



Costs Decision

Site visit made on 15 January 2025

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 05 March 2025

Costs application in relation to Appeal Ref: APP/M2840/W/24/3344219

Land at Former Rushden Hospital Site, Catlin Way, Rushden

- 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 Northamptonshire Healthcare NHS Foundation Trust for a full award of costs against North 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 planning permission for a development originally described as "Outline application for residential development for up to 27no. dwellings, with all matters reserved except access".
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

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 applicant contends that the Council failed to determine a planning application which should have been allowed and failed to produce evidence during the appeal, including not providing a statement of case or suggested conditions.
4. There were delays in processing evidence submitted during the determination of the planning application. This was in part due to changes in the case officer dealing with the application. Notwithstanding this, it appeared as though the Council were going to issue a decision. In an email dated 19 December 2023 the Council requested an extension of time until the end of February 2024 to determine the application. The reason given for the length of the extension was to allow the proposal to be discussed at committee in February 2024, if necessary.
5. The last piece of correspondence the applicant received from the Council was on 30 January 2024. There is no substantive evidence before me to indicate why the planning application was either not determined or discussed at the committee. The applicant did not appeal the non-determination of the planning application until 13 May 2024. Therefore, the Council had ample opportunity to explain why the planning application had not been determined before the end of February 2024.
6. However, for the reasons set out in my appeal decision I have concluded that the appeal should be dismissed, and planning permission refused. Therefore, I do not agree that the Council failed to determine a planning application which should have been allowed. Nonetheless, in failing to determine the application or discuss the

- proposal at committee, it was unclear to the applicant what the matters in dispute were. It was only as part of correspondence during the planning appeal that the Council confirmed in writing that they were supportive of the proposal subject to agreeing a suitable planning obligation.
7. The PPG¹ indicates that only supplying relevant information at appeal when it was previously requested, but not provided, at application stage, is an example of unreasonable behaviour which may give rise to a procedural award against a local planning authority.
 8. The applicant did not explicitly request the matters in dispute. However, in an email dated 25 July 2023 they stated “Regardless, I would hope that we would all wish to reach an amicable solution, given the application has been in the system for over a year and we feel that we have met all of the requirements for a decision to be made.” This is an indication that the applicant was seeking approval of the application or an acknowledgement of the matters still to be resolved. If the Council had outlined these matters during the planning application, the applicant could have appealed the non-determination of the application on much narrower grounds.
 9. The applicant has therefore incurred unnecessary expense in producing evidence as a result of the Council failing to provide information at the application stage. However, this is limited to the expense of producing all the evidence other than in relation to the need for a planning agreement and the production of a Unilateral Undertaking.
 10. On 14 May 2024 the Council was sent a letter confirming that the appeal had been received and validated. On 1 July 2024 the Council were sent another letter which set the deadline for providing a Statement of Case as 5 August 2024. The Council wrote to the Planning Inspectorate on 5 August 2024 asking for an extension of time to submit a Statement of Case as the proposal needed to be discussed at the planning committee. Even if I were to accept the Council’s reasoning that the proposal needed to be discussed at committee, it is not clear why the applicant and the Planning Inspectorate could not have been informed of the delay earlier. Moreover, it has not been explained why the proposal could not have been discussed at an earlier committee. In response to its request, the Council was informed that the decision to accept late evidence or not would ultimately be up to the Inspector. The Council has not submitted a Statement of Case outlining putative reasons for refusal or suggested conditions.
 11. In accordance with the PPG, this constitutes unreasonable behaviour as the Council has failed to adhere to a deadline. Nevertheless, it has not been demonstrated that this has led to the applicant incurring an unnecessary expense.
 12. Similarly, the applicant has outlined the confusion over the review of the submitted Unilateral Undertaking by the Council. Ultimately, this matter was resolved, and the agreement was submitted in a timely manner. With regard to this matter only, it has not been demonstrated that unreasonable behaviour has occurred or that the applicant incurred an unnecessary expense.
 13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of producing evidence other than in

¹ PPG: Appeals, Paragraph: 047, Reference ID: 16-047-20140306

relation to the need for a planning agreement and the production of a Unilateral Undertaking and a partial award of costs is therefore warranted.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Northamptonshire Council shall pay to Northamptonshire Healthcare NHS Foundation Trust, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in producing evidence other than in relation to the need for a planning agreement and the production of a Unilateral Undertaking; such costs to be assessed in the Senior Courts Costs Office if not agreed.
15. The applicant is now invited to submit to North Northamptonshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Hobbs

INSPECTOR