costs response), the applicant believes that the Council has made inaccurate and unsupported assertions and has been inconsistent in its decision making. This has left the applicant with little choice but to pursue an appeal and the resultant expense.
5. The Council acknowledges that it did not determine the planning application within the statutory timescale, partly because of the legacy of the Covid pandemic. It also considers that an appeal could not have been avoided, as demonstrated by a later similar application and currently undetermined appeal² at the site, and the need to submit further information such as the Ecology Survey and Visual Appraisal. It believes it has fully justified its concerns, has not been inconsistent in its decision making and has acted reasonably. It also

¹ LPA Reference 19/00842/APP

² PINS reference APP/J0405/W/22/3308513

considers that no wasted expenses resulting at the appeal stage have been demonstrated by the applicant.

6. The PPG³ gives examples of unreasonable behaviour. These include lack of co-operation with other parties and failure to adhere to deadlines. They also include vague, generalised or inaccurate assertions about a proposal's impact, unsupported by objective analysis, and not determining similar cases in a consistent manner.
7. However, the PPG advises that costs can only be awarded against a local planning authority in relation to unnecessary or wasted expense at the appeal stage. Whilst no doubt frustrating, it has not been shown that the lack of communication or timeliness in making a decision was to delay the process, but because of a particular set of circumstances at the time.
8. Moreover, there has been no failure by the Council in respect of the appeal deadlines. As demonstrated by the subsequent outstanding appeal, this route would still have been necessary and the delays, whilst regrettable, have not resulted in wasted expense in pursuing the appeal process. As such, the updated Ecology Survey and Visual Appraisal are likely to have been necessary in any case. Unreasonable behaviour by the Council has not therefore been demonstrated in this respect.
9. As my overall conclusions in the main decision show, the concerns of the Council with regard to the main issues have been substantiated. Whilst consistency of decision-making is important, the Council's decision at Langlands has not been crucial to the determination of the appeal. The Council was entitled to reach its conclusion on the merits of the specific case, based on the Development Plan and other material considerations.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I therefore conclude that the application for an award of costs should be refused.

O Marigold

INSPECTOR

³ Paragraph 049 Reference ID: 16-049-20140306