



Costs Decision

Hearing held on 14 May 2024

Site visit made on 14 May 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Costs application in relation to Appeal Ref: APP/W2845/W/23/3327711 Wharf Lane Stables, Grafton Road, Yardley Gobion, West Northamptonshire NN12 7UE

- 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 Charlene Barnard for a full award of costs against West Northamptonshire 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 the erection of a new two storey dwelling.
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Decision

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

The Submission for Charlene Barnard

2. The applicant's costs application was made in writing the day before the Hearing. They are seeking a full award of costs against West Northamptonshire Council. The applicant contends that the Council:
 - failed to employ an agricultural consultant during the consideration of the planning application and ignored the findings of the applicant's agricultural consultant;
 - failed to engage a specialist landscape architect to comment upon the acceptability or otherwise of the proposal, instead relying on the planning officer to make this judgement. In doing so, the Council, relied upon vague and generalised assertions about the proposal's impact which were unsupported by any objective analysis;
 - failed to recognise the importance of paragraph 88 of the National Planning Policy Framework (the Framework); and
 - failed to engage in dialogue regarding the proposals until six months after the planning application was submitted.

The Response by West Northamptonshire Council

3. The Council's response to the costs application was made in writing after the Hearing due to its length and the timing of its submission. The Council assert that they:
 - did not ignore the findings of the applicant's agricultural consultant, they simply disagreed with their conclusions, and considered they had

sufficient internal expertise to assess the submissions without needing to employ an agricultural consultant;

- the Council had regard to the Framework, including Chapter 6: Building a strong, competitive economy which was referenced as a material consideration in their appeal statement. There is no evidence that the Council did not take paragraph 88 of the Framework into account;
- the Council did not consult a landscape specialist as officers were able to form their own view on such matters based upon experience and informed by policy and guidance; and
- the Council acknowledges there were delays in considering the planning application, however, they retained ongoing correspondence with the applicant, pre-warned them of upcoming officer leave, welcomed amendments to the scheme, and made suggestions as to what in their view they would consider acceptable rather than simply issuing a refusal.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (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.
5. The Council, in their pre-application advice to the applicant, encouraged them to employ an agricultural consultant to produce a Needs Survey to support their planning application. It is entirely at the applicant's discretion whether to take this advice or not. A Needs Survey is open to scrutiny as part of the planning application process and does not imply that its inclusion will result in a favourable outcome for the applicant. Furthermore, nothing before me suggests that the Council ignored the findings of the appellant's agricultural consultant.
6. There is no requirement for the Council to seek the views of an agricultural consultant during their consideration of a planning application. The Council was entitled to reach their own conclusion on these matters, noting the information that had been provided by the applicant's agricultural consultant, which the Council confirmed they did. Even if the Council had sought views from an agricultural consultant during the planning application process, any advice provided would be just that, advice, which the Council is not obliged to follow.
7. The use of an agricultural consultant by the Council at the appeal stage was at their discretion. It is not uncommon for specialists to support a Council at an appeal Hearing, as it is unknown what questions the Inspector may raise or whether the applicant may put forward evidence that the planning officer may require specialist help to answer. This does not diminish the planning officer's own ability to form a recommendation on the planning application.
8. Similarly, there is no requirement for the Council to seek the views of a landscape architect during the consideration of a planning application. The Council was entitled to reach their own conclusion on these matters. The Council's assessment of the proposal's effect on the character and appearance of the surrounding area in their officer report, in my opinion, is complete, precise, specific, and provides sufficient evidence to support their case.

9. While the Council's Conservation Officer raised no objection to the proposal, this was in respect of the proposal's effect on the setting of the Grand Union Canal Conservation Area and the Grade II listed Old Wharf Farmhouse and attached outbuilding. Even if their comments suggested that the scale and design of the building would be acceptable these are the Conservation Officer's views, and it is entirely reasonable for the Council to come to a different view on this matter.
10. I acknowledge that the Council did not undertake an assessment of the proposal against paragraph 88 of the Framework within their appeal statement (previously paragraph 84). However, the applicant submitted an appeal following the failure of the Council to determine the planning application within the prescribed timeframe and consequently, an appeal would still have been necessary. Furthermore, following my own consideration of the application on its merits alone, I have found that this material consideration would not have resulted in a decision other than in accordance with the development plan.
11. It is clear that there were delays in considering the planning application which ultimately led to the applicant submitting an appeal against the failure of the Council to issue a notice of their decision within the prescribed timeframe. However, the evidence before me suggests that the Council forewarned the applicant that they would experience a delay due to the planning officer going on leave and some of the delay was caused by the Council seeking amendments to overcome their concerns. Furthermore, the Council has confirmed that had it had the opportunity to determine the planning application, it would have refused it and therefore, an appeal would have been likely. Therefore, I have no substantive evidence that the delays experienced resulted in the applicant incurring any unnecessary or wasted expense in the appeal process.

Conclusion

12. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated.

A Berry

INSPECTOR