



Costs Decision

Site visit made on 24 September 2024

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Costs application in relation to Appeal Ref: APP/J0350/W/23/3334641 American Golf, 175 Bath Road, Slough, SL1 4AA

- 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 Slough Borough Council for a full award of costs against Mr G Seller.
 - The appeal was against the refusal of planning permission for the demolition of the existing building and the construction of 50 residential dwellings including basement parking level and landscaped open space.
-

Decision

1. The application for costs is refused.

Reasons

2. 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.
3. The Procedural Guide: Planning Appeals – England (Planning Inspectorate 17 September 2024) says that the deadline for submitting an executed and certified copy of a planning obligation for a written representations appeal is the time of making the appeal. This is the current deadline. However, at the time the appeal was submitted the deadline was 7 weeks from the start date, in accordance with the 11 January 2024 version of the Procedural Guide. In line with the previous Guide, the Planning Inspectorate advised the parties that the date for receiving the planning obligation would be the 6 June. Both versions of the Procedural Guide say that Planning obligations received after the deadline will be taken into account only at the Inspector's discretion.
4. The first completed unilateral undertaking (UU) was submitted on 19 June, after the 7 week deadline. The Council made comments on it, both in respect of its substance, i.e the Council wanted an obligation in relation to affordable housing, and in respect of some drafting issues. An amended draft UU was submitted on 9 July. Still there was no obligation relating to affordable housing and the Council commented again in this respect.
5. I note the appellant's comments that the Council had been uncooperative about the planning obligation during the planning application process. I also note the appellant's comments that he wrote to the Council twice in May about what obligations would be required by them. However, this does not adequately explain why it was submitted after the 6 June deadline, given that the

application was refused on 13 November and appealed on 7 December. There is a lot of time between those dates and the May emails.

6. I can understand the frustration of the Council that the UU documentation was submitted late as the Council should not have been expecting to deal with it outside of the appeal timetable. I therefore consider that submitting the UU after the deadline agreed with the Planning Inspectorate, without a convincing explanation, constitutes unreasonable behaviour.
7. Nevertheless, for the Council to be awarded costs, the unreasonable behaviour must have resulted in unnecessary or wasted expense. The Council has not demonstrated that the expense it incurred in assessing and responding to the UU documentation, would not have been incurred if the UU documentation had been submitted by the 7 week deadline.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the Applicant's claim for costs fails.

Siobhan Watson

INSPECTOR