



Costs Decision

Site visit made on 5 November 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 15th January 2025

St Johns, Granville Terrace, Stone, Staffordshire, ST15 8DF

Costs application in relation to Appeal Ref: APP/Y3425/W/24/3339596

- 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 BHG Developments for a full award of costs against Stafford Borough Council.
- The appeal was against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission (Ref 21/35049/FUL) was granted.

Decision

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

Procedural matters .

2. The costs application relates largely to the behaviour of the Council in relation to the granting of planning permission reference 21/35049/FUL, which itself was also the result of an application to 'vary' an earlier 'varied permission'.
3. Normally a planning appeal can only consider behaviour in relation to the planning application that is the subject of the appeal. However, on the basis of the 9 month gap between the date of the decision ref 21/35049/FUL and the date that this decision was issued, the first opportunity for the appellant to challenge at appeal the behaviour of the Council in granting this permission with the contested condition was as part of the current appeal. I have therefore considered as part of this decision the appellant's costs claims that relate to the determination of application ref 21/35049/FUL.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, 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. For details of the costs application, the completed costs application form refers to an attached statement. In the absence of any other documentation submitted with the costs application, I have taken this to mean the letter from the appellant which has the same date as the costs application form. This letter provides a history and timeline of planning applications relating to the appeal property.

6. There are three claims to assess. Firstly, whether the Council behaved unreasonably by issuing a new permission¹ with an unnecessary condition that the appellant did not have the opportunity to procedurally challenge when it was introduced at committee. Secondly, whether the Council acted outside of its powers by issuing a new permission² with a new condition attached, because that condition related to part of the development that had not yet been built, and the planning application sought permission for an aspect of the development that had already been carried out. Thirdly, whether the Council at the Planning Committee acted unreasonably in the determination of the planning application, ref 23/38368/FUL.
7. In relation to the first claim, for the reasons that I have given in the appeal decision, I found the contested condition to be unnecessary. However, as the Council provided respectable evidence at appeal stage in support of this condition it did not behave unreasonably in deciding such a condition could be used. The Council states that the new condition was introduced at the committee by the Senior Planning Officer as part of the summary of the neighbour representation that had been received. The Council further states that this occurred before the appellant had the opportunity to speak and so the appellant was able to address this matter. These statements have not been challenged by the appellant. Whilst the appellant is aggrieved that the committee decided to attach the condition the Council therefore did not act unreasonably.
8. Turning to the second claim, as explained in the appeal decision, the Council acted legitimately in accordance with PPG when it attached a condition that related to part of a development that had not yet been built.
9. With regard to the last claim, it has not been contested that the only planning applications that the committee meeting had for determination on 7 February 2024 were two applications in relation to St Johns, nor that the meeting started promptly at 6.30 pm. It is not the responsibility of the Council to wait for those who arrive late. In deciding to refuse the appeal application at 6.45pm, approximately five minutes after the appellant state they arrived at the meeting, the Council did not act unreasonably within the meaning contained in PPG.
10. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector

¹ Reference 21/35049/FUL

² Reference 21/35049/FUL