



Costs Decision

Hearing held on 22 January 2025

Site visit made on 23 January 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Costs application in relation to Appeal Ref: APP/P1615/W/24/3353011 Land at The Swan, Ledbury Road, Staunton, Gloucestershire GL19 3QA

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by The Chamberlayne 2021 Discretionary Trusts for a partial award of costs against Forest of Dean District Council.
 - The Hearing was in connection with an appeal against the Council's refusal of planning permission for development described as the erection of up to 17 dwellings (up to 10 self-build dwellings and 7 affordable dwellings) with associated access, car parking and landscaping, and play area, alongside improvements and external alterations to the Staunton and Corse Community Hub.
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Decision

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

Preliminary Matters

2. The application and Council's response were made in writing, and the appellant's response was made orally.

Reasons

3. 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.
4. The appellant claims that the Council acted unreasonably on 2 grounds:
 - a) in failing to engage in the Statement of Common Ground (SOCG) process in a timely manner; and
 - b) in failing to meet deadlines in relation to submission of its statement of case.

Ground (a)

5. The agreed SOCG was not submitted until the day before the Hearing. The provision of a SOCG at such a late stage in the appeal process limits its usefulness to all parties, including the Inspector. Hence the existence of deadlines and need for all parties to observe them.

6. Having been originally due on the 28 November 2024, 2 extensions of time were granted at the request of each party. The first of these requests was received from the Council and was reasonable on account of illness. This extended the deadline to 5 December 2024. The second was at the request of the appellant, and was again reasonable on account of scheduling issues arising from the first extension of time. This extended the deadline to the 10 December 2024.
7. A further extension was then granted to 6 January 2025 given the inability of the parties to meet the 10 December deadline. This was principally due the Council's failure to provide timely feedback to the appellant.
8. Even taking the Christmas holidays into account, the 6 January deadline provided ample opportunity for the SOCG to be finalised. Again, the failure to meet the deadline was principally due to a lack of timely communication on the part of the Council. A further 2 weeks then passed during which time the appellant sought engagement without apparent success, until very close to the date of the event.
9. The Council's failure to properly engage with the appellant in finalising a SOCG despite both repeated and generous extensions of time was wholly unreasonable.
10. Very minor expense would have been incurred by the appellant in sending chasing emails, and these emails might have been avoided had the Council chosen to respond in a timely fashion. However, I cannot find that such expense was either unnecessary or wasted. This is because the emails were sent in pursuit of a SOCG which was a required component of the appeal.
11. Insofar as the appellant states that the Council's late engagement led to specialists undertaking unnecessary preparatory work in relation to facts and details, the appellant has failed to specify exactly what this alleged unnecessary work entailed. Though abortive preparatory work can be a consequence of the failure of parties to agree a timely SOCG, it is not for me to speculate on the nature of such alleged abortive work in the current case. In the absence of details, I am therefore unable to identify any unnecessary or wasted expense.
12. Though some of the Council's reasons for refusal were withdrawn, this was not a matter separately established through the appellant's provision of additional evidence with the appeal and work on preparation of a Section 106 Agreement.
13. For the above reasons Ground (a) fails.

Ground (b)

14. The Council's statement of case was due on 28 November 2024. It was however submitted on 10 December 2024, without any formal extension of time having been granted. This was allegedly due to a misunderstanding of the deadline granted in relation to the SOCG as considered above, which was itself in any case missed. The appellant claims that they did not then see the

Council's statement of case until the 12 December 2024, 2 weeks after the deadline.

15. The situation was unsatisfactory, but some allowance can be made for human error. Though it is apparent that the appellant would have preferred the Council's statement of case to be turned away, this would not itself have assisted in understanding the Council's case, or the efficient running of the Hearing.
16. The appellant notes that the Council's statement went further than the officer report. Indeed, it expanded upon the officer report, responded to the appellant's case, and contained supporting evidence. As it therefore did what is ordinarily expected of a statement of case, it is unclear where the appellant's complaint lies.
17. Though the appellant might well have initially instructed specialists to prepare on the basis of the Council's officer report, such work would not have been without value given that the Council's case at appeal remained consistent with its assessment at application stage. I have no reason to believe that work carried out in response to the Council's statement of case would have been any different in substance had the statement instead been submitted on 28 November 2024.
18. The appellant claims that expense was incurred in instructing a landscape expert to prepare for and to attend the Hearing. As the expert was not required to make any contribution their presence was unnecessary. However, it remains unclear how and why this is relates to the Council's late submission of its statement of case. The Council did not itself provide a landscape witness. In this regard each party ultimately bears responsibility for the composition of their team at a Hearing.
19. For the above reasons Ground (b) fails.

Conclusion

20. For the reasons set out above I conclude that whilst aspects of the Council's behaviour were unreasonable, it has not been demonstrated how this resulted in unnecessary or wasted expense. An award of costs is not therefore justified.

Benjamin Webb

INSPECTOR