



Costs Decision

Site visit made on 5 June 2018

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2018

Costs application in relation to Appeal Ref: APP/B3438/W/18/3195264 The Stable, Mollatts Wood Road, Leek ST13 7AL

- 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 C Walker for a partial award of costs against Staffordshire Moorlands District Council.
 - The appeal was against the refusal of planning permission for conversion of existing redundant stable into 1 bedroom single storey dwelling.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters during the appeal and substantive matters relating to the matters under appeal. The procedural matters include a delay in providing information or other failure to adhere to deadlines. The application for a partial award of costs relates to that example.
4. The deadline for submission of the statement of case from the Local Planning Authority was 15 May 2018 as given in a letter from the Planning Inspectorate dated 10 April 2018. The Council submitted its statement of case on 16 May 2018 on what it considered to be the deadline and provided an explanation that an administrative error caused the failure to meet the deadline in correspondence sent to the Planning Inspectorate on 17 May 2018 and 23 May 2018. In that respect, I took account of the explanation and that the Council had clearly attempted to resolve the situation at the earliest opportunity. In considering those circumstances upon their individual merits, on balance, I took the view that an exception was appropriate under the Planning Inspectorate's discretionary powers and the late submission was, therefore, accepted on 23 May 2018.
5. With regard to the above, when making this application and providing final comments to the appeal, the applicants have drawn my attention to two other examples of appeals where the Council's submission of late documentation to

the Planning Inspectorate had also been accepted. I can confirm that I had no prior awareness of the existence of those cases when making my decision on the use of discretionary powers. In any case, the full details of those appeals are not before me and have no bearing on whether the Council's behaviour was unreasonable or whether any unnecessary or wasted expense was experienced by the applicants as part of the appeal subject to this costs application.

6. The use of the Planning Inspectorate's discretionary powers in accepting a late submission does not of itself absolve the Council of its responsibility to meet the deadlines of the appeal, or the Council's liability to an award of costs if it is demonstrated that its failure to do so caused the applicants to incur unnecessary or wasted expense in the appeal process. A Council officer displayed an awareness of that situation in the correspondence dated 23 May 2018. The failure of the Council to meet the appeal deadline of itself is a matter of fact in this case and a late submission, therefore, falls within the procedural examples of unreasonable behaviour listed in the PPG.
7. Turning to the matter of unnecessary or wasted expense. The applicants were necessarily afforded the full 14 days from 23 May 2018 to provide any final comments to the appeal, which reflects a time period equivalent to that which they would have had if the statement had been submitted on the deadline. The extension of the final comments deadline was made prior to the expiry of the original final comments deadline on 29 May 2018 and did not cause any unnecessary delays to the determination of the appeal given that the site visit was scheduled on 5 June 2018. It is evident from the information before me that it was the applicants' intention to submit final comments to address correspondence received from interested parties in accordance with the appeal deadlines. The final comments had not been submitted to the Inspectorate at the time when the deadline was extended.
8. The expense of responding via final comments to a statement of case submitted by a Local Planning Authority in accordance with appeal deadlines is an ordinary expense of any appeal. However, the Council's unreasonable behaviour in failing to meet the appeal deadline did result in extra time and costs spent by the applicants associated with reading and responding to the late submission that could not have been anticipated at the time when other correspondence from interested parties submitted within the deadline was received by the applicants from the Planning Inspectorate. No doubt that would have required the applicants to review the case, refresh their understanding, look at the late submission in the context of the other correspondence from interested parties and then update the written response in the final comments. That process would undoubtedly be more time consuming and costly than it would have been had the Council's statement of case been submitted in a timely fashion and therefore, led to the applicants incurring additional and unnecessary expense when providing final comments as part of the appeal.

Conclusion

9. Having regard to the PPG, I find that the late submission of its statement of case after the appeal deadline amounted to unreasonable behaviour by the Council and led the applicants to incur additional and unnecessary expense during the appeal process. For those reasons, the Council's application for a partial award of costs succeeds and I shall make an award on that basis.

Costs Order

10. 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 Staffordshire Moorlands District Council shall pay to Mr & Mrs C Walker, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the preparation of a response to the statement of case submitted by the Council after the relevant appeal deadline of 15 May 2018 which was received by the applicants on 23 May 2018; such costs are to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicants are now invited to submit to Staffordshire Moorlands District 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.

Gareth Wildgoose

INSPECTOR