The Planning Inspectorate

Costs Decision

Hearing Held on 24 October 2017

Site visit made on 24 October 2017

by V Lucas LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th November 2017

Costs application in relation to Appeal Ref: APP/B3438/W/17/3176048 Whympenny, Godley Lane, Dilhorne, Staffordshire, ST10 2PF

- 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 Staffordshire Moorlands District Council for a partial award of costs against Mr Slaytor.
- The hearing was in connection with an appeal against the refusal of planning permission for a 'Farm workers dwelling on plot of land in field no 7414 opposite Wimpney Farm, Dilhorne, Staffs' without complying with a condition attached to outline planning permission Ref Cheadle R.D.C. 11th October 1972, dated 11 October 1972 .

Decision

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

The submissions for Staffordshire Moorlands District Council

2. These are set out in a written statement submitted prior to the hearing. In summary these are that the applicant's case regrading whether or not the condition in dispute was valid were not relevant to the appeal as submitted which was to remove a condition on an existing permission. It is stated that wasted expense was therefore incurred in responding to these enquires and a partial award of costs is sought on that basis.

The response by Mr Slaytor

3. These are set out in a written statement submitted prior to the hearing. In summary, these are that the Council encouraged the application to be made to remove the agricultural occupancy condition and that it was reasonable to raise the issue of whether or not the occupancy condition was valid.

Reasons

4. Irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. I shall therefore consider whether that has occurred in this case.

5. The appeal to which this application relates was made on the basis of permission being refused by the Council to remove an agricultural occupancy condition attached to a 1972 permission for the appeal dwelling. An appeal

must be considered on the basis of what was originally applied for and, as explained to the parties in an email from the Planning Inspectorate dated 21 September 2017, as a Lawful Development Certificate was not applied for the appeal could not be dealt with on that basis.

6. It is apparent from the information submitted that the Council devoted officer time to answering queries from the respondent regarding whether or not the disputed condition was valid on the basis of legal advice he had received that the appeal dwelling may be unauthorised development. The Council's submissions acknowledge that the majority of the work necessary had already been undertaken up to the point in September when the email advice from the Planning Inspectorate was sent to both parties.

7. However, even after the 21 September, the respondent continued to refer to this issue and went on to apply for costs on that basis. Although this seems to have been done in the belief that the particular issue raised may fall to be considered as a material consideration, for the reasons set out in the email advice and as explained in my Decision, the appeal could not be dealt with on that basis as that was not was originally applied for. I consider that this was unreasonable behaviour on the part of the respondent which led to wasted expense due to the Council having to devote additional officer time to answering queries and responding to the separate application for costs made by the respondent.

8. For the reasons given above, I therefore find that unreasonable behaviour resulting in unnecessary expense has been demonstrated and a partial award of costs is therefore justified.

Costs Order

9. 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 Mr C Slaytor shall pay to Staffordshire Moorlands District Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to responding to the application for costs submitted by Mr C Slaytor and for responding to enquires made after 21 September 2017.

10. The applicant is now invited to submit to Mr C Slaytor, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

V Lucas

INSPECTOR