



Costs Decision

Site visit made on 6 August 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2019

Costs application in relation to Appeal Ref: APP/R3325/W/19/3229866 Rose Cottage, School Lane, Tatworth and Forton, Chard TA20 2SA

- 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 Mr & Mrs Manning for a full award of costs against South Somerset District 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 proposed retirement housing development of 4 no bungalows; improvements to existing access and existing parking facilities.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 application for costs is based on several grounds. Firstly, applicants are entitled to an expectation that the Council will competently approve or refuse an application; secondly the Council have demonstrated they have not taken a balanced view of material issues and prioritised these; thirdly the Council has unreasonably disregarded the content of the applicant's Planning Statement and fourthly the Council have not provided compelling evidence to support their reasons for refusal.
4. PPG indicates that in any appeal against non-determination the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had it been determined in the relevant period. Based on the evidence before me the applicant indicates that following a reminder to the Council about the target date an extension of time was agreed to determine the application. A further period had passed beyond that agreed date without contact and following the applicants' notice of intent to proceed with a non-determination appeal, the Local Planning authority reiterated their original intent to refuse. This had not been implemented at the time of the appeal and the application had been with the Council for 6 months.

5. The Council should have been proactive in contacting the applicant to explain reasons for not reaching a decision within the prescribed period. As for not determining the application, I have no substantive information behind this to reach a view. Even if I were to find that there has been unreasonable behaviour in the procedure leading up to the appeal, it has not been demonstrated that this has caused the applicants any additional expense.
6. PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal on appeal. Acknowledging that this is a non-determination case the Council have provided clear reasons and recommendations why it considers that the application should be refused. This, in my view, has considered the views of statutory consultees and taken a balanced approach in considering these to inform the reasons for recommending refusal. My decision makes it clear I agree with the Council on a number of these matters. Further, I am in receipt of copies of a pre-application response to the applicant on a previous scheme that sets out the same concerns that the Council have raised in this planning application. I find there is no unreasonable behaviour on the part of the Council in this regard.
7. Whilst I acknowledge the frustration that the Council has taken a different view on matters, I find no substantive evidence that the applicant's planning statement has not been fully considered. Whilst a detailed submission has been put forward by the applicant the Council has addressed the key matters it considers should lead to the determination of the appeal in its officer report. Generally, I have considered the recommended reasons for refusal relevant to inform the identification of the main issues of the appeal which I have addressed in my decision. Accordingly, I do not find that the Council has behaved unreasonably.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Stephen Thomas

INSPECTOR