
Costs Decision

Site visit made on 21 February 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Costs application in relation to Appeal Ref: APP/N4205/W/22/3306264 Yard at the rear of Newgate Cottages, Plodder Lane, Bolton BL5 1AH

- 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 Peters for a full award of costs against Bolton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a multipurpose agricultural building.
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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, 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 and wasted expense in the appeal process.
3. The applicant states that this application for costs is made on both procedural and substantive grounds. Namely they consider that the Council took a considerable length of time to determine the planning application and during which time it failed to enter into meaningful correspondence with the applicant. It is also suggested that had it done so, the appeal could have been avoided altogether or the issues to be considered narrowed.
4. The PPG makes clear that costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
5. I appreciate that the planning application was under consideration during a time when the Covid 19 pandemic presented resource challenges to the Council. Nevertheless, there was a considerable length of time between the application being submitted and registered, to first correspondence from the Council and the subsequent refusal of the planning application. Overall, the correspondence also appears to have been limited in substance. Indeed, the Council admit that the delay in determining the application was regrettable.

6. However, the evidence also suggests that the appeal site has complex history, particularly in relation to various, alleged, unauthorised works at the time of consideration. This factor undoubtedly placed further pressure on the Council and played some part in the overall delay to the determination of the application, as a result of having to correspond with various colleagues in order to investigate any matters of concern, amongst other things. It seems to me that there has been a failure to cooperate on both parts.
7. I note the concerns that the Council did not offer any pre-application discussions. However, there is limited information before me regarding this matter, particularly as to whether or not the applicant submitted any such request for advice.
8. I turn now to consider whether, had the delay in the determination of the application not occurred and had the main parties effectively communicated with one another, would the appeal have been avoided altogether or the matters narrowed. The officer report provides a full analysis of the site and the proposed development, based on the information provided to the Council at the time of the planning application. The Council clearly sets out its reasons as to why it considers that the proposed building would not be used for agriculture and thus would constitute inappropriate development in the Green Belt. In accordance with national and development plan policies, it then went on to consider the effect on the openness of the Green Belt.
9. Whilst it can be seen from the appeal decision that I have found the proposal to be acceptable in respect of the Green Belt, based on the information which was before me, that is not to say that the Council did not fully substantiate its concerns at the time of its decision.
10. The Council did however fail to submit a Statement of Case and instead submitted comments at the final comments stage. This submission incorporated additional and new evidence. Whilst this may be teetering on the edge of constituting unreasonable behaviour, based on the additional information, the applicant was afforded an opportunity to respond to points raised. They were also provided with a chance to respond to a list of suggested conditions subsequently submitted by the Council.
11. The Council clearly had fundamental concerns with the proposal, which were largely carried through to the appeal stage, given the ongoing concerns outlined within the Council's final comments. This was despite the additional information provided by the applicant during the appeal process. I am not therefore convinced that better communication during the planning application process would have enabled all concerns to be overcome and for the appeal process to have been avoided altogether.
12. In respect of concerns relating to ecology, I note that the Council did not request a great crested newt survey yet it is intimated that it would likely have been aware of the requirement for this survey given the associated planning application for an agricultural worker's dwelling. Similarly, however, the applicant would also have likely been aware such a survey was needed. The onus is on them to submit all information deemed necessary for the Council to determine the application.

13. Nonetheless, this matter has not resulted in unnecessary or wasted expense in the appeal process given that the survey had already been completed, was subsequently submitted with this appeal and resulted in the second reason for refusal falling away.
14. Taking all the above into consideration, I therefore conclude that it has not been demonstrated that the Council behaved unreasonably which resulted in unnecessary or wasted expense. The costs application should therefore fail and no award is made.

H Ellison

INSPECTOR